



## **Water Right Application Initial Review**

December 7, 2018

OTIS CREEK RANCH LLC  
PO BOX 224  
DREWSEY OR 97904

Reference: Application G-18753

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your 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 Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)**

1. Application G-18753 proposes the appropriation of 3.91 cubic feet per second (CFS) of water, being 2.15 CFS for primary irrigation of 172.3 acres and 1.76 CFS for supplemental irrigation of 141.0 acres from Jack Well 1 and Conley Well 1 in Warm Springs Creek Basin, March 1 to October 1 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Irrigation is allowed under the Malheur Basin Program. (OAR 690-510-0010)
4. Groundwater will likely be available within the capacity of the resource, and if properly conditioned (and if authorized), 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 not have the potential for substantial interference with any surface water source.
6. The proposed use is not located within or above any state or federal scenic waterway.
7. The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.
8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

## Summary

**The appropriation of 3.91 CFS of water, being 2.15 CFS for primary irrigation of 172.3 acres and 1.76 CFS for supplemental irrigation of 141.0 acres from Jack Well 1 and Conley Well 1 in Warm Springs Creek Basin, is allowable March 1 to October 1 of each year.**

Because of the favorable determinations described herein, Application G-18753 can move to the next phase of the water-rights application review process, which includes a public interest review.

Public interest issues and/or public comments will be addressed as the Department 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 fee per application). You must notify the Department **in writing** by **December 21, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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

1. 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.
2. 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 not be valid, unless the Department authorizes the change in writing.
3. **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.
- 4. Groundwater production shall occur only from the fractured bedrock groundwater reservoir between approximately 450 feet and 750 feet below land surface.
  - 5. A dedicated observation well shall be constructed and maintained by the permittee to assess the impacts of use of the permitted wells. When possible, drill cuttings for each production well drilled under this permit shall be collected at 10 foot intervals and at changes in lithology in the well; and a labeled split of each sampled interval shall be provided to the Department. The observation well shall be drilled at least 500 feet from either production well, shall be at least 6 inches in diameter, and shall be constructed to the same specifications and completed in the same aquifer as the production well. After the observation well is completed, Department staff shall be allowed access to the well to run video and geophysical logs, and to install and maintain automatic water level monitoring equipment.
  - 6. **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.

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.Poage@oregon.gov](mailto:Barbara.J.Poage@oregon.gov) or 503-986-0859 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: Barbara Poage, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Park Poage  
Water Right Application Specialist  
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18753  
WAB: no psi

# APPLICATION FACT SHEET

Application File Number: G-18753

Applicant: OTIS CREEK RANCH LLC

County: HARNEY

Watermaster: JR Johnson, 10, ER

Priority Date: November 7, 2018

Source: JACK WELL 1 AND CONLEY WELL 1 IN WARM SPRINGS CREEK BASIN

Use: PRIMARY IRRIGATION OF 172.3 ACRES, SUPPLEMENTAL IRRIGATION OF 141.0 ACRES

Quantity: 3.91 CUBIC FEET PER SECOND

Basin Name & Number: Malheur Lake, #12

WAB: WARM SPRINGS CR > OTIS CR - AT MOUTH

Well Location(s):

POD	POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1	JACK WELL 1	20 S	36 E	WM	8	NW NE	1030 FEET SOUTH AND 870 FEET EAST FROM N1/4 CORNER, SECTION 8
2	CONLEY WELL 1	19 S	36 E	WM	31	NW NW	260 FEET SOUTH AND 510 FEET EAST FROM NW CORNER, SECTION 31

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

Place of Use:

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>	<b>Acres</b>
20 S	36 E	WM	8	NE NE	25.00
20 S	36 E	WM	8	NW NE	38.00
20 S	36 E	WM	8	SW NE	40.00
20 S	36 E	WM	8	SE NE	18.00
20 S	36 E	WM	9	NW NW	20.00
19 S	35 E	WM	25	NE SE	14.90
19 S	35 E	WM	25	SE SE	40.50
19 S	35 E	WM	36	NE NE	5.90
19 S	36 E	WM	30	NE SW	12.10
19 S	36 E	WM	30	NW SW	4.90
19 S	36 E	WM	30	SW SW	39.80
19 S	36 E	WM	30	SE SW	37.00
19 S	36 E	WM	31	NE NW	5.80
19 S	36 E	WM	31	NW NW	11.40

**PUBLIC NOTICE DATE: December 11, 2018**

**14 DAY STOP PROCESSING DEADLINE DATE: December 21, 2018**

**30 DAY COMMENT DEADLINE DATE: January 10, 2019**

## **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](http://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 with or one or more permit conditions.



**STOP PROCESSING REQUEST FORM**

**FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS**

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- Stop processing deadline is within 14 days of Initial Review.
- Applicant notification to withdraw Water Right Application **G-18753**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 processing 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:

**December 21, 2018**

- Return the notice to:

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

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