



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

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Water Right Application Initial Review

February 2, 2018

J C WATSON CO.
PO BOX 300
PARMA ID 83660

Reference: S-88064

Application S-88064 proposes the diversion of 7.26 cubic feet per second (CFS) of water from Locket Gulch, tributary to Snake River, for supplemental irrigation of 435.0 acres, March 1 through October 31 of each year.

Summary

Surface water in the amount of 7.26 CFS is not available from the requested source, being Locket Gulch, tributary to Snake River at any time of the year.

Not all determinations herein are favorable; therefore it is unlikely that Application S-88064 will be approved, unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

This initial review does not 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. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

At this time, you must decide whether to proceed or to withdraw the application.

Proceed

If you choose to proceed with the application you do not have to notify the Department. The application will 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.

Withdraw

You may withdraw the application and receive a refund (minus a \$260 processing charge per application). You must notify the Department in writing by **Friday, February 16, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

Initial Review Preliminary Determinations (OAR 690-310-0080)

1. The application proposed the diversion of 7.26 CFS of water from Locket Gulch, tributary to Snake River, for supplemental irrigation of 435.0 acres, March 1 through October 31 of each year
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Locket Gulch, tributary to Snake River, for supplemental irrigation is an authorized use under the Malheur Basin Program (690-510).
4. Based on a preliminary review, an analysis of water availability using the Department's Water Availability Reporting System is not possible for the proposed point(s) of diversion. Therefore, a site-specific determination must be made by the Watermaster. The results of that determination may affect the conclusions of the Proposed Final Order.
5. The Watermaster assessment established that no water is available during the time requested.
6. The proposed use is not located within or above any state or federal scenic waterway.
7. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)
8. The application proposed supplemental irrigation on primary irrigation Certificates 29392, 44030, 75671, 75672, 75690, 75691, and 75699, and also on Application G-17923. After further review of the proposed source of water under Application S-88064, the Department has determined that the underlying certificates, with the exception of Certificate 75699 and Application G-17923, are certificated for supplemental irrigation, therefore they are not allowable to serve as primary rights under this application. Also, the source of water under these certificates, including Certificate 75699, will likely develop water from the same source as Application S-88064, therefore supplemental irrigation would not be allowed.
9. The application also proposed supplemental irrigation on primary irrigation Application G-17923. Supplemental irrigation under this application may be allowable because both applications are from different sources, however any supplemental irrigation must be limited to match that of the primary water right. Application G-17923 is limited to 1/80 CFS/acre and, although it is unlikely that a permit will be issued, if the Department's findings change and a permit is issued, it would be limited to 5.44 CFS for supplemental irrigation on 434.7 acres, March 1 through March 30 and October 16 to October 31.

If a Permit is Issued it will Likely Include the Following Conditions:

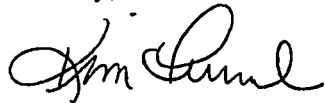
1. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. A permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. You may be required to install, maintain, and operating fish screening and/or by-pass devices consistent with current ODFW standards. Fish screening is to prevent fish from entering the proposed diversion, while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass shall be in place and functional, and approved in writing by ODFW prior to diversion of water. The water user may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary. A permit is subject to cancellation proceeding if water use begins before installation of fish screening and or by-pass devices.
3. **Measurement Devices and Recording/Reporting of Annual Water Storage Conditions:**
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. 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.

If you have any questions:

Feel free to contact me at Kim.R.French@oregon.gov or 503-986-0816 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. 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". The signature is fluid and cursive, with the first name "Kim" and last name "French" clearly distinguishable.

Kim French
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
S-88064
WAB: No WAB

APPLICATION FACT SHEET

Application File Number: S-88064

Applicant: J C WATSON CO.

County: MALHEUR

Watermaster: RON JACOBS, 9, ER

Priority Date: MARCH 23, 2015

Source: LOCKET GULCH, TRIBUTARY TO SNAKE RIVER

Purpose: SUPPLEMENTAL IRRIGATION of 435 ACRES

Basin Name & Number: Malheur, # 10

Point of Diversion:

| Twp | Rng | Mer | Sec | Q-Q | Measured Distances |
|------|------|-----|-----|-------|---|
| 20 S | 47 E | WM | 7 | SW SW | 1240 FEET NORTH AND 230 FEET EAST FROM SW CORNER, SECTION 7 |

Place of Use:

| Twp | Rng | Mer | Sec | Q-Q | Acres |
|------|------|-----|-----|-------|-------|
| 20 S | 46 E | WM | 13 | NE NE | 25.0 |
| 20 S | 46 E | WM | 13 | NW NE | 35.0 |
| 20 S | 46 E | WM | 13 | SW NE | 37.0 |
| 20 S | 46 E | WM | 13 | SE NE | 30.5 |
| 20 S | 46 E | WM | 13 | NE NW | 37.0 |
| 20 S | 46 E | WM | 13 | NW NW | 36.0 |
| 20 S | 46 E | WM | 13 | SW NW | 35.0 |
| 20 S | 46 E | WM | 13 | SE NW | 38.0 |
| 20 S | 46 E | WM | 14 | NE NE | 29.0 |
| 20 S | 46 E | WM | 14 | SE NE | 23.0 |
| 20 S | 46 E | WM | 14 | NE SE | 28.0 |
| 20 S | 46 E | WM | 14 | NW SE | 5.0 |
| 20 S | 46 E | WM | 14 | SE SE | 22.0 |
| 20 S | 47 E | WM | 7 | SW SW | 21.0 |
| 20 S | 47 E | WM | 7 | SE SW | 0.5 |
| 20 S | 47 E | WM | 18 | NE NW | 24.0 |
| 20 S | 47 E | WM | 18 | SW NW | 9.0 |

PUBLIC NOTICE DATE: Tuesday, February 6, 2018

14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 16, 2018

30 DAY COMMENT DEADLINE DATE: Thursday, March 8, 2018

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information about water right topics, weekly public notice, forms and fees please visit our web site at 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 Customer Service Group 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.
- An 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.
- Four 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.
- **An 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.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is 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 the 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

STOP PROCESSING REQUEST FORM
FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR
APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.
- Applicant may request no further action and fee refund of all but \$260.
- Applicant notification to withdraw Water Right Application **S-88064**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 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 \$260 examination fee) be returned.
- This notice must be received at Water Resources Department by:

Friday, February 16, 2018

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A,
Salem OR, 97301-1271
