



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

October 7, 2016

WILLIAM MCMICHAEL
PO BOX 3752
SUNRIVER OR 97707

Reference: File G-18292

INITIAL REVIEW

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE DURING PROCESSING

This letter is to inform you that processing of the water-use permit application has begun, 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 if the proposed use is to be allowed. Based on the information you supplied, the Department has made the following initial determinations:

1. The application proposed the appropriation of 0.005 cubic foot per second (CFS) of water from a well (DESC 56961/L78983) in the Little Deschutes River Basin for year-round nursery use on 1.1 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from a well (DESC 56961/L78983) in the Little Deschutes River Basin for nursery use is allowable under the Deschutes Basin Program (OAR 690-505-0040).
4. If properly conditioned, the proposed use of groundwater will avoid injury to existing rights and the resource.
5. The Department has determined, based upon OAR 690-09, that the proposed groundwater source is hydraulically connected to the Little Deschutes River, and will have the potential for substantial interference with surface water. Therefore, in accordance with OAR 690-410-0070(1) and 690-400-0010(11)(a), surface water availability and public-interest considerations related to the surface-water source must be considered.
6. Surface water is not available at any time of the year due to senior water rights on downstream waters.

7. The proposed use of hydraulically-connected groundwater with the potential for substantial interference is not allowable in the Deschutes Basin from April 15 through September 30 of each year (OAR 690-33-120(2)(b)).
8. The mainstem Deschutes River and other proximate sources is a State Scenic Waterway. The proposed use will measurably reduce scenic waterway flows as defined in ORS 390.835.
9. Because the proposed well, located in the Deschutes Groundwater Study Area, has the potential for substantial interference and will interfere with scenic waterway flows, by law, the Department is required to deny the application unless mitigation is provided. The unfavorable findings of this Initial Review may be overcome if mitigation is provided pursuant to the Deschutes Groundwater Mitigation Rules (OAR 690-505-0500 through 0630). Those rules provide a process under which applicants may mitigate for the impact their proposed use would have on surface water flows.
10. The Department has determined the mitigation obligation is 0.1 acre-foot (AF) annually. The required mitigation is based on the annual volume of 0.2 AF. The mitigation obligation is calculated based on a consumptive-use factor of 50% of total annual volume.
11. The Department has determined that mitigation for the proposed use must be located in the Little Deschutes Zone of Impact.
12. The applicant provided information that satisfies the mitigation obligation for this application. MP-191 provides 0.1 mitigation water credits in the Little Deschutes Zone of Impact.
13. 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.

Summary of Initial Determinations

The appropriation of 0.005 CFS from a well (DESC 56961/L78983) in the Little Deschutes River Basin for year-round nursery use on 1.1 acres is allowable because you have demonstrated that sufficient mitigation water is in place for this application under OAR 690-505-0610.

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 **October 21, 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 do anything at this time. 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:

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.

Groundwater Mitigation Conditions

1. Mitigation Obligation: 0.1 acre-foot of mitigation water in the Little Deschutes Zone of Impact (located anywhere in the Little Deschutes River Basin above the mouth).
2. Mitigation Source: obtain 0.1 AF of mitigation water or equivalent mitigation credits that meet the requirements of OAR 690-505-0160(2)-(5).
3. Mitigation water must be legally protected instream in the Little Deschutes Zone of Impact for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.
4. The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.
5. If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the maintenance and terms and conditions of a valid contract or satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department.
6. Failure to comply with these mitigation conditions shall result in the Department regulating the groundwater permit, or subsequent certificate(s), proposing to deny any permit extension application for the groundwater permit, and proposing to cancel the groundwater permit, or subsequent certificate(s).

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 reduced subsequently. However, the use of groundwater allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows, provided the required mitigation is maintained.

If you have questions:

This Initial Review was produced by Kim French. If you have any questions about any of the statements contained in this document, I can be reached at 503-986-0816 or kim.r.french@wrđ.state.or.us. Please have the application number available if you call. If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

Sincerely,



Water Rights Application Caseworker

enclosures: Stop Processing Request Form

G-18292
WAB 5-70757
POU 5-70757
GW

Application Fact Sheet

Mail to: Applicant, Watermaster, District Biologist (ODFW)

Application Number: G-18292

Applicant: WILLIAM MCMICHAEL, PO BOX 3752, SUNRIVER OR 97707

County: DESCHUTES

Watermaster: District 11, Jeremy T. Giffin

Priority Date: MAY 2, 2016

Source: A WELL (DESC 56961/L78983) IN LITTLE DESCHUTES RIVER BASIN

Use: NURSERY USE ON 1.1 ACRES

Period of Use Requested: YEAR-ROUND

Rate requested: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: DESCHUTES, #5

Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
21 S	10 E	WM	1	NE NW	377 FEET SOUTH AND 308 FEET WEST FROM N1/4 CORNER, SECTION 1

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
21 S	10 E	WM	1	NE NW	1.1

Public Notice Date: October 11, 2016

14-day Stop Processing Deadline: October 21, 2016

End of 30-day Comment Period: November 20, 2016