



# 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

January 6, 2012

MICHAEL MCGOURTY  
5490 HILL RD  
BROGAN, OR 97903

Reference: File G-17510

Dear Applicant:

**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 3.39 cubic feet per second (CFS) from Well MALH 52005, Well MALH 52013, and Singleton Well 1 (MALH 127) in Phipps Creek Basin for irrigation of 44.1 acres and supplemental irrigation of 225.5 acres March 1 through October 31. The application proposed 0.89 CFS from Well MALH 52005, 0.33 CFS from Well MALH 52013, and an unspecified rate from Singleton Well 1 (MALH 127).
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well MALH 52005, Well MALH 52013, and Singleton Well 1 (MALH 127) in Phipps Creek Basin for irrigation and supplemental irrigation is allowable under the Malheur Basin Program.
4. Ground water will likely be available within the capacity of the resource at the rates requested, being 0.89 CFS from Well MALH 52005, 0.33 CFS from Well MALH 52013 and 2.16 CFS from Singleton Well 1 (MALH 127), which is the difference in the total requested, being 3.39 CFS, less the rates specified for the other two wells; 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 not have the potential for substantial interference with any surface water source.

5. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. The application proposed 3.39 CFS for irrigation of 44.1 acres and supplemental irrigation of 225.5 acres. If the application is approved, the rate allowed will be limited to 3.37 CFS, being 0.55 CFS for irrigation of 44.1 acres and 2.82 CFS for supplemental irrigation of 225.5 acres.
6. The Department has determined that Singleton Well 1 (MALH 127) does not meet current minimum well construction standards. In order to meet current minimum well construction standards, Singleton Well 1 (MALH 127) must be re-sealed to a minimum depth of 68 feet below ground surface.

Prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted to the Department, and the Department's Enforcement Section must approve the well construction. 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 Kris Byrd of the Department's Enforcement Section at 503-986-0851 to determine how to proceed.

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 ground water supply (OAR 690-200).

7. The proposed supplemental use shall be limited to match that of the primary water right. The Willow Creek (Malheur County) Decree allows the use of water for irrigation from February 15 through September 1. If the application is approved, the season allowed for supplemental irrigation will be March 1 through September 1.

#### Summary of Initial Determinations

**The appropriation of 3.37 CFS, being 0.89 CFS from Well MALH 52005, 0.33 CFS from Well MALH 52013, and 2.16 CFS from Singleton Well 1 (MALH 127), further limited to no more than 0.55 CFS for irrigation of 44.1 acres from March 1 through October 31 and no more than 2.82 CFS for supplemental irrigation of 225.5 acres from March 1 through September 1, is allowable, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for Singleton Well 1 (MALH 127).**

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to #5 and #7 above, your application will likely be limited accordingly.

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, January 20, 2012**. 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 diverted 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. 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.

3. 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 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](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 503-986-0816 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: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17510  
WAB 10- no psi  
POU 10- no psi  
GW

# APPLICATION FACT SHEET

Application File Number: G-17510

Applicant: MICHAEL MCGOURTY

County: Malheur

Watermaster: 9

Priority Date: December 5, 2011

Source: WELL MALH 52005, WELL MALH 52013, AND SINGLETON 1 WELL (MALH 127) IN PHIPPS CREEK BASIN

Use: IRRIGATION OF 44.1 ACRES; SUPPLEMENTAL IRRIGATION OF 225.5 ACRES

Quantity: 3.39 CUBIC FEET PER SECOND (CFS), BEING 0.89 CFS FROM WELL 52005, 0.33 CFS FROM WELL MALH 52013, AND 2.16 CFS FROM SINGLETON WELL 1 (MALH 127)

Basin Name & Number: Malheur, #10

Stream Index Reference: Volume 2 WILLOW CR MISC

Well Locations:

WELL MALH 52005 - NWNW, SECTION 29, T15S, R43E, W.M.; 1266 FEET SOUTH AND 147 FEET EAST FROM NW CORNER, SECTION 29

WELL MALH 52013 - NWSW, SECTION 29, T15S, R43E, W.M.; 1357 FEET NORTH AND 735 FEET EAST FROM SW CORNER, SECTION 29

SINGLETON WELL 1 (MALH 127) - NWNW, SECTION 32, T15S, R43E, W.M.; 19 FEET SOUTH AND 253 FEET EAST FROM NW CORNER, SECTION 32

Place of Use:

	<u>Primary</u>	<u>Supplemental</u>
NW $\frac{1}{4}$ NW $\frac{1}{4}$	27.1 ACRES	
SW $\frac{1}{4}$ NW $\frac{1}{4}$	17.0 ACRES	1.9 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		13.2 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$		6.1 ACRES
	SECTION 29	
NE $\frac{1}{4}$ NE $\frac{1}{4}$		22.4 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$		36.0 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$		39.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$		6.2 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$		21.2 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$		39.0 ACRES
	SECTION 30	
NE $\frac{1}{4}$ NW $\frac{1}{4}$		9.4 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$		31.1 ACRES
	SECTION 32	
	TOWNSHIP 15 SOUTH, RANGE 43 EAST, W.M.	

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 20, 2012**

**PUBLIC NOTICE DATE: Tuesday, January 10, 2012**

**30 DAY COMMENT DEADLINE DATE: Thursday, February 9, 2012**

# Mailing List for IR Copies

Application #G-17510

IR Date: January 6, 2012

## Original mailed to applicant:

MICHAEL MCGOURTY  
5490 HILL RD  
BROGAN, OR 97903

## Copies sent to:

1. WRD - File # G-17510
2. WRD - Water Availability: Ken Stahr

## IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN
4. WRD - Watermaster # 9

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

5. Philip & Lena Worsham, 5580 Hill Rd, Brogan OR 97903
6. Michael & Amy McGourty, 5490 Hill Rd, Brogan, OR 97903
7. Patrick & Marcia McGourty, 3024 Waters Ln, Brogan, OR 97903
8. Mary Lu Bagley, 5611 Willis Street, Brogan, OR 97903
9. Helen McGourty, 5027 S Rd J, Vale, OR 97918

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

10. Dan Cummings and Stu Edwards, CK3, LLC, 368 SW 5<sup>th</sup> Avenue, Ontario, OR 97914

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

Caseworker: Kerry Kavanagh

COPYSHT.IR