



March 25, 2016

DEVIN ELLIS  
16335 RAMSEY RD  
WHITE CITY, OR 97503

SOUTHERN OREGON CANNABIS COMPANY  
6383 EAST EVANS CREEK RD  
ROGUE RIVER, OR 97537

Reference: File G-18257

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. Based on the application materials and subsequent correspondence, the Department understands that groundwater will be pumped into two tanks for *temporary storage*, and will ultimately be used for nursery use. Temporary storage in a reservoir that does not exceed 10 days between irrigation sets, temperature control applications, or agriculture spray applications is considered a bulge-in-the-system, and does not require a permit for storage.
2. The application proposed the appropriation of 0.05 cubic foot per second (CFS) of water from Well 1 in Evans Creek Basin for year-round nursery use on 21.1 acres.
3. The proposed use is not prohibited by law or rule except where otherwise noted below.
4. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed under the Rogue Basin Program (OAR 690-515-0040). Therefore, the appropriation of water from Well 1 in Evans Creek Basin for nursery use is allowable.
5. 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.
6. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will have the potential for substantial interference with an unnamed tributary to Evans Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available at any time of year.

7. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
8. The proposed use is located above the Rogue Scenic Waterway, as designated under Oregon Revised Statute 390.826.
9. Although it is unlikely that a permit will be issued, if the Department's findings change, prior to the issuance of a permit, the Department must receive documentation that the proposed use complies with the local acknowledged comprehensive land-use plan. Please submit documentation from the relevant planning jurisdiction that either a) the proposed use is allowed outright or b) that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.
10. Because surface water is not available for the entire period requested, the appropriation of 0.05 CFS of water from Well 1 for year-round nursery use on 21.1 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.

### **Summary of Initial Determinations**

**The appropriation of 0.05 CFS of water from Well 1 in Evans Creek Basin for year-round nursery use on 21.1 acres is not allowable. However, by providing additional information you may be able to pursue a limited permit. 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 appropriate water for year-round nursery use on 21.1 acres, you may amend your application to reduce the proposed rate to **0.023 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 either withdraw the application or submit an amended map with depicting less acreage as the place-of-use.

**Please submit this information no later than Thursday, April 28, 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, April 8, 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.

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 the application.

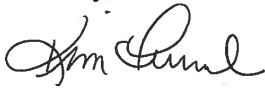
The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to

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 call me at 503-986-0816 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: Kim French, 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, appearing to read "Kim French".

Kim French  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-18257  
WAB 15-70986  
POU 15-70986  
GW

# APPLICATION FACT SHEET

Application File Number: G-18257

Applicant: DEVIN ELLIS/SOUTHER OREGON CANNABIS COMPANY

County: Jackson

Watermaster: 13

Priority Date: February 5, 2016

Sources: WELL 1 IN EVANS CREEK BASIN

Use: YEAR-ROUND NURSERY USE ON 21.1 ACRES

Quantity: 0.05 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 4 EVANS CR

Well Location:

WELL1: NENE, SECTION 31, T34S, R2W, W.M.; 664 FEET SOUTH AND 626 FEET WEST FROM NE CORNER, SECTION 31

Place of Use:

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  20.1 ACRES  
NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  1.0 ACRES  
SECTION 31  
TOWNSHIP 34 SOUTH, RANGE 2 WEST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 8, 2016**

**PUBLIC NOTICE DATE: Tuesday, March 29, 2016**

**30 DAY COMMENT DEADLINE DATE: Thursday, April 28, 2016**

# Mailing List for IR Copies

Application #G-18257

IR Date : March 25, 2016

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**Original and map mailed to applicant:**

DEVIN ELLIS, 16335 RAMSEY RD, WHITE CITY, OR 97503

SOUTHERN OREGON CANNABIS COMPANY, 6383 EAST EVANS CREEK RD, ROGUE RIVER, OR 97537

**SENT VIA EMAIL:**

- 1. WRD - Watermaster # 13
- 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-18257
- 3. WRD - Regional Manager: SWR
- 4. Department of Agriculture

Caseworker: Kim French

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

### 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