



August 28, 2015

DELMA SPRAUER
14736 MONITOR-MCKEE ROAD NE
MT. ANGEL OR, 97362

Reference: File G-18008

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 the 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 supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the appropriation of 0.0977 cubic foot per second (CFS) of water from Well 1 (MARI 1978), Well 2 (MARI 1979), and Well 3 in Bochsler Creek Basin for year-round nursery use on 40.6 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully 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 1978), Well 2 (MARI 1979), and Well 3 in Bochsler Creek Basin for year-round nursery use is allowable.
4. Groundwater will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of groundwater will avoid injury to existing groundwater rights.

The Department has determined that Well 1 (MARI 1978) and Well 2 (MARI 1979) are points of appropriation for groundwater use under Permit G-13340 and Certificate 29557. Further review of those rights indicates permitted rates of appropriation of 0.056 CFS for Well 1 (MARI 1978) and 0.18 CFS for Well 2 (MARI 1979).

The rate of appropriation from Well 1 (MARI 1978) under Permit G-13340, being 0.056 CFS, plus the rate of 0.0977 CFS proposed under this application, totaling 0.154 CFS, would exceed 1% of the minimum perennial streamflow. The rate of appropriation for Well 2 (MARI 1979), being 0.18 CFS, under Certificate 29557, plus the rate 0.0977 CFS proposed under this application, totaling 0.278 CFS, would also exceed 1% of the minimum perennial streamflow. Per ORS 690-009-0040(1)(4), the total appropriation (current and proposed)

from either Well 1 (MARI 1978) or Well 2 (MARI 1979) would trigger the potential for substantial interference with Butte Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

5. Surface water is not available during the period June 1 through November 30 of each year.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
7. The application is subject to Section 4(d) of the Endangered Species Act.
8. The Department has determined that Well 2 (MARI 1979) 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.

Please note that repair of the well will not necessarily overcome the potential for substantial interference with surface water and might not result in the issuance of a permit.

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 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 groundwater supply (OAR 690-200).

Summary of Initial Determinations

The appropriation of 0.0977 CFS of water from Well 3 for year-round nursery use on 40.6 acres is allowable.

Because surface water is not available June 1 through November 30, the appropriation of 0.0977 CFS of water from Well 1 (MARI 1978) and Well 2 (MARI 1979) for year-round nursery use on 40.6 acres is not allowable, and it is unlikely a permit will be issued for these wells unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order .

Because of the Department's determination, the 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 #4 above, the application will likely be limited accordingly.

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 the application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw the application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing

by **Friday, September 11, 2015**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with the application, you do not have to notify the Department. The 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 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 at each point of appropriation. 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. 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 contact me at Barbara.J.Park@wrp.state.or.us or 503-986-0859 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. 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: Barbara Park, 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 "Barbara Park". The signature is written in a cursive style with a large initial "B" and "P".

Barbara Park
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-18008
WAB Willamette-69799
POU Willamette-69799
GW

APPLICATION FACT SHEET

Application File Number: G-18008

Applicant: DELMA SPRAUER

County: MARION

Watermaster: 16

Priority Date: MARCH 5, 2015

Source: WELL 1 (MARI 1978), WELL 2 (MARI 1979), AND WELL 3 IN BOCHSLER CREEK BASIN

Use: NURSERY USE ON 40.6 ACRES

Quantity: 0.0977 CUBIC FOOT PER SECOND

Basin Name & Number: WILLAMETTE, #2

Stream Index Reference: 15 ZOLLNER CR MISC

Well Location(s):

WELL 1 (MARI 1978): SWSW SECTION 25, T5S, R1W, W.M.; 180 FEET NORTH AND 1310 FEET EAST FROM SW CORNER, SECTION 25

WELL 2 (MARI 1979): SWSW SECTION 25, T5S, R1W, W.M.; 330 FEET SOUTH AND 1290 FEET EAST FROM NW CORNER, EASTHAM DLC 63

WELL 3: SWSW SECTION 25, T5S, R1W, W.M.; 1310 FEET EAST FROM SW CORNER, SECTION 25

Place of Use:

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.6 ACRE
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.8 ACRES
SECTION 25

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 9.4 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 11.5 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.3 ACRES
SECTION 36

TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 11, 2015

PUBLIC NOTICE DATE: Tuesday, September 1, 2015

30 DAY COMMENT DEADLINE DATE: Thursday, October 1, 2015

Mailing List for IR Copies

Application #G-18008

IR Date : August 28, 2015

Original and map mailed to applicant:

DELMA SPRAUER 14736 MONITOR-MCKEE ROAD NE, MT. ANGEL, OR, 97362

SENT VIA EMAIL:

1. WRD - Watermaster # 16
- 2 ODFW
- 3 DEQ

Copies sent to:

1. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

2. WRD - File # G-18008
3. Department of Agriculture

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

1. Agent - Doann Hamilton, PHGDMH@GMAIL.COM

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

Caseworker: Barbara Park

COPYSHT.IR

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