

**Oregon Water Resources Department
Water Rights Services Division**

Water Rights Application
Number G-17510

Final Order

Appeal Rights

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Application History

On December 5, 2011, Michael McGourty submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 13, 2012. The protest period closed April 27, 2012, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

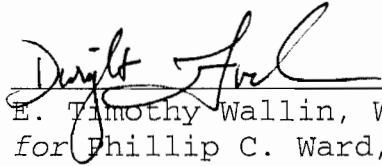
Order

Application G-17510 is therefore approved as proposed by the Proposed Final Order. **Upon submittal of documentation that all wells comply with current minimum well construction standards, a permit shall be issued authorizing the proposed water use.**

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED May 14, 2012



E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Kerry Kavanagh. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF MALHEUR

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

MICHAEL MCGOURTY
5490 HILL RD
BROGAN, OR 97903

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-17510

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

PURPOSE OR USE: IRRIGATION OF 44.1 ACRES (MARCH 1 THROUGH OCTOBER 31); SUPPLEMENTAL IRRIGATION (MARCH 1 THROUGH SEPTEMBER 1) AND PRIMARY IRRIGATION (SEPTEMBER 2 THROUGH OCTOBER 31) OF 225.5 ACRES

MAXIMUM RATE: 3.37 CUBIC FEET PER SECOND (CFS), BEING 0.55 CFS FOR IRRIGATION OF 44.1 ACRES AND 2.82 CFS FOR IRRIGATION/SUPPLEMENTAL IRRIGATION OF 225.5 ACRES

PERIOD OF USE: SEE TABLE BELOW

DATE OF PRIORITY: DECEMBER 5, 2011

WELL LOCATIONS:

WELL MALH 52005 - NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 29, T15S, R43E, W.M.; 1266 FEET SOUTH AND 147 FEET EAST FROM NW CORNER, SECTION 29

WELL MALH 52013 - NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 29, T15S, R43E, W.M.; 1357 FEET NORTH AND 735 FEET EAST FROM SW CORNER, SECTION 29

SINGLETON 1 WELL (MALH 127) - NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32, T15S, R43E, W.M.; 19 FEET SOUTH AND 253 FEET EAST FROM NW CORNER, SECTION 32

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Q-Q	ACRES	Twp	Rng	Mer	Sec	PRIMARY IRRIGATION SEASON	SUPPLEMENTAL IRRIGATION SEASON
NWNW	27.1	15S	43E	WM	29	3/1 THROUGH 10/31	
SWNW	17.0	15S	43E	WM	29	3/1 THROUGH 10/31	
SWNW	1.9	15S	43E	WM	29	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NWSW	13.2	15S	43E	WM	29	9/2 THROUGH 10/31	3/1 THROUGH 9/1
SWSW	6.1	15S	43E	WM	29	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NENE	22.4	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
SENE	36.0	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NESE	39.0	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NWSE	6.2	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
SWSE	21.2	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
SESE	39.0	15S	43E	WM	30	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NENW	9.4	15S	43E	WM	32	9/2 THROUGH 10/31	3/1 THROUGH 9/1
NWNW	31.1	15S	43E	WM	32	9/2 THROUGH 10/31	3/1 THROUGH 9/1

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.

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.

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.

STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

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 be subject to cancellation, unless the Department authorizes the change in writing.

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.

The well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT - THIS IS NOT A PERMIT

E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director
Water Resources Department

