



# 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

**CERTIFIED MAIL  
Return Receipt Requested**

JAMES AND SUE GILMOUR  
30427 SW STELLMACHER DR  
ALBANY, OR 97321

November 9, 2012

Reference: File G-17575

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 an 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 1.57 cubic feet per second (CFS) of water from Well 1 (HARN 51541), Well 2 (HARN 51070), Well 3 (HARN 51069), and Well 4 (HARN 51764) in Malheur Lake Basin; and Well 2 (Section 5 - HARN 50318) in South Fork Malheur River Basin for irrigation of 40.7 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 1 (HARN 51541), Well 2 (HARN 51070), Well 3 (HARN 51069), and Well 4 (HARN 51764) in Malheur Lake Basin; and Well 2 (Section 5 - HARN 50318) in South Fork Malheur River Basin for irrigation is allowable under the Malheur Lake 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 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. In the absence of other information, if the application is approved, the rate allowed will be limited to 0.51 CFS. However, Oregon Revised Statute 537.621(4) allows the Department to authorize a rate and/or duty that is higher than the general basin-wide standard. If you would like to submit documentation intending to demonstrate the need

for the higher rate and/or duty, please do so by Thursday, December 13, 2012. If you need additional time, you may send a written request for up to 180 days. **If we do not receive additional information to consider or a hold request by this date, the Department will limit the rate to 0.51 CFS.**

6. The Department has determined that Well 2 (HARN 51070) does not meet current minimum well construction standards. In order to meet standards, the well must be resealed to a minimum depth of 75 feet below ground surface.

Prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. 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 Well Construction and Compliance 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. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

#### **Summary of Initial Determinations**

**The appropriation of 0.51 CFS from Well 1 (HARN 51541), Well 2 (HARN 51070), Well 3 (HARN 51069), and Well 4 (HARN 51764) in Malheur Lake Basin; and Well 2 (Section 5 - HARN 50318) in South Fork Malheur River Basin for irrigation of 40.7 acres may be allowed during the full period requested, March 1 through October 31, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for Well 2 (HARN 51070).**

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 above, your application will likely be limited accordingly.

#### **Additional Information Required:**

Additional information will be required prior to issuance of any Proposed Final Order that may recommend approval:

- Department staff found a discrepancy regarding the location of Well 2 (Section 5 - HARN 50318) as shown on your application map. The coordinates listed as 35 feet south and 1440 east from the NW Corner of Section 5, Township 27 South, Range 34 East, W.M. do not correspond with the location of the well as depicted on the application map. Please submit a revised map showing the correct location and well coordinates of Well 2 (Section 5 - HARN 50318), as appropriate.

**Please submit this information no later than Thursday, December 13, 2012.** 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 you will need 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 the appropriation of water from this well.

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.

At this time, you must decide whether to proceed or to withdraw your application as described below.

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 23, 2012**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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.

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 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. 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.

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-17575  
WAB 12- no psi  
POU 12- no psi  
GW

# APPLICATION FACT SHEET

Application File Number: G-17575

Applicant: JAMES AND SUE GILMOUR

County: Harney

Watermaster: 10

Priority Date: August 22, 2012

Source: WELL 1 (HARN 51541), WELL 2 (HARN 51070), WELL 3 (HARN 51069), AND WELL 4 (HARN 51764) IN MALHEUR LAKE BASIN; AND WELL 2 (SECTION 5 - HARN 50318) IN SOUTH FORK MALHEUR RIVER BASIN

Use: IRRIGATION OF 40.7 ACRES

Quantity: 1.57 CUBIC FEET PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 2 MALHEUR L & MISC

Well Locations:

WELL 1 (HARN 51541) - NWNW, SECTION 1, T27S, R33E, W.M.; 90 FEET SOUTH AND 235 FEET EAST FROM NW CORNER, SECTION 1

WELL 2 (HARN 51070) - NWNW, SECTION 1, T27S, R33E, W.M.; 70 FEET SOUTH AND 285 FEET EAST FROM NW CORNER, SECTION 1

WELL 3 (HARN 51069) - NWNW, SECTION 1, T27S, R33E, W.M.; 1195 FEET SOUTH AND 1291 FEET EAST FROM NW CORNER, SECTION 1

WELL 4 (HARN 51764) - NENW, SECTION 1, T27S, R33E, W.M.; 1230 FEET SOUTH AND 1515 FEET EAST FROM NW CORNER, SECTION 1

WELL 2 - (SECTION 5 - HARN 50318) - NENW, SECTION 5, T27S, R34E, W.M.; 35 FEET SOUTH AND 1440 FEET EAST FROM NW CORNER, SECTION 5

Place of Use:

SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  31.5 ACRES  
SECTION 1  
TOWNSHIP 27 SOUTH, RANGE 33 EAST, W.M.

SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  9.2 ACRES  
SECTION 5  
TOWNSHIP 27 SOUTH, RANGE 34 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, November 23, 2012**

**PUBLIC NOTICE DATE: Tuesday, November 13, 2012**

**30 DAY COMMENT DEADLINE DATE: Thursday, December 13, 2012**

# Mailing List for IR Copies

Application #G-17575

IR Date : November 9, 2012

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**Original mailed to applicant:**

JAMES AND SUE GILMOUR  
30427 SW STELLMACHER DR  
ALBANY, OR 97321

**SENT VIA EMAIL:**

1. WRD - Watermaster # 10
2. Agent - [scott@apeands.com](mailto:scott@apeands.com)

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

1. WRD - File # G-17575
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN

Affected District (include "Notice of Initial Review--Affected District")