



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

November 4, 2011

JACKSON CREEK PROPERTIES, LLC.
33668 JOHNSONS LANDING ROAD
SCAPPOOSE, OR 97056

NORTHWEST FARM CREDIT SERVICES, FLCA
PO BOX 13309
SALEM, OR 97309

Reference: File G-17462

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 requested the use of 4.57 cubic feet per second (CFS) of water from Well 1 and Well 2 in Joy Creek Basin, and Well 3 in Multnomah Channel Basin for year-round nursery use on 94.3 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the use of water from Well 1 and Well 2 in Joy Creek Basin, and Well 3 in Multnomah Channel Basin for nursery use is allowable.
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 from Well 1 will have the potential for substantial interference with Joy Creek and Jackson Creek, Well 2 will have the potential for substantial interference with Joy Creek and Multnomah Channel of Columbia River, and Well 3 will have the potential for substantial interference with Multnomah Channel of Columbia River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is available in the amount and for the full period requested.

5. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Initial Determinations

The use of 4.57 CFS of water from Well 1 and Well 2 in Joy Creek Basin, and Well 3 in Multnomah Channel Basin for nursery use on 94.3 acres is allowable during the full period requested, year-round.

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

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.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically 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.

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, November 18, 2011**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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 appropriated 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. Ground water production is allowed only from the alluvial ground water reservoir.
4. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
5. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well 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 non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until 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 senior water rights. The water user shall in no instance 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-17462

Applicants: JACKSON CREEK PROPERTIES, LLC AND NORTHWEST FARM CREDIT SERVICES, FLCA

County: COLUMBIA

Watermaster: 18

Priority Date: APRIL 21, 2011

Source: WELL 1 AND WELL 2 IN JOY CREEK BASIN, AND WELL 3 IN MULTNOMAH CHANNEL BASIN

Use: NURSERY USE ON 94.3 ACRES

Quantity: 4.57 CUBIC FEET PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 26 MULTNOMAH CHANNEL & TRIBS

Well Location(s):

WELL 1 (PROPOSED): SWNE, SECTION 24, T3N, R2W, W.M.; 2880 FEET NORTH AND 1770 FEET WEST FROM SE CORNER, SECTION 24

WELL 2 (PROPOSED): NWSE, SECTION 24, T3N, R2W, W.M.; 2160 FEET NORTH AND 1640 FEET WEST FROM SE CORNER, SECTION 24

WELL 3 (PROPOSED): NWSW, SECTION 19, T3N, R1W, W.M.; 1430 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 19

Place of Use:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 4.7 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 3.1 ACRES
SECTION 19
TOWNSHIP 3 NORTH, RANGE 1 WEST, W.M.

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 11.0 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 32.6 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 35.7 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 7.2 ACRES
SECTION 24
TOWNSHIP 3 NORTH, RANGE 2 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, November 18, 2011

PUBLIC NOTICE DATE: Tuesday, November 8, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, December 1, 2011

Mailing List for IR Copies

Application #G-17462

IR Date: November 4, 2011

Original mailed to applicant:

JACKSON CREEK PROPERTIES, LLC.
33668 JOHNSONS LANDING ROAD
SCAPPOOSE, OR 97056

NORTHWEST FARM CREDIT SERVICES, FLCA
PO BOX 13309
SALEM, OR 97309

Copies sent to:

1. WRD - File # G-17462
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Watermaster # 18 (include Division 33 form)
4. ODFW: (include Division 33 form)
5. DEQ: (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service
1201 NE Lloyd Blvd, Portland, OR 97232
9. Rollie White, Supervisor, Endangered Species Division, Oregon Fish & Wildlife Office
2600 S.E. 98th Ave, Ste 100, Portland, OR 97266

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

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

10. Steven Shropshire, Jordan, Schrader, Ramis, PC, PO Box 230669, Portland, OR 97281
11. Skookum Water Associates Inc., PO Box 80174, Portland, OR 97280

Caseworker: Michele McAleer

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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