



Oregon

Tina Kotek, Governor

Water Resources Department

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www.oregon.gov/owrd

Water Right Application Initial Review

August 25, 2023

DAVID HAMEL
18181 CHIN RD
KLAMATH FALLS OR 97603

Reference: Application G-19210

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your options. In determining whether an application may be approved, the Water Resources Department (Department) must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information supplied, the Department has made the following preliminary determinations:

Preliminary Determinations under Oregon Administrative Rule (OAR) 690-310-0080:

1. Application G-19210 proposes the appropriation of 5.14 cubic feet per second (CFS) of water from a Well (proposed) in Lost River Basin for supplemental irrigation of 410.96 acres from March 15 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under Oregon Revised Statute (ORS) 536.340(1)(a), the Water Resources Commission may establish a basin program to classify sources of water supply as to the highest and best use and quantities of use, and that classification of sources of water supply has the effect of restricting the use and quantities of use thereof to the uses and quantities of uses specified in the classification. The Commission has not established a basin program for the Klamath River Basin. Therefore, neither the proposed use nor the quantity of water is restricted as a result of this consideration.
4. The Department has determined there are insufficient data available to indicate whether the groundwater resource is over-appropriated during any period of the proposed use. In addition, groundwater for the proposed use is not available within the capacity of the resource. Therefore, groundwater is not available for the proposed use.
5. The Department has determined, if properly conditioned (and if authorized), the proposed use of groundwater will avoid injury to existing groundwater rights.

6. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will not have the potential for substantial interference with any surface water source.
7. The proposed use is located within or above the Klamath Scenic Waterway, as designated under Oregon Revised Statute 390.826. The Department has determined, based upon OAR 690-310-0260, that there is a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.
8. The point of appropriation is not located within a critical, limited, or withdrawn groundwater area.
9. The application proposes supplemental irrigation of 410.96 acres; however, the Department's records show only 401.37 acres have primary irrigation rights. Therefore, if authorized, any permit issued under this application will exclude the 9.58 acres without underlying primary rights.
10. A portion of the area proposed for supplemental irrigation is currently covered by existing supplemental irrigation right G-18797, which conflicts with this application. Therefore, if authorized, any permit issued under this application will exclude the 38.0 acres with existing supplemental irrigation rights unless the conflict is resolved by another means.
11. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
12. See **Additional Information Required** section below for deficiencies with the application.

Summary of Preliminary Determinations
The appropriation of 5.14 CFS of water from a Well (proposed) in Lost River Basin for supplemental irrigation of 410.96 acres, March 15 through October 31, is not allowable.

Additional Information Required:

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following item(s):

- a. The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that shows:
 - i. The number of acres to be used in each quarter-quarter section must be clearly indicated on the map and identified by shading or hatching. The application map shows tax lot 1000 hatched in Township 40 South, Range 10 East, Section 28, but does not show the number of acres to be irrigated in the NW NW quarter-quarter.
 - ii. The application proposed to irrigate 410.95 acres while the map identified 410.96 acres. Please identify the correct number of acres to be irrigated.

Please submit this information no later than **September 28, 2023**. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

Public Comment:

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

At this time, you must decide whether to proceed or to withdraw the application.

- **To Proceed** - If you choose to proceed with the application, you do not have to notify the Department. The application will be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.
- **To Withdraw** - You may withdraw the application and receive a refund (minus a \$310 examination fee per application). You must notify the Department **in writing** by **September 8, 2023**. For your convenience you may use the enclosed "STOP PROCESSING" form.

Although it is unlikely that a permit will be issued, if the Department's findings change and a permit is issued, it will likely include the following conditions:

1. Construction of the well shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the construction deadline to begin is missed.
2. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.
3. **Water Use Measurement, Recording, and Reporting:**
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water used each month, and shall submit an annual report which includes the recorded water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the

Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

4. Well Identification Tag:

Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

5. Scenic Waterway:

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's website at www.oregon.gov/ODA to learn more about the plans and how they may affect the proposed water use.

For Further Information:

Feel free to contact me at Adam.M.Frederick@water.oregon.gov or 971-707-8400 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0900. When corresponding by mail, please use this address: Adam Frederick, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Adam Frederick

Adam Frederick
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
G-19210
WAB: No PSI
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19210

Applicant: DAVID HAMEL

County: KLAMATH

Watermaster: TOM SKILES, 17, SCR

Priority Date: SEPTEMBER 30, 2021

Source: A WELL (PROPOSED) IN LOST RIVER BASIN

Use: SUPPLEMENTAL IRRIGATION OF 410.96 ACRES

Quantity: 5.14 CUBIC FEET PER SECOND

Period of Use: MARCH 15 THROUGH OCTOBER 31

Basin Name & Number: KLAMATH, #14

Well Location:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
40 S	10 E	WM	28	NW SW	880 FEET SOUTH AND 440 FEET EAST FROM W1/4 CORNER, SECTION 28

Places of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	10 E	WM	28	SW NW	30.69
40 S	10 E	WM	28	SE NW	2.29
40 S	10 E	WM	28	NE SW	36.0
40 S	10 E	WM	28	NW SW	41.41
40 S	10 E	WM	28	SW SW	35.0
40 S	10 E	WM	28	SE SW	37.0
40 S	10 E	WM	28	NW SE	3.0

Twp	Rng	Mer	Sec	Q-Q	Acres
40 S	10 E	WM	29	NE SW	3.0
40 S	10 E	WM	29	NE SE	38.0
40 S	10 E	WM	29	NW SE	40.0
40 S	10 E	WM	33	NE NW	37.90
40 S	10 E	WM	33	NW NW	37.67
40 S	10 E	WM	33	SW NW	39.0
40 S	10 E	WM	33	SE NW	30.0

PUBLIC NOTICE DATE: August 29, 2023

14 DAY STOP PROCESSING DEADLINE DATE: September 8, 2023

30 DAY COMMENT DEADLINE DATE: September 28, 2023

**APPLICATION PROCESS DESCRIPTION FOR
GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS**

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information about water right topics, weekly public notice, forms and fees please visit our website at: www.oregon.gov/owrd

1. Pre-application considerations

- Follow instructions in the application packet.
- If you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Customer Service Group at (503) 986-0900.

2. Application filing

- Application with fee is received by the Department.
- Department determines completeness of application.
- If use is not allowed by statute (ORS 538), the application and fees are returned to the applicant.
- An incomplete application and fees are returned to the applicant.
- Only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing.

3. Initial Review (IR)

- Caseworker reviews application by considering basin plans, water availability, statutory restrictions, and all other appropriate factors.
- Caseworker sends IR report to Applicant.
- Four days after date of the IR, it is included in Department's weekly Public Notice.
- Public comments must be submitted within 30 days after the Public Notice.

4. Proposed Final Order (PFO)

- Caseworker evaluates application against required criteria and develops draft permit, if appropriate.
- PFO includes instructions for filing of protests.
- Caseworker considers public comments and mails PFO to Applicant.
- The PFO is included in Department's weekly Public Notice.
- Public protests to the PFO must be submitted within 45 days after the Public Notice.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is issued.

Permit holder responsibilities

- Comply with all water use conditions of the permit.
- Advise Department of address change or assignment to new permit holder.
- If need arises, request extension of time or authorize cancellation of permit.
- Submit timely claim of beneficial use (COBU) to the Department.
- Most permits require COBU to be prepared by a Certified Water Right Examiner.
- Permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions.

STOP PROCESSING REQUEST FORM

FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.

Applicant notification to withdraw Water Right Application **G-19210**.

After reviewing the Initial Review for my application, I request that processing be stopped and fees be refunded (minus a \$310 examination fee). I understand that without a valid permit I may not legally use the water as requested in my application.

Signature _____ Date _____

Signature _____ Date _____

Under ORS 537.150 (5) and 537.620 (5), timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$310 examination fee) be returned.

- This notice must be received by the Water Resources Department no later than:

September 8, 2023

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A
Salem, OR 97301-1266
