



Water Right Application Initial Review

May 16, 2025

GREEN FIELDS III, LLC
ONE EMBARCADERO CENTER, SUITE 3860
SAN FRANCISCO CA 94111

Reference: Application G-19427

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-19427 proposes the appropriation of 1.74 cubic feet per second (CFS), further limited to 312.6 acre-feet (AF) annually, of water from wells SW-2 (HARN 1803), SW-3 (HARN 1800), and TC-3 (HARN 1802) in Little Cottonwood Creek Basin for irrigation of 104.19 acres from March 15 through October 1 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Irrigation is allowed under the Malheur Lake Basin Program (OAR 690-512-0010(1)).
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. In addition, the Department has determined that the

Please note: Applications are evaluated using the rules in effect at the time the application is accepted as complete. To view the rules relevant for this application, please visit: <https://secure.sos.state.or.us/oard/displayCompilations> and navigate to Chapter 690 (Water Resources Department).

proposed groundwater use will not have the potential for substantial interference (PSI) with surface water. OAR 690-009-0040; OAR 690-310-0080(1)(b); OAR 690-300-0010(57).

6. The Department has determined that **the proposed use would not be within the capacity of available sources.**
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 wells SW-2 (HARN 1803), SW-3 (HARN 1800), and TC-3 (HARN 1802) do not meet current minimum well construction standards. For wells SW-2, SW-3, and TC-3, the wells were sealed with an unapproved seal placement method, the annular space is not large enough for the placement of concrete, and the 16-inch, 0.250-gauge casing exceeds a depth of 250 feet. Additionally, the well heads are indicated as being flush with land surface. To meet minimum well construction standards, the wells must be recased and resealed with an approved grout and the well head must be at least one foot above land surface. See the **Minimum Well Construction Standards – Repair Required** section below for more information.
10. The proposed place of use for irrigation is identified on the application as 104.2 acres; however, the submitted application map shows 104.19 acres. The Department will proceed with processing the application using the mapped 104.19 acres unless notified otherwise by the applicant.
11. A portion of the proposed area for irrigation use under this application is currently covered by an existing irrigation water right evidenced by the Trout Creek Decree, which conflicts with the application. The Department understands it is the applicant's intent to resolve the conflict by transferring the place of use or diminishing the conflicting portion to supplemental irrigation. Please see the **Conflict Resolution Information** section below for details.
12. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.

Summary of Preliminary Determinations
The appropriation of 1.74 CFS, further limited to 312.6 acre-feet (AF) annually, of water from wells SW-2 (HARN 1803), SW-3 (HARN 1800), and TC-3 (HARN 1802) in Little Cottonwood Creek Basin for irrigation of 104.19 acres from March 15 through October 1 of each year is not allowable.

Minimum Well Construction Standards – Repair Required:

Although it is unlikely that a permit will be issued, 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 June 19, 2025. 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).

Conflict Resolution Information:

Although it is unlikely that a permit will be issued, if the Department's findings change, the place of use conflict will need to be resolved. A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by the Trout Creek Decree, which conflicts with the application.

If you would like this application to be the primary right, the Department must receive:

- a. A completed form authorizing cancellation of the conflicting portions of the existing right, along with a map describing those portions; or
- b. A completed affidavit of diminution of the conflicting portions of the existing right to reduce them to supplemental use, along with a map describing those portions; or
- c. A transfer application addressing the conflicting portions of the existing right; or
- d. Another means of dealing with the conflict between the existing right and the use proposed under this application.

If you would like this application to be supplemental to the existing certificate, the Department must receive a revised map showing the place of use of both the primary and supplemental lands. Please note the supplemental lands will be limited and/or jeopardized as follows:

- a. If the existing right is found to have been forfeited, the use which is supplemental to such certificate may also be canceled.
- b. You may only use the supplemental right after the primary right becomes unavailable. Water from the primary source must be exhausted first.
- c. The season of use for the supplemental irrigation will be limited to that of the primary right.

Please submit this information no later than June 19, 2025. 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.

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 **May 30, 2025**. 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 25 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 25 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 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. Dedicated Measuring Tube:

Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to Figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.

6. Special Condition:

The permittee shall construct one (1) minimum six-inch diameter observation well to penetrate the same aquifer as the production wells. The well shall meet the Department's minimum well construction standards and shall be drilled, cased and sealed to the same depth as the production wells. The well shall be constructed at a location approved by the Department for the purpose of instrumentation with continuous water-level monitoring equipment. The landowner, permittee, or agent shall consult with the Department on the details of well construction and well location prior to construction of the well. The landowner or permittee shall provide access to Department staff to install and maintain the monitoring equipment. The well shall not be used for any other purpose while the Department is monitoring water levels. The well shall be completed prior to water use under the terms of any permit issued. Water level data collected by the Department from the observation well will be used in addition to water level data collected under the Groundwater Level Measurement, Reporting, and Shut-Off Condition for any evaluation of water level decline or interference.

7. 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-19427
WAB: No PSI
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19427

Applicant: GREEN FIELDS III, LLC

County: HARNEY

Watermaster: DONALD (DALLY) S. SWINDLEHURST, #10, ER

Priority Date: APRIL 1, 2024

Source: WELLS SW-2 (HARN 1803), SW-3 (HARN 1800), AND TC-3 (HARN 1802) IN LITTLE COTTONWOOD CREEK BASIN

Use: IRRIGATION OF 104.19 ACRES

Quantity: 1.74 CUBIC FEET PER SECOND, FURTHER LIMITED TO 312.6 ACRE-FEET ANNUALLY

Period of Use: MARCH 15 THROUGH OCTOBER 1

Basin Name & Number: MALHEUR LAKE, #12

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
SW-2 (HARN 1803)	39 S	35 E	WM	23	NW SW	2245 FEET NORTH AND 2420 FEET WEST FROM S1/4 CORNER, SECTION 23
SW-3 (HARN 1800)	39 S	35 E	WM	22	SE SW	760 FEET NORTH AND 40 FEET WEST FROM S1/4 CORNER, SECTION 22
TC-3 (HARN 1802)	39 S	35 E	WM	23	NW NE	1310 FEET SOUTH AND 80 FEET EAST FROM N1/4 CORNER, SECTION 23

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	35 E	WM	23	NW NE	3.34
39 S	35 E	WM	23	SW NE	21.16
39 S	35 E	WM	23	NE NW	19.22
39 S	35 E	WM	23	NW NW	5.31
39 S	35 E	WM	23	NW NW	2.08
39 S	35 E	WM	23	SE NW	30.33
39 S	35 E	WM	23	NE SW	15.08
39 S	35 E	WM	23	NW SE	7.67

PUBLIC NOTICE DATE: May 20, 2025

14 DAY STOP PROCESSING DEADLINE DATE: May 30, 2025

30 DAY COMMENT DEADLINE DATE: June 19, 2025

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-19427**.

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:

May 30, 2025

- Return the notice to:

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