



April 1, 2016

JOHN W KIRSCH REVOCABLE LIVING TRUST  
CANDACE L KIRSCH REVOCABLE LIVING TRUST  
6900 POVERTY BEND RD  
MCMINNVILLE, OR 97128

Reference: File G-18179

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 0.33 cubic foot per second (CFS) of water from Well 1, Well 2, and Well 3 in Yamhill River Basin for irrigation of 83.92 acres June 1 through September 1 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 1, Well 2, and Well 3 in Yamhill River Basin for irrigation is allowable under the Willamette Basin Program (OAR 690-502-0160) .
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.
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will have the potential for substantial interference with North Yamhill River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is available during the period December 1 through May 31.

6. Because surface water is not available for the entire period requested, the use of 0.33 CFS of water from Well 1, Well 2, and Well 3 in Yamhill River Basin for irrigation on 83.92 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 proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
8. The application is subject to Section 4(d) of the Endangered Species Act.

### Summary of Initial Determinations

**The appropriation of 0.33 CFS of water from Well 1, Well 2, and Well 3 in Yamhill River Basin for irrigation of 83.92 acres June 1 through September 1 of each year is not allowable and it appears unlikely that you will be issued a permit. 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.**

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.

### Additional Information Opportunity

If you would like to use water during the full season you have requested, you must amend your application to reduce the proposed rate to **0.05 CFS** to avoid the potential for substantial interference with surface water. 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 depicting less acreage as the place-of-use.

**Please submit the information no later than Thursday, May 5, 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 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.

### 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 15, 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 Director may require the permittee to keep and maintain a record of the volume of water diverted, and may require the permittee to report water-use 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.
  - 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

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

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. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of 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 restricted use shall continue until the water level rises above the decline level which triggered the action or 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 causing substantial interference with senior water rights. The water user shall not 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. Dedicated Measuring Tube Condition

Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.

- 4. Groundwater production shall occur only from the alluvial groundwater reservoir.
- 5. Irrigation shall be by drip or other equally efficient method.

6. Well Construction Conditions

- A. The wells must be a minimum of 500 feet away from the nearest wells on neighboring properties.
- B. After two wells have been drilled, a constant-rate aquifer test shall be conducted to determine aquifer properties and to assess the potential impacts from use of the wells. The test shall be designed and conducted by an Oregon Registered Geologist but the test design shall be subject to the approval of the Groundwater Section of the Department prior to the test. The test shall include discharge measurements in the pumping well and water-level measurements in the pumping well and the other permitted well. If practicable, water-level measurements shall also be made in nearby wells that are not on the permit. If a third production well is drilled, at least one additional constant-rate test shall be conducted using one of those wells as the pumping well subject to the same requirements listed for the first test. The results of each test shall be presented in a report that includes an analysis of aquifer properties, aquifer boundaries, and the potential impact on nearby wells that is likely to occur over the duration of an irrigation season if the wells are used at the permitted rate and duty.
- C. A dedicated water-level measuring tube shall be installed in each well. The measuring tube shall meet the standards described in OAR 690-215-0060. When requested, access to the wells shall be provided to Departmental staff in order to make water-level measurements.
- D. Drill cuttings shall be collected at 10-foot intervals and at changes in lithology in each well and a split of each sampled interval shall be provided to the Department.

7. 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 contact me at [Barbara.J.Park@wrp.state.or.us](mailto: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 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-18179  
WAB 2-70746  
POU 2-70746  
GW

# APPLICATION FACT SHEET

Application File Number: G-18179

Applicant: JOHN W KIRSCH REVOCABLE LIVING TRUST  
CANDACE L KIRSCH REVOCABLE LIVING TRUST

County: Yamhill

Watermaster: 16

Priority Date: December 23, 2015

Source: WELL 1, WELL 2, AND WELL 3 IN YAMHILL RIVER BASIN

Use: IRRIGATION OF 83.92 ACRES

Quantity: 0.33 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 12 N YAMHILL R MISC

Well Location(s):

WELL 1: NWE SECTION 3, T4S, R4W, W.M.; 1458 FEET NORTH AND 2111 FEET WEST FROM E1/4 CORNER, SECTION 3

WELL 2: SWNE SECTION 3, T4S, R4W, W.M.; 775 FEET NORTH AND 2111 FEET WEST FROM E1/4 CORNER, SECTION 3

WELL 3: SWNE SECTION 3, T4S, R4W, W.M.; 70 FEET NORTH AND 2111 FEET WEST FROM E1/4 CORNER, SECTION 3

Place of Use:

NW ¼	NE ¼	0.56	ACRE
SW ¼	NE ¼	23.33	ACRES
NE ¼	NW ¼	1.20	ACRES
NW ¼	NW ¼	0.77	ACRE
SW ¼	NW ¼	11.72	ACRES
SE ¼	NW ¼	38.34	ACRES
NE ¼	SW ¼	4.34	ACRES
NW ¼	SE ¼	3.66	ACRES

SECTION 3

TOWNSHIP 4 SOUTH, RANGE 4 WEST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 15, 2016**

**PUBLIC NOTICE DATE: Tuesday, April 5, 2016**

**30 DAY COMMENT DEADLINE DATE: Thursday, May 5, 2016**

# Mailing List for IR Copies

Application #G-18179

IR Date : April 1, 2016

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**Original and map mailed to applicant:**

JOHN W KIRSCH REVOCABLE LIVING TRUST/CANDACE L KIRSCH REVOCABLE LIVING TRUST, 6900 POVERTY BEND RD, MCMINNVILLE, OR 97128

**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:**

1. WRD - File # G-18179
2. Department of Agriculture

<b>Copies Mailed</b> By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Caseworker: Barbara Park