



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

September 23, 2011

JAY MYERS
1624 LENORA DR
MEDFORD, OR 97504

ORCHARD GLADE WATER DISTRICT
P.O. BOX 223
SHADY COVE, OR 97539

Reference: File G-17430

Dear Applicants:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the 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 you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the appropriation of 0.10 cubic foot per second (CFS) of water from a well (JACK 728) in Rogue River Basin for year-round domestic use expanded for 13 households.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from a well (JACK 728) in Rogue River Basin for domestic use expanded is allowable under the Rogue Basin Program.
4. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will have the potential for substantial interference with Rogue River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available at any time of year.

5. Single or group domestic use of up to 15,000 gallons per day and watering any lawn or noncommercial garden not exceeding one-half acre in area (domestic expanded) from a well is exempt from permitting requirements.

For group domestic use, the ½ acre limitation applies to the total combined acreage of all the lawns and non-commercial gardens irrigated from the distribution system.

6. The proposed use is located above the Rogue Scenic Waterway, as designated under Oregon Revised Statute 390.826.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.10 CFS of water from a well (JACK 728) in Rogue River Basin for domestic use expanded for 13 households is not allowable, and it appears unlikely that you will be issued a permit, unless suitable mitigation is provided.

As noted above in item #6, single or group domestic use of up to 15,000 gallons per day is exempt from permitting requirements. For group domestic use, the ½ acre limitation applies to the total combined acreage of all of the lawns and non-commercial gardens irrigated from the distribution system.

However, the use may be allowed if the application is amended to include sufficient mitigation, being 0.10 CFS of stored water, or the equivalent amount through the cancellation of an existing water right. Any contract for the release of stored water must be maintained annually for instream flow augmentation in Rogue River. At this time, you must decide whether to proceed or to withdraw your application as described below.

Please reference the application number when sending any correspondence regarding the conclusions of this Initial Review. Comments received within the comment period will be evaluated at the next phase of the process.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, October 7, 2011**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. **You will, in addition, need to provide a written proposal to the Department to amend the application, to include submitting an additional application to use stored water for instream flow augmentation as mitigation for the impacts of groundwater pumping on surface water.** After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded report 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.

- C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
- 2. 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.
 - 3. 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.
 - 4. The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your 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 Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0853 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

APPLICATION FACT SHEET

Application File Number: G-17430

Applicant: JAY MYERS AND ORCHARD GLADE WATER DISTRICT

County: Jackson

Watermaster: 13

Priority Date: October 14, 2010

Source: A WELL (JACK 728) IN ROGUE RIVER BASIN

Use: DOMESTIC USE EXPANDED FOR 13 HOUSEHOLDS

Quantity: 0.10 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 1A ROGUE R MISC

Well Location: SWSE, SECTION 16, T34S, R1W, W.M.; 615 FEET NORTH AND 195 FEET EAST FROM S1/4 CORNER, SECTION 16

Place of Use:

SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 16
TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 7, 2011

PUBLIC NOTICE DATE: Tuesday, September 27, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, October 27, 2011

Mailing List for IR Copies

Application #G-17430

IR Date: September 23, 2011

Original mailed to applicant:

JAY MYERS
1624 LENORA DR
MEDFORD, OR 97504

ORCHARD GLADE WATER DISTRICT
P.O. BOX 223
SHADY COVE, OR 97539

Copies sent to:

1. WRD - File # G-17430
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: SWR
4. Department of Agriculture

IR, Map, and Fact Sheet Copies sent VIA E-MAIL to:

5. WRD - Watermaster # 13 (include Division 33 form)
6. ODFW: Brent Crowe (include Division 33 form)
7. DEQ: Heather Tugaw (include Division 33 form)

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

8. Ralph Fucci, 6779 Rogue River Dr, Shady Cove, OR 97539
9. Jeffrey & Sheila Smith, 106 Orchard Lane, Shady Cove, OR 97539
10. Michele Burdette (fka Myers), 112 Orchard Lane, Shady Cove, OR 97539
11. Jay D. Myers, 511 Mary Street, Medford, OR 97504
12. CCV Ventures, LLC., c/o Ray & Fay Chezik, PO Box 807, Eagle Point, OR 97524
13. Andrew (Jay) & Melinda Spolski, 146 Orchard Lane, Shady Cove, OR 97539
14. Paul & Carolyn Gentry, 977 St. Andrews Way, Eagle Point, OR 97524
15. Rodney & Ann Stiver, 6783 Rogue River Dr, Shady Cove, OR 97539
16. Michael & Linda Ward, 109 Orchard Lane, Shady Cove, OR 97539
17. Jim & Arlene Langer, 118 Orchard Lane, Shady Cove, OR 97539
18. Daniel Bogdanoff & Charlene Patterson, 124 Orchard Lane, Shady Cove, OR 97539
19. Joel & Barbara Gilchrist, 138 Orchard Lane, Shady Cove, OR 97539
20. Craig Brewster & Susan Jensen, 149 Orchard Lane, Shady Cove, OR 97539
21. Dale & Kim Miller, 121 Orchard Lane, Shady Cove, OR 97539

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
