

Oregon Water Resources Department
Water Right Services Division

Water Right Application G-18600 in the)
name of CLIFF PARSONS and PARSONS) PROPOSED FINAL ORDER
FAMILY TRUST)

Summary: The Department proposes to issue an order approving Application G-18600, as amended, and a permit consistent with the attached draft permit.

Authority

The application is being 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 the Willamette Basin Program OAR 690-502. These statutes and rules can be viewed on the Oregon Water Resources Department's website:
<http://www.oregon.gov/owrd/pages/law/index.aspx>

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

The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if:

- a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);
- b) Water is available;
- c) The proposed use will not injure other water rights; and
- d) The proposed use complies with the rules of the Commission. ORS 537.621(2); OAR 690-310-0150(2)(b)

All four criteria must be met for a proposed use to be presumed to ensure the preservation of the public welfare, safety and health. When the criteria are met and the presumption is established the Department must further evaluate the proposed use, any comments received information available in its files or received from other interested agencies and any other available information to determine whether the presumption is overcome. OAR 690-310-0140

If the Department determines that the presumption is established and not overcome, the Department shall issue a Proposed Final Order recommending issuance of the permit subject to any appropriate modifications or conditions.

FINDINGS OF FACT

Application History

1. On January 26, 2018, Cliff Parsons and Parsons Family Trust filed a complete application for the following water use:

Source:	WELL 1 (YAMH 50585/L10134) IN MILLER CREEK BASIN
Use:	IRRIGATION OF 35.0 ACRES
Rate:	0.45 CUBIC FOOT PER SECOND (CFS)
County:	YAMHILL COUNTY
Place of Use:	SECTION 9, TOWNSHIP 4 SOUTH, RANGE 3 WEST, W.M.

2. On October 12, 2018, the Department mailed the applicant notice of its Initial Review, determining that **"The appropriation of 0.44 CFS of water from Well 1 (YAMH 50585/L10134) in Miller Creek Basin for irrigation of 35.0 acres is allowable March 1 through June 30 of each year, however, by providing additional information you may be able to pursue a limited permit for the entire season requested."** The applicant did not notify the Department to stop processing the application within 14 days of that date.
3. On October 16, 2018, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about obtaining future notices and a copy of the Proposed Final Order.
4. On October 19, 2018, the applicant reduced the proposed rate to 0.31 CFS in order to avoid the potential for substantial interference with surface water.

Presumption Criteria (a) - Consistency with Basin Program

5. The proposed use is allowed under the Willamette Basin Program (OAR 690-502-0160). ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

Presumption Criteria (b) - Water Availability

6. An assessment of groundwater availability has been completed by the Groundwater/Hydrology section. A copy of this assessment is in the file. 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. ORS 537.621(3)(c); OAR 690-310-0150(2)(c)

Presumption Criteria (c) - Injury Determination

7. The proposed use, if authorized, will not injure other water rights. ORS 537.621(3)(d); OAR 690-310-0150(2)(e)

Presumption Criteria (d) - Whether the use complies with rules of the Commission

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 proposed groundwater use is not within a designated critical groundwater area. ORS 537.620(4)(a), 537.621(3)(a); OAR 690-310-0150(2)(a)
10. The Department has determined that the proposed groundwater use, at the reduced rate, will not have the potential for substantial interference with surface water. The Division 9 (Ground Water Interference with Surface Water) review is in the file and can be viewed on the Department's website. ORS 537.621(3)(b); OAR 690-009-0040(4)
11. The proposed use complies with rules of the Water Resources Commission not otherwise described above.

Determination of Presumption that a proposed groundwater use will ensure the preservation of the public welfare, safety and health

Based on the review of the presumption criteria (a)-(d) above, the presumption has been established. ORS 537.621(2); OAR 690-310-0150(2)(g)

Further evaluation of the proposed use

12. No comments were received by the close of the comment period. OAR 690-310-0140(3)(a)
13. Information available in Department files, received from other interested agencies, and other available information does not provide a preponderance of evidence that the proposed use would not ensure the preservation of the public welfare, safety and health under ORS 537.525. OAR 690-310-0140(3)

Other Criteria and Requirements

14. The proposed use is not located within or above a state scenic waterway, as designated under ORS 390.826. 537.621(3)(a); OAR 690-310-0150(2)(a)
15. The amount, 0.31 CFS, is necessary for the proposed use. ORS 537.621(3)(c); OAR 690-310-0150(2)(d)
16. The applicant proposed to apply water when needed and use the most efficient method of water application for the crop being irrigated. These measures are adequate at this time. OAR 690-310-0150(2)(j)

CONCLUSION OF LAW

1. The proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

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.

PROPOSED ORDER

The Department recommends approval of Application G-18600, as amended, and issuance of a permit consistent with the attached draft permit.

DATED January 15, 2019



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

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), you can protest this Proposed Final Order. Protests must be received by the Water Resources Department no later than **March 1, 2019**. Protests must be in writing and include the following:

- Your name, address, and telephone number;
- A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to your interest;
- A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known;
- To affect the Department's determination that the proposed use in this application will, or will not, ensure the preservation of the public welfare, safety and health as described in ORS 537.525, ORS 537.621(2)(b) requires that a protest demonstrate, by a preponderance of evidence any of the following: (a) One or more of the criteria for establishing the presumption are, or are not, satisfied; or (b) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected, and specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected;
- If you are the applicant, a protest fee of \$410 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$810 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing.

Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than **March 1, 2019**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the Proposed Final Order as issued;
- A detailed statement of how the requester would be harmed if the Proposed Final Order is modified; and

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF YAMHILL

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

CLIFF PARSONS
PARSONS FAMILY TRUST
23625 S MULINO RD
CANBY OR 97013

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

APPLICATION FILE NUMBER: G-18600

SOURCE OF WATER: WELL 1 (YAMH 50585/L10134) IN MILLER CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 35.0 ACRES

MAXIMUM RATE: 0.31 CUBIC FOOT PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JANUARY 26, 2018

WELL LOCATION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
4 S	3 W	WM	9	SW NE	1360 FEET SOUTH AND 460 FEET EAST FROM NW CORNER, ALDERMAN DLC 43

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 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	3 W	WM	9	NE NE	1.0
4 S	3 W	WM	9	SW NE	10.0
4 S	3 W	WM	9	SE NE	10.7
4 S	3 W	WM	9	NE SW	1.2
4 S	3 W	WM	9	NW SE	12.1

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. Static Water Level Condition:

Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:

- A. An average water-level decline of 3 or more feet per year for five consecutive years; or
- B. A total water-level decline of 15 or more feet; or
- C. A hydraulic interference decline of 15 or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).

- A. Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
- B. In addition to the measurement required in the subsection above, a water-level measurement shall be made each year during the period March 1 through March 31.
- C. All water-level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
- D. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment is available from the Department.

The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited herein are evidenced by the well measurement required in the static water level condition.

3. **Groundwater production shall only be from the basalt groundwater reservoir.**

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

1. 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.
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 be subject to cancellation, unless the Department authorizes the change in writing.
3. 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.
4. 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.
5. 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.
6. 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.

7. 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.
8. 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.
9. 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.
10. 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.
11. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT - THIS IS NOT A PERMIT

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

Mailing List for PFO Copies

Application G-18600

PFO Date January 15, 2019

Original mailed via CERTIFIED MAIL to applicant:

CLIFF PARSONS
PARSONS FAMILY TRUST
23625 S MULINO RD
CANBY OR 97013

SENT VIA AUTO EMAIL:

1. WRD - Joel Plahn - # 16
2. Agent - Steve Applegate - steve.applegsp@gmail.com

Copies sent to:

3. WRD - File # G-18600
4. WRD - SW Section

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

3/1/2019

~~01/18/2019~~

Protest/ Standing Dates
checked

Application Specialist: Kim French