



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

April 10, 2015

PAUL KUSCHNICK
7811 STRATFORD DR NE
SALEM, OR 97305

Reference: File G-17965

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 0.95 cubic foot per second (CFS) of water from Well 1 (MARI 2881) and Well 2 in Bochsler Creek Basin for nursery use on 37.8 acres November 1 through February 28/29 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the appropriation of water from Well 1 (MARI 2881) and Well 2 in Bochsler Creek Basin for nursery use is allowable under the Willamette Basin Program (OAR 690-502-0160).
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 have the potential for substantial interference with Farmers Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available during the period June 1 through October 31 of each year.

5. The application is subject to Section 4(d) of the Endangered Species Act.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

7. The Department has determined that Well 1 (MARI 2881) does not meet 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, 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.

Summary of Initial Determinations

The appropriation of 0.95 CFS of water from Well 1 (MARI 2881) and Well 2 in Bochler Creek Basin for nursery use on 37.8 acres is allowable during the full period requested, November 1 through February 28/29 of each year.

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, April 24, 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 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 diversion. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.

- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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

Seven Consecutive Annual Static Water Level 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;
- 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. Groundwater production shall only occur from the alluvial groundwater reservoir.
4. 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.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

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/programs/NaturalResources/Pages/AgWaterQuality.aspx> 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

Kerri H. Cope
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17965
WAB 2-151
POU 2-151
GW

APPLICATION FACT SHEET

Application File Number: G-17965

Applicant: PAUL KUSCHNICK

County: Marion

Watermaster: 16

Priority Date: November 25, 2014

Source: WELL 1 (MARI 2881) AND WELL 2 IN BOCHSLER CREEK BASIN

Use: NURSERY USE ON 37.8 ACRES

Quantity: 0.95 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 15 ZOLLNER CR MISC

Well Location(s):

WELL 1 (MARI 2881): NESE, SECTION 36, T5S, R1W, W.M.; 2140 FEET NORTH AND 990 FEET WEST FROM SE CORNER, SECTION 36

WELL 2: NESE. SECTION 36, T5S, R1W, W.M.; 2090 FEET NORTH AND 990 FEET WEST FROM SE CORNER, SECTION 36

Place of Use:

NE ¼ SE ¼ 37.8 ACRES
SECTION 36
TOWNSHIP 5 SOUTH, RANGE 2 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 24, 2015

PUBLIC NOTICE DATE: Tuesday, April 14, 2015

30 DAY COMMENT DEADLINE DATE: Thursday, May 14, 2015

Mailing List for IR Copies

Application #G-17965

IR Date: April 10, 2015

Original and map mailed to applicant:

PAUL KUSCHNICK , 7811 STRATFORD DR NE, SALEM, OR 97305

SENT VIA EMAIL:

1. WRD -Watermaster # 16
2. ODFW
3. DEQ
- 4.Agent - phggek@bctonline.com

Copies sent to:

1. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

2. WRD - File # G-17965
3. Department of Agriculture

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Caseworker: Kerri H. Cope

COPYSH.T.IR