



Water Right Application Initial Review

June 27, 2025

BLAKE SPOTTEN TRUST
C/O BLAKE SPOTTEN
30471 S. HWY 213
MOLALLA OR 97038

Reference: Application G-19457

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-19457 proposes the appropriation of 0.135 cubic foot per second (CFS), further limited to 27.0 acre-feet (AF) annually, of water from two wells in Creamery Creek Basin for irrigation of 10.8 acres from March 1 through October 31 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 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. In addition, the Department has determined that the proposed groundwater use will not have the potential for substantial interference (PSI) with

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).

surface water. OAR 690-009-0040. Therefore, water is available for the proposed use. OAR 690-310-0080(1)(b); OAR 690-300-0010(57).

6. If properly conditioned (and if authorized), the proposed use of groundwater will not injure other water rights.
7. The proposed use is not located within or above any state or federal scenic waterway.
8. This application proposes an irrigation water right on lands that have an existing nursery use water right, evidenced by Permit G-17920. Irrigation use is included as part of nursery use. It is unclear how it would be beneficial use to authorize additional appropriation under this application on these lands. Please see the **Additional Information Requested** section below for more details.
9. 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 0.135 CFS, further limited to 27.0 AF annually, of water from two wells in Creamery Creek Basin for irrigation of 10.8 acres from March 1 through October 31 of each year is not allowable, although the applicant may provide additional information for the Department's consideration. Please see the <u>Additional Information Requested</u> section below for more details.

Additional Information Requested:

The application proposes irrigation on lands currently authorized for nursery use under Permit G-17920. It is unclear how it would be beneficial use to authorize additional appropriation under this application on these lands. Additional information is required prior to issuance of any Proposed Final Order that may recommend approval.

- A. Please provide information describing how the additional water requested would be put to beneficial use, and the Department will take this into consideration.
- B. Alternatively, you may wish to consider voluntarily cancelling Permit G-17920 for nursery use. The Department would need to receive a completed form authorizing voluntary cancellation of Permit G-17920, which would only be processed concurrently with any permit that may be issued for Application G-19457.

Please submit this information no later than July 31, 2025. 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 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 items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of 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 of fees in excess of \$310 (effective through June 30, 2025, and thereafter the amount listed in ORS 537.150(5) or 537.620(5)). You must notify the Department **in writing** by **July 11, 2025**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If 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. Groundwater production shall be only from the alluvial groundwater reservoir.

6. 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 Nick.A.Reece@water.oregon.gov or 971-719-1058 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: Nick Reece, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Nick Reece

Nick Reece
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description
Stop Processing Request Form

G-19457
WAB: No PSI
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19457

Applicant: BLAKE SPOTTEN TRUST

County: CLACKAMAS

Watermaster: AMY J. LANDVOIGT, #20, NWR

Priority Date: AUGUST 29, 2024

Source: TWO WELLS IN CREAMERY CREEK BASIN

Use: IRRIGATION OF 10.8 ACRES

Quantity: 0.135 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 27.0 ACRE-FEET ANNUALLY

Period of Use: MARCH 1 THROUGH OCTOBER 31

Basin Name & Number: WILLAMETTE, #2

Well Locations:

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 1	5 S	2 E	WM	6	SE NE	2090 FEET SOUTH AND 260 FEET WEST FROM NE CORNER, SECTION 6
Well 2	5 S	2 E	WM	6	SE NE	2210 FEET SOUTH AND 90 FEET WEST FROM NE CORNER, SECTION 6

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	2 E	WM	5	SW NW	2.6
5 S	2 E	WM	6	SE NE	8.2

PUBLIC NOTICE DATE: July 1, 2025

14 DAY STOP PROCESSING DEADLINE DATE: July 11, 2025

30 DAY COMMENT DEADLINE DATE: July 31, 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-19457**.

After reviewing the Initial Review for my application, I request that processing be stopped, and fees in excess of \$310 (effective through June 30, 2025, and thereafter the amount listed in ORS 537.150(5) or 537.620(5)) be refunded. 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 fees in excess of \$310 (effective through June 30, 2025, thereafter the amount listed in ORS 537.150(5) or 537.620(5)) be returned.

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

July 11 , 2025

- Return the notice to:

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



Request for Voluntary Cancellation (entire only) or Diminution (entire or portion) of a Water Use Permit

VOLUNTARY CANCELLATION is how a water right permit holder may cancel an entire water use permit that is no longer intended to be developed. This process is only applicable for the entire water use permit.

VOLUNTARY DIMINUTION is how a water right permit holder may diminish an entire water use permit, or a portion of it, from a primary purpose to a supplemental purpose. The overall authorized amount of water will remain the same, but the proportions between primary use and supplemental use will change. In the diminution process, the originating water use permit will be cancelled, and a new water use permit will be issued describing the diminution. Issuance of a new permit will not change the conditions of the permit or extend the timelines to develop and submit a claim of beneficial use.

Describe in your own words what you want to accomplish with this request:

Water Use Permit Information:

Application #: _____

Permit #: _____

Issued for use within the State of Oregon, County of: _____

Issued in the name(s) of: _____

Please note: If you are not the current permit holder(s) of record, you must complete an Assignment before you may request cancellation or diminution. For more information: www.oregon.gov/owrd/programs/WaterRights/Permits/Assignment

Date of priority: _____

Rate and/or Volume on entire permit: _____
(cubic foot per second **or** gallons per minute **or** acre-feet)

Source(s) of water on permit: _____

Use(s) of water on permit: _____

If for irrigation (IR), total number of acres on permit for primary IR: _____ ; supplemental IR: _____

I/We, being the permit holder(s) of record (or authorized agent), hereby authorize cancellation or diminution of water use Permit # _____ (Application # _____).

1. I/We are requesting a [check one box]:

☐ voluntary cancellation of the ENTIRE water use Permit # _____

☐ voluntary diminution of the ENTIRE water use Permit # _____

☐ voluntary diminution of a PORTION of water use Permit # _____

2. Complete this section for a DIMINUTION of ALL or a PORTION of the permit.

- a. I/We have found a more dependable source of primary water, and therefore request the water use permit ☐ in its entirety, **or** ☐ as described in Item #3, below, (**check one box**) be diminished from a right for primary use to a right for supplemental use.
- b. I/We agree that if this change is approved, it is permanent and the right to the use of water from _____ (source) cannot be changed back to the primary use unless otherwise provided by law.
- c. I/We also agree that so long as there is sufficient water available from the new primary source, I am/we are not entitled to use any water from _____ (source) for primary use on these lands.

3. Complete this section for a DIMINUTION of a PORTION of the permit.

I/We are requesting a partial diminution of the water use permit in the amount of _____ (cfs) from _____ (sources) for irrigation (if applicable) of _____ acres at the following location(s) as listed on the permit (*attach a larger table if needed*):

PORTION TO BE DIMINISHED FROM PRIMARY TO SUPPLEMENTAL IRRIGATION										
Township	N or S	Range	E or W	Mer	Section #	DLC #	G-LOT #	Quarter-Quarter	Acres	Tax Lot #
				WM						
				WM						
				WM						
				WM						

REQUIRED ATTACHMENT for DIMINUTION of a PORTION of the permit

Please include a map that clearly shows:

- (1) The location and acreage to be diminished to supplemental within each quarter-quarter, as described in the table above, and
- (2) The remaining location and acreage within each quarter-quarter of the lands described on the permit that are NOT being diminished.

Signatures:

Permit Holder of Record, or authorized agent

Printed Name: _____

Date: _____

Permit Holder of Record, or authorized agent

Printed Name: _____

Date: _____

Contact Address: _____

Phone: _____

Email: _____