



# 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 6, 2017

SPRINGWATER RED ANGUS RANCH LLC  
MARK J. HETTERVIG  
2000 SE HANNA HARVESTER DR  
MILWAUKIE OR 97222

Reference: File G-18406

Dear Applicant:

## **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 supplied, the Department has made the following initial determinations:

1. The application proposed the appropriation of 0.027 cubic foot per second (CFS) of water from two wells (JEFF 51162/L108441 and a proposed well) in Lower Deschutes Basin for irrigation of 41.6 acres during the irrigation season (April 1 through November 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 two wells (JEFF 51162/L108441 and a proposed well) in Lower Deschutes Basin for irrigation is allowable under the Deschutes Basin Program (Oregon Administrative Rule (OAR) 690-505-0400).
4. If properly conditioned, the proposed use of groundwater will avoid injury to existing groundwater rights and the resource.
5. The Department has determined, based upon OAR 690-09, that the proposed groundwater source is hydraulically connected to the 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 the Deschutes River and 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 is a State Scenic Waterway. The proposed use will measurably reduce scenic waterway flows as defined in Oregon Revised Statute (ORS) 390.835.
9. Because the proposed points of appropriation, located in the Deschutes Groundwater Study Area, have 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 74.88 acre-feet (AF) annually. The required mitigation is based on the use of 0.027 CFS for irrigation on 41.6 acres and the mitigation obligation calculated based on a consumptive-use factor of 1.8 AF per acre.
11. The Department has determined that mitigation for the proposed use must be located in the General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located below Lake Billy Chinook).

#### **Summary of Initial Determinations**

The appropriation of 0.027 CFS from two wells (JEFF 51162/L108441 and a proposed well) in Lower Deschutes Basin for irrigation of 41.6 acres April 1 through November 1 is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

#### **Mitigation Obligation Options:**

To satisfy the mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 74.88 AF of qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits, you may want to contact OWRD Flow Restoration Program Coordinator, Laura Wilke, at 503-986-0884 for a list of mitigation credit holders.

If you decide to purchase mitigation credits, you must submit a documentary evidence form demonstrating that you have obtained mitigation credits. The mitigation bank or the individual you have obtained credits from should provide you with a completed form. Blank forms may be obtained from the Department at the address above, or from the Bend Regional office.

If you are proposing to implement a mitigation project, you must identify and describe the project in sufficient detail so that the Department can make a preliminary determination as to whether the proposed project will likely meet the mitigation obligation. Please contact Laura Wilke (503-986-0884) for further information on mitigation projects, forms, and specific requirements to be included in the proposal.

Mitigation credits must be obtained and/or a mitigation project must be completed before a permit can be issued.

**Withdrawal Refunds:**

If you choose not to proceed, you may withdraw the application and receive a refund (minus a \$260 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, October 20, 2017**. 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: 74.88 AF of mitigation water in the General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located below Lake Billy Chinook).
- 2. Mitigation Source: obtain 74.88 AF of mitigation water or equivalent mitigation credits that meet the requirements of OAR 690-505-0610(2)-(5).
- 3. Mitigation water must be legally protected instream in the General 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 ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

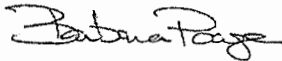
**Scenic Waterway Condition:**

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 ground water 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 Barbara Poage. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0859 or [Barbara.J.Poage@Oregon.gov](mailto:Barbara.J.Poage@Oregon.gov). 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 Specialist

enclosures: Stop Processing Request Form; Response to Notice of Mitigation Obligation; and Deschutes Mitigation Rules

G-18406  
WAB 5-30530627  
POU 5-30530627  
GW

# Application Fact Sheet

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

Application Number: G-18406

Applicant: SPRINGWATER RED ANGUS RANCH LLC/MARK J. HETTERVIG, 2000 SE HANNA HARVESTER DR, MILWAUKIE OR 97222

County: JEFFERSON

Watermaster: District 11, Jeremy T. Giffin

Priority Date: NOVEMBER 1, 2016

Source: WELL JEFF 51162/L108441 AND A PROPOSED WELL

Use: IRRIGATION OF 41.6 ACRES APRIL 1 THROUGH NOVEMBER 30 OF EACH YEAR

Quantity: 0.027 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, #5

Points of Appropriation:

POA	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
JEFF 51162/L108441	10 S	13 E	WM	6	SE SW	250 FEET NORTH AND 310 FEET WEST OF SW ¼ CORNER, SECTION 6
PROPOSED WELL	10 S	13 E	WM	6	NW NW	700 FEET SOUTH AND 1090 FEET WEST OF NE ¼ CORNER, NWNW, SECTION 6

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	13 E	WM	6	NE NW	18.72
10 S	13 E	WM	6	NW NW	12.96
10 S	13 E	WM	6	NW SW	2.20
10 S	13 E	WM	6	SW SW	7.73

Public Notice Date: Tuesday, October 10, 2017

14-day Stop Processing Deadline: Friday, October 20, 2017

End of 30-day Comment Period: Thursday, November 9, 2017

**RESPONSE TO NOTICE OF MITIGATION OBLIGATION  
CREDIT OR PROJECT OPTION**

A mitigation obligation may be satisfied by obtaining mitigation credits, providing for implementation of a mitigation project, or both (OAR 690-505-0610(2)). Please read and complete this acknowledgment of mitigation obligation and return it to the Department.

Applicant(s): SPRINGWATER RED ANGUS RANCH LLC

Applicant's agent (*if applicable*): FRANK WALKER AND ASSOCIATES

Application number: G-18406

Proposed Use: IRRIGATION OF 41.6 ACRES

Period of Use: APRIL 1 THROUGH NOVEMBER 30 OF EACH YEAR

Rate requested: 0.027 CUBIC FOOT PER SECOND

Mitigation Obligation: 74.88 ACRE-FEET

Zone of Impact: General Zone of Impact

**Please read and initial the following statements:**

\_\_\_\_\_ I/We intend to provide mitigation in the amounts noted above and in the appropriate zone of impact.

\_\_\_\_\_ I/We understand that mitigation must be provided within five years of issuance of the final order.

The source of mitigation water will be (please check):

\_\_\_\_\_ Purchase mitigation credits      and / or      \_\_\_\_\_ A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

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I understand that I must provide mitigation credits in the amount noted, or a suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5) in the appropriate zone of impact.

Applicant(s)

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or

Applicant's agent

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Date \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Mail to:

Attn:

Oregon Water Resources Department  
725 Summer St NE Suite A  
Salem OR 97301-1266