

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application G-18448 in the
name of AARON MITCHELL

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FINAL ORDER

Summary: Order approving Application G-18448. Upon submittal of documentation that the proposed use complies with the local acknowledged comprehensive land-use plan, a permit shall be issued authorizing the proposed water use.

Authority

The application was processed in accordance with Oregon Revised Statute (ORS) 537.615 through 537.628, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 8, 9, 33, 300, 310, 400, 410 and Willamette Basin 690-502. These statutes and rules can be viewed on the Oregon Water Resources website: <http://www.oregon.gov/owrd/pages/law/index.aspx>.

The Department's main page is <http://www.oregon.gov/OWRD/pages/index.aspx>.

This Final Order is issued pursuant to ORS 537.625 and OAR 690-310-0200.

FINDINGS OF FACT

The findings of fact in the Proposed Final Order issued January 30, 2018 are incorporated herein.

1. On February 2, 2017, Aaron Mitchell submitted an application to the Department for a water use permit.
2. On December 15, 2017 the applicant supplied documentation from the relevant planning jurisdiction that land-use approval was being pursued.
3. The Department issued a Proposed Final Order on January 30, 2018.
4. The protest period closed March 16, 2018, and no protest was filed.
5. The proposed use would not impair or be detrimental to the public interest.

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order issued January 30, 2018 are incorporated herein.

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

NOTE: When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety, and health. The Draft Permit is conditioned accordingly.

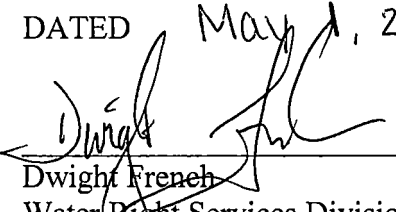
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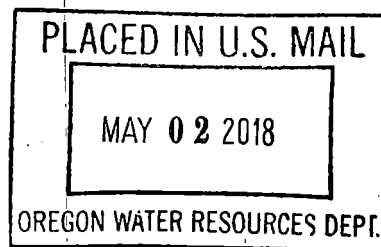
Application G-18448 is approved. A permit consistent with the attached draft permit shall be issued upon receipt of documentation that the proposed use complies with the local acknowledged comprehensive land-use plan.

Failure to submit the required documentation within 60 days of this Final Order may result in the proposed rejection of the application.

If you need to request additional time to submit the required documentation and/or fees, the written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED May 1, 2018


Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department



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- If you have any questions about statements contained in this document, please contact Scott Grew at scott.a.grew@oregon.gov or 503-986-0899.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900
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STATE OF OREGON

COUNTY OF JACKSON

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

AARON MITCHELL
7435 SE 52ND AVE
PORTLAND OR 97206

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-18448

SOURCE OF WATER: WELL 1 (JACK 57929/L 78700) AND WELL 2 IN ROGUE RIVER BASIN

PURPOSE OR USE: NURSERY USE (IRRIGATION AND AGRICULTURE) ON 55.0 ACRES

MAXIMUM RATE: 0.22 CUBIC FOOT PER SECOND

PERIOD OF USE: JANUARY 1 THROUGH DECEMBER 31

DATE OF PRIORITY: FEBRUARY 2, 2017

WELL LOCATION:

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (JACK 57929 / L78700)	34 S	1 W	WM	22	NW SW	2005 FEET NORTH AND 650 FEET EAST FROM SW CORNER, SECTION 22
WELL 2	34 S	1 W	WM	22	NW SW	2475 FEET NORTH AND 730 FEET EAST FROM SW CORNER, SECTION 22

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Acres
34 S	1 W	WM	22	NW SW	31.0
34 S	1 W	WM	22	SW SW	24.0

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 used each month, and shall submit an annual report which includes the recorded 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. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.

3. Scenic Water Way 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 subsequently reduced.

4. 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.

STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

If substantial interference with surface water or a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port adequate to determine water-level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Construction of the well shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the construction deadline to begin is missed.

Complete application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department