



Water Right Application Initial Review

December 28, 2018

VERNON L. KEFFER
AMELIA KEFFER
1043 HWY 20-26
ONTARIO OR 97914

Reference: Application G-18654

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-18654 proposes the appropriation of 0.125 cubic foot per second (CFS) of water from Well 2 (MALH 54429/L126977) in Malheur River Basin for irrigation of 10.0 acres March 1 to October 31 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 The point of appropriation is not located within a critical, limited, or withdrawn groundwater area.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)
9. The application proposed irrigation of 10.0 acres however the submitted map indicates 11.97 acres. Please clarify the proposed acreage. If the Department does not receive a response from you clarifying the acreage, the Department will continue to process the application as shown on the map, irrigation of 11.97 acres.

10. The Department has determined that Well 2 (MALH 54429/L126977) does not meet current minimum well construction standards. The depth of the seal is inadequate. The well must be continuously cased and continuously sealed to a minimum depth of 54 feet below ground surface. Under reamed seals cannot be placed in consolidated formations.

Prior to the issuance of a Proposed Final Order recommending approval, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well, you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Joel Jeffery of the Department's Well Construction and Compliance Section at 503-986-0852 to determine how to proceed.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's groundwater supply (OAR 690-200).

Summary

The appropriation of 0.125 CFS of water from Well 2 (MALH 54429/L126977) in Malheur River Basin for irrigation of 11.97 acres March 1 to October 31 of each year is not allowable without Well 2 (MALH 54429/L126977) being brought into acceptable well construction compliance.

Not all determinations herein are favorable; therefore **it is unlikely that Application G-18654 will be approved** unless evidence demonstrating compliance with well construction standards for **Well 2 (MALH 54429/L126977)** is submitted and approved by the Department.

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 **January 11, 2019**. 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 Director may require the permittee to keep and maintain a record of the volume of water diverted, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and 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. **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 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 Poage
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18654
WAB: no psi

APPLICATION FACT SHEET

Application File Number: G-18654

Applicant: VERNON L. KEFFER

County: MALHEUR

Watermaster: Rob Jacobs, 9, ER

Priority Date: April 12, 2018

Source: WELL 2 (MALH 54429/L126977) IN MALHEUR RIVER BASIN

Use: IRRIGATION OF 11.97 ACRES

Quantity: 0.125 CUBIC FOOT PER SECOND

Basin Name & Number: Malheur, #10

WAB: MALHEUR R > SNAKE R - AT MOUTH

Well Location(s):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
18 S	46 E	WM	29	NW NE	330 FEET SOUTH AND 2226 FEET WEST FROM NE CORNER, SECTION 29

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
18 S	46 E	WM	29	NW NE	9.92
18 S	46 E	WM	29	NE NW	2.05

PUBLIC NOTICE DATE: January 1, 2019

14 DAY STOP PROCESSING DEADLINE DATE: January 11, 2019

30 DAY COMMENT DEADLINE DATE: January 31, 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

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

- Stop processing deadline is within 14 days of Initial Review.
- Applicant notification to withdraw Water Right Application **G-18654**.
- 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:

January 11, 2019

- Return the notice to:

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

Mailing List for IR Copies

Application G-18654

IR Date: December 28, 2018

Original and map mailed to applicant:

VERNON L. KEFFER
AMELIA KEFFER
1043 HWY 20-26
ONTARIO OR 97914

SENT VIA AUTO EMAIL:

1. WRD – Watermaster Rob Jacobs # 9

Copies sent to:

1. Owyhee Irrigation District, 17 S. 1st, Nyssa, OR 97913

IR, Map, and Fact Sheet Copies sent to:

1. WRD - File G-18654

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)

Application Specialist: Barbara Park Poage