



Oregon
Kate Brown, Governor

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

March 11, 2016

ERIK LEIB
PO BOX 518
WILLIAMS, OR 97544

Reference: File G-18187

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 the 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 0.04 cubic foot per second (CFS) of water from a well (JOSE 2235/2236) in West Fork Williams Creek Basin for year-round nursery use on 2.3 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. 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.
4. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will have the potential for substantial interference with West Fork Williams Creek. Therefore, in accordance with OAR 690-400-0010(a)(B), surface water availability must also be considered.
5. Surface water is not available at any time of year.
6. Because surface water is not available for the entire period requested, the appropriation of water from a well (JOSE 2235/2236) in West Fork Williams Creek Basin for year-round nursery use on 2.3 acres is not allowable. However, by providing additional information you may be able to pursue a limited permit. Please refer to the **Additional Information Opportunity** section below for details.
7. The appropriation of water from a well (JOSE 2235/2236) for nursery use is allowable in the Rogue Basin Program (OAR 690-515-0030).

8. Nursery use is not a classified use for the waters of Williams Creek as defined by the Applegate River Basin rules of the Rogue Basin Program (OAR 690-515-0030 (1)(a)(A)). Because a well (JOSE 2235/2236) in West Fork Williams Creek Basin has the potential for substantial interference with West Fork Williams Creek, a tributary to Williams Creek, it is not an allowable use per the subbasin rule.

In addition, OAR 690-515-0030(3) states that there are minimum flow restrictions on the waters of Williams Creek and its tributaries. Although it is unlikely a permit will be issued if the proposed use has the potential for substantial interference with West Fork Williams Creek, if the Department's findings should change, minimum flow values must be met on Williams Creek and its tributaries before additional appropriations of water are granted.

9. The diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon and Watersheds.
10. The proposed use is located above the Rogue Scenic Waterway, as designated under Oregon Revised Statute 390.826.
11. The Department has determined that well JOSE 2235/2236 does not meet current minimum well construction standards because the existing well casing must be replaced and resealed to a minimum depth of 18 feet below land 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, 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 Jeffrey of the Department's Well Construction and Compliance Section at 503-986-0852 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 may 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 ground water supply (OAR 690-200).

Summary of Initial Determination

Because not all items above are favorable, the appropriation of 0.04 CFS of water from a well (JOSE 2235/2236) in West Fork Williams Creek Basin for year-round nursery use on 2.3 acres is not allowable, and it appears unlikely that a permit will be issued unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

However, by providing additional information you may be able to pursue a limited permit, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for well JOSE 2235/2236. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Opportunity

If you would like to use water for year-round nursery use on 2.3 acres, you may amend your application to reduce the proposed rate to 0.008 CFS. By reducing the rate the Department has determined, based upon OAR 690-009, that the proposed groundwater use will not have the

potential for substantial interference with any surface water source. Please be aware that the reduced rate may be insufficient to meet your needs; if so, you may wish to withdraw the application.

Please submit this information no later than Thursday, April 14, 2016. 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 additional information 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.

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.

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, March 25, 2016**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With The 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. Well Identification Tag Condition

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.

3. Scenic Waterway Condition

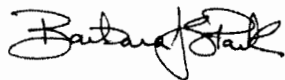
Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

The water source identified in the 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 the proposed water use.

If you have any questions:

Feel free to contact me at Barbara.J.Park@wrdd.state.or.us or 503-986-0859 if you have any questions regarding the contents of this letter or the application. Please have the 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: Barbara Park, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Park
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-18187
WAB 15-70976
POU 15-70976
GW