



Water Right Application Initial Review

July 12, 2024

J & J FAMILY, LLC
7157 STATE ST
SALEM OR 97301

Reference: Application G-19146

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-19146 proposes the appropriation of an overall maximum rate of 3.46 cubic feet per second (CFS), further limited to 689.75 acre-feet (AF) annually, being 0.95 CFS from Well 1 (MARI 54600), Well 2 (MARI 7750) and Well 3 (MARI 16624) in Little Pudding River Basin for irrigation of 75.8 acres from March 1 through October 31, 0.44 CFS from Well 4 (MARI 15392) and Well 5 in Little Pudding River Basin for irrigation of 34.9 acres from March 1 through October 31, and a variable rate from Well 6, Well 7 (MARI 58808) and Well 8 (MARI 4414) in Howell Prairie Creek Basin of 2.07 CFS from March 1 through June 30, 1.09 CFS from July 1 through July 31, and 0.67 CFS from August 1 through October 31 for the irrigation of 165.2 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Irrigation is allowed under the Willamette Basin Program (OAR 690-502-0160(2)).
4. The proposed groundwater use is not within a designated critical groundwater area. OAR 690-310-0080(1)(a).
5. An assessment of groundwater availability has been completed by the Department. A copy of this assessment is in the file and can be viewed on the Department's website. Groundwater for the proposed use is not over-appropriated; however, groundwater for the proposed use is not

available within the capacity of the resource. Therefore, groundwater is **not** available for the proposed use. OAR 690-310-0080(1)(b); OAR 690-300-0010(57).

6. The Department has determined that the proposed groundwater use will not have the potential for substantial interference (PSI) with surface water. OAR 690-310-0080(1)(b); OAR 690-009-0040.
7. If properly conditioned (and if authorized), the proposed use of groundwater will not injure other water rights.
8. The proposed use is not located within or above any state or federal scenic waterway.
9. The Department has determined that Well 2 (MARI 7750), Well 3 (MARI 16624), and Well 8 (MARI 4414) do not meet current minimum well construction standards. The annular seals do not extend to the appropriate depth. To meet minimum well construction standards, Well 2 (MARI 7750) must be recased and resealed with an approved grout to a minimum depth of 158 feet below ground surface. Well 3 (MARI 16624) must be recased and resealed with an approved grout to a minimum depth of 104 feet below ground surface. Well 8 (MARI 4414) must be recased and resealed with an approved grout to a minimum depth of 18 feet below ground surface. See the **Minimum Well Construction Standards – Repair Required** section below for more information.
10. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
11. See **Additional Information Required** section below for deficiencies with the application.

Summary of Preliminary Determinations
<p>The appropriation of an overall maximum rate of 3.46 cubic feet per second (CFS), further limited to 689.75 acre-feet (AF) annually, being 0.95 CFS from Well 1 (MARI 54600), Well 2 (MARI 7750) and Well 3 (MARI 16624) in Little Pudding River Basin for irrigation of 75.8 acres from March 1 through October 31, 0.44 CFS from Well 4 (MARI 15392) and Well 5 in Little Pudding River Basin for irrigation of 34.9 acres from March 1 through October 31, and a variable rate from Well 6, Well 7 (MARI 58808) and Well 8 (MARI 4414) in Howell Prairie Creek Basin of 2.07 CFS from March 1 through June 30, 1.09 CFS from July 1 through July 31, and 0.67 CFS from August 1 through October 31 for the irrigation of 165.2 acres is not allowable.</p>

Minimum Well Construction Standards – Repair Required:

Prior to the issuance of any Proposed Final Order that may recommend approval, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well(s), you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Tommy Laird of the Department’s Well Construction and Compliance Section at 503-302-8618 to determine how to proceed.

Please submit this information no later than August 15, 2024. If you are unable to submit the information listed above by this date, 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 is needed 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.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's groundwater supply (OAR 690-200).

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:

- A. The Department must receive evidence that you have written authorization or an easement permitting access to lands not owned by you that are crossed by the proposed ditch, canal or other work.
- B. The map submitted does not meet the requirements of OAR 690-310-0050(4)(b). Please provide a map that shows the location of all main canals, ditches, pipelines, or flumes from Well 4 and Well 8 to the respective place of use.
- C. The Department must receive documentation that the proposed use complies with the local acknowledged comprehensive land-use plan for tax lot 100 in Township 7 South, Range 2 West, Sections 25 and 26. Please submit documentation from the relevant planning jurisdiction that either a) the proposed use is allowed outright or b) that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

Please submit this information no later than August 15, 2024. If you are unable to submit the information listed above by this date, 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 is needed 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.

If we do not receive the information requested above or a request for an administrative hold by the above date, the Department may reject the application.

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 processing fee). You must notify the Department **in writing** by **July 26, 2024**. 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. **Groundwater Level Measurement, Reporting, and Shut-Off Condition:**

For each well on this authorization, beginning on the permit signature date for existing wells or in the year well construction is completed for new wells, and each year thereafter, the permit holder must report a static water-level measurement ("measurement") taken in March. The measurement

is required whether the well is used or not. If pumping is to commence following completion of the well and prior to the next March, then a measurement must be made at least one week following well completion and before pumping commences.

Measurements must be properly reported within 30 days of measurement using forms specified by the Department. A measurement will be properly reported if the submission includes all required information as listed in the document attached. Measurements must be made with equipment that is accurate to the standards specified in Oregon Administrative Rule (OAR) 690-217-0045. Measurements must be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed land surveyor, licensed well constructor, pump installer licensed by the Construction Contractors Board, or Department staff. The Department is not responsible for regular measurement of the static water level, but Department staff may measure the well during the normal course of groundwater level monitoring or to confirm the submitted measurement(s).

For each well on this permit, the Department will establish a reference groundwater level using the best available data. The reference level is intended to represent the highest elevation (shallowest depth) static water level that has been measured or can be reasonably estimated to have existed within each well at any time before its reference level is set. If Annual High Water Levels have been increased measurably by human activity, then the Department may set a different reference level using best available information. If the permit holder fails to measure and report the static water level within 12 months of permit issuance, or of completion of the well(s), then Department staff will estimate the static water level using available data, including measurements in surrounding wells. In case the permit is amended or the subsequent certificate is transferred, the Department may establish a new reference level for any new or additional wells under new permits or certificates issued under this right. The reference level for a new or additional well should reflect the highest static water level in that well or, if that measurement occurred after the time represented by the original reference level, then the water level that would have been measured in that well, if the well existed and was measured at the time represented by the original reference level.

All water use authorized under this permit must immediately stop if any of the following occur:

- A. Any annual high elevation static groundwater level in any well on this permit declines 15 or more feet below the reference level for that well, or
- B. Groundwater levels are not measured and properly reported as specified above for any completed well that is authorized on the permit for two consecutive years, or
- C. Hydraulic interference contributes to a decline of 15 or more feet in any neighboring well with senior priority, at any time during the year.

The Department will determine when any of the above conditions have occurred and may order the permit holder to stop all water use under this permit. The permit holder is also responsible for stopping all water use if they become aware that any of the conditions have occurred, even without notice from the Department. Following such a stop, water use under this permit will not be allowed and may only resume once the permit holder receives notice from the Department. If the

permit holder fails to stop use, then the Department may take control of the controlling works of any wells authorized under this permit and may reduce the amount of groundwater pumped until the unlawful use is eliminated.

The permit holder acknowledges that that one or more of the conditions requiring stoppage of use may occur prior to any use of any well on this permit.

The Department may allow the permit holder to pause annual water level measurement and reporting requirements from some of the permitted wells if measurements from those wells are redundant with other data being collected by the Department. The permit holder must receive written notification of such an allowance before stopping measurements. If this happens, the Department may reinstate the measurement requirements at any time.

5. **Groundwater production from Well 1 (MARI 54600), Well 2 (MARI 7750), Well 3 (MARI 16624), Well 4 (MARI 15392) and Well 5 shall be only from the Columbia River Basalt Group groundwater reservoir.**
6. **Groundwater production from Well 6, Well 7 (MARI 58808) and Well 8 (MARI 4414) shall be only from the alluvial groundwater reservoir.**
7. **Special Conditions for Well 1 (MARI 54600), Well 2 (MARI 7750), Well 3 (MARI 16624), Well 4 (MARI 15392) and Well 5:**
 - A. Each basalt well shall be cased and continuously sealed from land surface to a depth of at least 50 feet to preclude hydraulic connection to nearby streams.
 - B. Any well authorized as a Point of Appropriation (POA) under this or subsequent permits shall be open to a single aquifer of the Columbia River Basalt Group and shall meet the applicable well construction standards (OAR 690-200 and OAR 690-210). In addition, the open interval in each well shall be no greater than 100 feet. An open interval of greater than 100 feet may be allowed if substantial evidence of a single aquifer completion can be demonstrated to the satisfaction of the Department Hydrogeologists, using information from a video log, downhole flowmeter, water chemistry and temperature, or other downhole geophysical methods. These methods shall characterize the nature of the basalt rock and assess whether water is moving in the borehole. Any discernable movement of water within the well bore when the well is not being pumped shall be assumed as evidence of the presence of multiple aquifers in the open interval. Single aquifer completion for any well with an open interval greater than 100 ft should be demonstrated to the satisfaction of the Department Hydrogeologists prior to authorization as a POA under this or subsequent permits.

If, during well construction or repair, it becomes apparent that the well can be constructed to eliminate aquifer commingling or interference with hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval of such construction. The request shall be in writing and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any new permanent casing

and sealing material. If the request is made after casing and seal are placed, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.

- C. For any well constructed under this or subsequent permits, a dedicated water-level measuring tube shall be installed in each well. The measuring tube shall meet the standards described in OAR 690-215-0060. When requested, access to the wells shall be provided to Department staff in order to make water-level measurements.
- D. For any wells constructed or deepened under this or subsequent permits, the applicant shall coordinate with the driller to ensure that drill cuttings are collected at 10 ft intervals and at changes in formation in each well. A split of each sampled interval shall be provided to the Department.
- E. If any geologic and hydrogeologic reports are completed for the permittee during the development of permitted wells, including geophysical well logs and borehole video logs, then copies of the reports shall be provided to the Department. Except for borehole video logs, two paper copies or a single electronic copy shall be provided of each report. Digital tables of any data shall be provided upon request.

8. 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.

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
Stop Processing Request Form

G-19146
WAB: No PSI
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19146

Applicant: J & J FAMILY, LLC

County: MARION

Watermaster: GREGORY J. WACKER, #16, NWR

Priority Date: MAY 28, 2021

Source: WELL 1 (MARI 54600), WELL 2 (MARI 7750), WELL 3 (MARI 16624), WELL 4 (MARI 15392) AND WELL 5 IN LITTLE PUDDING RIVER BASIN, AND WELL 6, WELL 7 (MARI 58808) AND WELL 8 (MARI 4414) IN HOWELL PRAIRIE CREEK BASIN

Use: IRRIGATION OF 275.9 ACRES

Quantity and Period of Use: 3.46 CUBIC FEET PER SECOND (CFS), FURTHER LIMITED TO 689.75 ACRE-FEET ANNUALLY, BEING 0.95 CFS FROM WELL 1 (MARI 54600), WELL 2 (MARI 7750) AND WELL 3 (MARI 16624) FOR IRRIGATION OF 75.8 ACRES FROM MARCH 1 THROUGH OCTOBER 31, 0.44 CFS FROM WELL 4 (MARI 15392) AND WELL 5 FOR IRRIGATION OF 34.9 ACRES FROM MARCH 1 THROUGH OCTOBER 31, AND A VARIABLE RATE FROM WELL 6, WELL 7 (MARI 58808) AND WELL 8 (MARI 4414) OF 2.07 CFS FROM MARCH 1 THROUGH JUNE 30, 1.09 CFS FROM JULY 1 THROUGH JULY 31, AND 0.67 CFS FROM AUGUST 1 THROUGH OCTOBER 31 FOR THE IRRIGATION OF 165.2 ACRES

Basin Name & Number: WILLAMETTE, #2

Well Location(s):

POA	POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	Well 1 (MARI 54600)	7 S	2 W	WM	34	NE NE	724 FEET NORTH AND 375 FEET WEST FROM NW CORNER, DLC 46
2	Well 2 (MARI 7750)	7 S	2 W	WM	27	NW SE	1380 FEET NORTH AND 1850 FEET WEST FROM SE CORNER, SECTION 27
3	Well 3 (MARI 16624)	7 S	2 W	WM	35	NW NW	700 FEET NORTH AND 420 FEET EAST FROM NW CORNER, DLC 46
4	Well 4 (MARI 15392)	7 S	2 W	WM	25	SW NW	50 FEET NORTH AND 100 FEET WEST FROM INTERIOR ELL CORNER DLC 65
5	WELL 5	7 S	2 W	WM	25	NW SW	1550 FEET NORTH AND 350 FEET EAST FROM SE CORNER, SECTION 26
6	WELL 6	6 S	2 W	WM	24	SE NE	1450 FEET SOUTH AND 950 FEET WEST FROM NE CORNER, SECTION 24
7	Well 7 (MARI 58808)	6 S	2 W	WM	24	NE SE	660 FEET SOUTH AND 80 FEET WEST FROM E1/4 CORNER, SECTION 24
8	Well 8 (MARI 4414)	6 S	2 W	WM	24	NW SE	660 FEET SOUTH AND 1550 FEET WEST FROM E1/4 CORNER, SECTION 24

Places of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
6 S	1 W	WM	18	SW SW	6.1
6 S	1 W	WM	18	SE SW	11.3
6 S	1 W	WM	19	NE NW	15.1
6 S	1 W	WM	19	NW NW	31.1
6 S	1 W	WM	19	SW NW	27.7
6 S	1 W	WM	19	NW SW	15.5
6 S	2 W	WM	24	NE NE	12.0
6 S	2 W	WM	24	NW NE	4.5
6 S	2 W	WM	24	SW NE	2.0
6 S	2 W	WM	24	SE NE	36.5
6 S	2 W	WM	24	NE SE	3.4
7 S	2 W	WM	25	NW SW	10.2
7 S	2 W	WM	25	SW SW	2.3
7 S	2 W	WM	26	NE SE	18.4
7 S	2 W	WM	26	SE SE	4.0
7 S	2 W	WM	27	SW SE	1.6
7 S	2 W	WM	27	SE SE	20.3
7 S	2 W	WM	34	NE NE	31.4
7 S	2 W	WM	34	NW NE	2.5
7 S	2 W	WM	35	NW NW	20.0

PUBLIC NOTICE DATE: July 16, 2024

14 DAY STOP PROCESSING DEADLINE DATE: July 26, 2024

30 DAY COMMENT DEADLINE DATE: August 15, 2024

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-19146**.

After reviewing the Initial Review for my application, I request that processing be stopped, and fees be refunded (minus a \$310 processing 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 processing fee) be returned.

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

July 26, 2024

- Return the notice to:

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