



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 23, 2015

NORTON L SMITH
PO BOX 1917
JACKSONVILLE, OR 97530

Reference: File G-17949

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 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 0.02 cubic foot per second (CFS) of water from a well in Rock Gulch Basin for irrigation of 5.0 acres March 1 through October 31 of each year.

The application also proposed year-round storage of 5.0 acre feet (AF) of groundwater in Burton Pond and two above-ground holding tanks from a well in Rock Gulch Basin for irrigation and wildlife use.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from a well in Rock Gulch Basin for irrigation is allowable under the Rogue Basin Program (OAR 690-515-0030).
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. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
6. The Department cannot determine that the Well proposed for use in this application meets current minimum well construction standards. 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 Joel Jeffery of the Department’s Well Construction and Compliance Section at 503-986-0852 to determine how to proceed.

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 0.02 CFS from a well in Rock Gulch Basin for irrigation of 5.0 acres is allowable during the full period requested, March 1 through October 31 of each year, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for Well 1.

The appropriation of 5.0 AF of groundwater from a well in Rock Gulch Basin for year-round storage in Burton Pond and two above-ground holding tanks for irrigation and wildlife use is allowable.

Additional Information Required:

Additional exam fees are required prior to issuance of any Proposed Final Order that may recommend permit approval as the Department considers storage of groundwater and appropriation of ground water separate uses. The total exam fee is \$2050, and the Department has received a total of \$1900; please provide the additional fee of \$150.

(Please note, prior to permit issuance an additional \$450 for recording fees must be received; although this fee is not due now, payment will allow us to issue any permit simultaneously with the final order (i.e., more quickly). The recording fee is refundable should a permit not be issued.)

Category	Fee
Base	\$1150
Up to 1 CFS	\$300
To Store up to 20 AF @ \$30/AF	\$150
To Appropriate Stored Groundwater up to 20 AF @ \$30/AF	\$150
Additional Point of Appropriation	\$300
TOTAL EXAM FEES:	\$2050

Please submit the payment no later than Thursday, February 26, 2015. If you are unable to meet this deadline, 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 of the application.

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 \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, February 6, 2015**. 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 devices, and recording/reporting of annual water use and storage conditions:
 - A. The Director may require the permittee to install a totalizing flow meter, or other suitable measuring device as approved by the Director, at each point of appropriation. If the Director notifies the permittee to install a measuring device, the permittee shall install such device within the period stated in the notice. Once installed, the permittee shall maintain the device in good working order, and shall allow the watermaster access to the device.
 - B. The Director may require the permittee to keep and maintain a record of the volume of water diverted and stored, and may require the permittee to report water-use/water storage 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.

2. Static Water Level Conditions

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 Static Water Level 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

Reference Static Water Level Determination

Following the first year of water use, the user shall report one static water-level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The Director may require the user to obtain and report additional static water levels after the reference level has been determined. 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;
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface;
- 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 Department may require the discontinuance of groundwater use, 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. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

4. Groundwater production shall be from no deeper than 100 feet below land surface.
5. 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 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 503-986-0806 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: Kerri H. Cope, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerri H. Cope
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17949
WAB 15-NO PSI
POU 15-
GW

APPLICATION FACT SHEET

Application File Number: G-17949

Applicant: NORTON L SMITH

County: Jackson

Watermaster: 13

Priority Date: October 22, 2014

Source: A WELL IN ROCK GULCH BASIN

Use of Groundwater: IRRIGATION OF 5.0 ACRES

Use of Stored Groundwater: IRRIGATION OF 5.0 ACRES AND WILDLIFE USE

Quantity: 0.02 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 6 APPLGATE R MISC

Above-Ground Holding Tanks Location: SWSW, SECTION 4, T39S, R3W, W.M.; 580 FEET NORTH AND 290 FEET EAST FROM SW CORNER, SECTION 4

Reservoir Location: SWSW, SECTION 4, T39S, R3W, W.M.; 60 FEET NORTH AND 700 FEET EAST FROM SW CORNER, SECTION 4

Well Location(s): SWSW, SECTION 4, T39S, R3W, W.M.; 530 FEET NORTH AND 110 FEET EAST FROM SW CORNER, SECTION 4

Place of Use:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 5.0 ACRES
SECTION 4
TOWNSHIP 39 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 6, 2015

PUBLIC NOTICE DATE: Tuesday, January 27, 2014

30 DAY COMMENT DEADLINE DATE: Thursday, February 26, 2015

Mailing List for IR Copies

Application #G-17949

IR Date: January 23, 2015

Original and map emailed to applicant:

NORTON L SMITH, PO BOX 1917, JACKSONVILLE, OR 97530

SENT VIA EMAIL:

1. Applicant - nlsmith17@gmail.com
2. Agent - kalemeadow@gmail.com
3. WRD - Watermaster # 13

IR, Map, and Fact Sheet Copies sent to:

1. WRD - File # G-17949
2. WRD - Regional Manager: SW
3. Department of Agriculture

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

Caseworker: Kerri H. Cope

COPYSH.T.I.R

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

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

4. *Proposed Final Order (PFO)*

- caseworker evaluates application against required criteria and develops draft permit, if appropriate
- PFO includes instructions for filing of protests
- caseworker considers public comments and mails PFO to applicant
- the PFO is included in Department's weekly Public Notice
- public protests to the PFO must be submitted within 45 days after the Public Notice

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 \$225

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 \$225 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 \$225 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

5. *Final Order (FO)*

- if no protest is filed, Final Order is issued

The protest process

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order issued

Permit holder responsibilities

- comply with all water use conditions of the permit
- advise Department of address change or assignment to new permit holder
- if need arises, request extension of time or authorize cancellation of permit
- submit timely claim of beneficial use (COBU) to Department
- most permits require COBU to be prepared by a Certified Water Right Examiner
- permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions