



# 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

LORETTA ZELLEY AND JAMES CAMPBELL  
32401 AIRPORT LANE  
BURNS, OR 97720

February 8, 2013

Reference: File G-17599

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 0.11 cubic foot per second (CFS) of water from Well HARN 434 in Poison Creek Slough Basin for irrigation of 10.05 acres May 1 through October 1.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well HARN 434 in Poison Creek Slough 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 Department has determined the proposed place of use has an underlying ground water right evidenced by Certificate 85764 (see attached map). Further review of the proposed source of water under Application G-17599, Well HARN 434, and the authorized point of appropriation under Certificate 85764, Well No. 3, indicates that Well HARN 434 will likely develop water from the same ground water aquifer as that of Well No. 3 under Certificate 85764.

Because these wells develop water from the same ground water source, Well HARN 434 under Application G-17599 may not be used as a supplemental source to Well No. 3 under Certificate 85764.

In addition, because Certificate 85764 allows the maximum rate of 1/80 CFS per acre of water, Well HARN 434 under Application G-17599 may not be used to make up a deficiency in rate for Well No. 3 under Certificate 85764.

If you would like to use Well HARN 434 under Application G-17599 to irrigate the lands that conflict with underlying certificates, the Department must receive one of the following by Thursday, March 14, 2013:

- A completed form authorizing cancellation of the conflicting portions of the existing rights, along with maps describing those portions; or
  - A transfer application addressing the conflicting portions of the existing rights; or
  - Another means of dealing with the conflict between the existing rights and the use proposed under this application.
6. The Department has determined that Well HARN 434 does not meet current minimum well construction standards. In order to meet standards, the well must be resealed to a minimum depth of 205 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).

### Summary of Initial Determinations

**The appropriation of 0.11 CFS from Well HARN 434 in Poison Creek Slough Basin for irrigation of 10.05 acres is allowable during the full period requested, May 1 through October 1, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for Well HARN 434 and if the conflict with Certificate 85764 is resolved.**

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, February 22, 2013**. 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 allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
  - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water diverted, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
  - 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,

A handwritten signature in black ink that reads "K Kavanagh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kerry Kavanagh  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17599  
WAB 12- no psi  
POU 12- no psi  
GW

# APPLICATION FACT SHEET

Application File Number: G-17599

Applicant: LORETTA ZELLEY AND JAMES CAMPBELL

County: Harney

Watermaster: 10

Priority Date: November 19, 2012

Source: HARN 434 IN POISON CREEK SLOUGH BASIN

Use: IRRIGATION OF 10.05 ACRES

Quantity: 0.11 CUBIC FOOT PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 2 POISON CR & MISC

Well Location: SWSW, SECTION 11, T23S, R31E, W.M.; 75 FEET NORTH AND 441 FEET EAST FROM SW CORNER, SECTION 11

Place of Use:

SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  10.05 ACRES  
SECTION 11  
TOWNSHIP 23 SOUTH, RANGE 31 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 22, 2013**

**PUBLIC NOTICE DATE: Tuesday, February 12, 2013**

**30 DAY COMMENT DEADLINE DATE: Thursday, March 14, 2013**

# APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed about water right topics, weekly public notice, forms and fees please visit our web site at [www.wrd.state.or.us](http://www.wrd.state.or.us)

## 1. Pre-application considerations

- follow instructions in the application packet
- if you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Information Group (WRIG) at 503-986-0801

## 2. Application filing

- application with fee is received by the Department
- Department determines completeness of application
- if use is not allowed by statute (ORS 538), the application and fees are returned to the applicant
- incomplete application and fees are returned to the applicant
- only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing

## 3. Initial Review (IR)

- caseworker reviews application by considering basin plans, water availability, statutory restrictions and all other appropriate factors
- caseworker sends IR report to applicant
- contact the caseworker if you have questions about the IR
- seven days after date of the IR, it is included in Department's weekly Public Notice
- public comments must be submitted within 30 days after the Public Notice
- administrative hold may be requested in writing by applicant

Stop Processing deadline is within 14 days of Initial Review - use the form below  
- applicant may request no further action and fee refund of all but \$200

## STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # \_\_\_\_\_

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$200 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application

Signature \_\_\_\_\_ date \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

*Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$200 examination fee) be returned.*

This notice must be received at Water Resources Department by \_\_\_\_\_

Return the notice to: OWRD, Water Rights Division

STOP PROCESSING

725 Summer Street, NE - Suite A

Salem OR 97301-1271

STATE OF OREGON  
COUNTY OF HARNEY  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

RILEY AND SEWELL  
P.O. BOX 542  
BURNS, OREGON 97720

confirms the right to use the waters of WELL No. 3, tributary of POISON CREEK SLOUGH for IRRIGATION OF 80.6 ACRES AND SUPPLEMENTAL IRRIGATION OF 34.4 ACRES.

This right was perfected under Permit G-297. The date of priority is APRIL 20, 1956. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.125 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	31 E	WM	11	SW SE	WELL NO. 3 - 40 FEET NORTH AND 2640 FEET EAST FROM THE SW CORNER OF SECTION 11

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use to which this right is appurtenant is as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	31 E	WM	11	SW NW	0.80
23 S	31 E	WM	11	NW SW	34.49
23 S	31 E	WM	11	SW SW	29.41
23 S	31 E	WM	11	SE SW	15.90

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
23 S	31 E	WM	11	SW NW	5.60
23 S	31 E	WM	11	SE NW	4.20
23 S	31 E	WM	11	NE SW	12.90
23 S	31 E	WM	11	NW SW	5.20
23 S	31 E	WM	11	SE SW	6.50

This certificate corrects a scrivener's error in Certificate 85516 and describes that portion of the water right confirmed by Certificate 48872, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered August 3, 2009, approving Transfer Application T-10634. This certificate supersedes previously issued 85516.



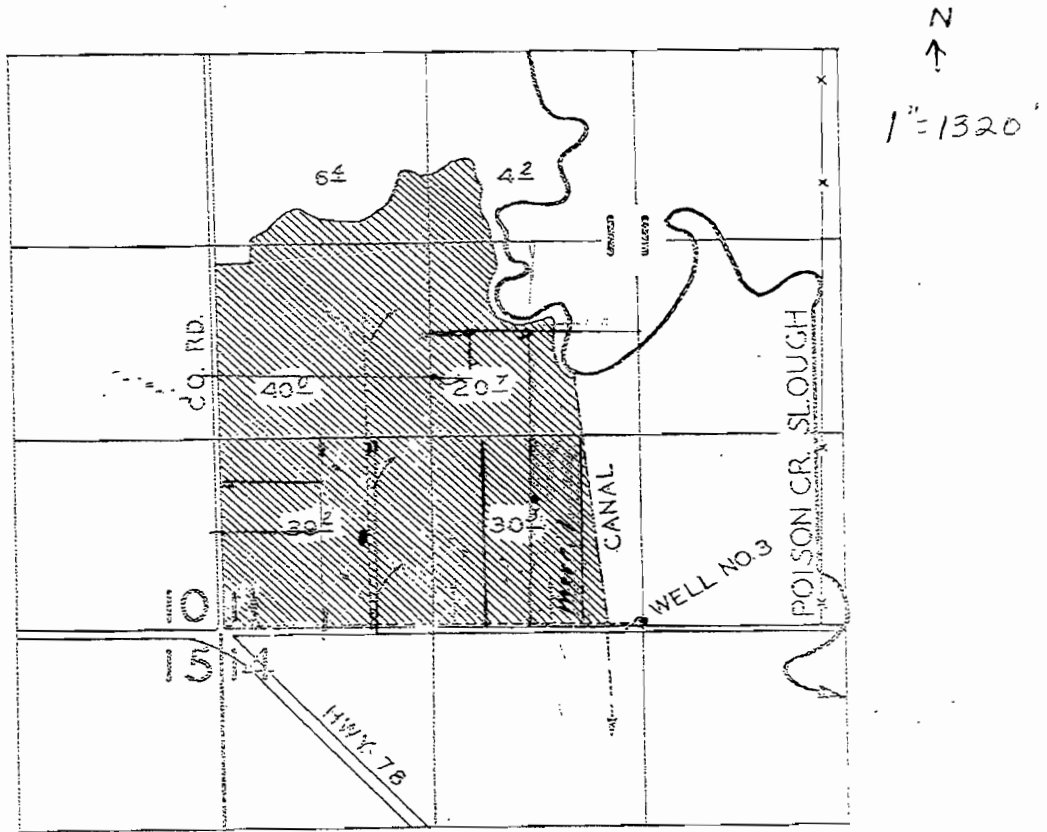
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources Director, affixed     **AUG 31 2009**    .

  
\_\_\_\_\_  
Phillip C. Ward, Director *PCW*

T. 23S. R. 31E. W. 4M.



FINAL PROOF SURVEY  
UNDER

**RECEIVED**

MAY 16 2008

**WATER RESOURCES DEPT  
SALEM, OREGON**

Application No. G299 Permit No. G297  
IN NAME OF

**RILEY & SEWELL**

Surveyed OCT. 26, 1960, by C. O. BARTELS.

T 10634

# Mailing List for IR Copies

Application #G-17599

IR Date: February 8, 2013

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**Original sent via EMAIL to applicant:**

LORETTA ZELLEY AND JAMES CAMPBELL  
32401 AIRPORT LANE  
BURNS, OR 97720

**SENT VIA EMAIL:**

1. WRD - WM # 10
2. Applicant - [jamescampbell2850@centurytel.net](mailto:jamescampbell2850@centurytel.net)

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

1. WRD - File # G-17599
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN

Caseworker: Kerry Kavanagh

COPYSHT.IR