



Water Right Application Initial Review

January 25, 2019

MITCHELL REGAL
15869 SUNSET TRAIL
PINE CITY MN 55063

Reference: Application G-18730

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-18730 proposes the appropriation of 0.11 cubic foot per second (CFS) of water from Well 1 (YAMH 53959/L74404) and Well 2 in Russell Creek Basin for irrigation of 76.3 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 Willamette Basin Program. (OAR 690-502-0160)
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 have the potential for substantial interference with Russell Creek and Beaver Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. At the requested rate, surface water is **not** available June 1 through November 30 of each year.
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 The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.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. Because this application will have an impact on surface water flows where the Oregon Department of Fish and Wildlife (ODFW) has identified that sensitive, threatened or endangered fish are present, this application will be reviewed by at least ODFW and the Department of Environmental Quality in accordance with OAR 690-033 rules. This review could have an impact on the eventual outcome of your application. This review could cause your application to be proposed for denial, the season of

use to be shortened, or impacted in some other way when the Department issues a proposed final order at the next stage of processing.

9. 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)
10. See **Additional Information Opportunity** section below for deficiencies with the application.

Summary

The appropriation of 0.11 CFS of water from Well 1 (YAMH 53959/L74404) and Well 2 in Russell Creek Basin for irrigation of 76.3 acres is allowable March 1 to May 30 of each year. See Additional Information Opportunity section below to pursue a reduced rate-limited permit for the months of June to October.

Because of the favorable determinations described herein, Application G-18730 can move to the next phase of the water-rights application review process, which includes a public interest review.

Without a reduction in rate, it is unlikely that Application G-18730 will be approved for use June 1 to October 31 of each year unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

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.

The Department has rules (OAR 690-033) that establish additional procedures and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

Your application will undergo additional review from numerous federal, state, local, and tribal governmental entities. This review may cause your application to be limited, conditioned, or denied. Depending on the proposed use, you may be able to mitigate for potential impacts identified in the review.

Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water within the impacted reach through purchasing or transferring another water right. Following the Initial Review, you will be notified if mitigation is required. If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options.

Additional Information Opportunity

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval for the fully requested season. If you would like to pursue a limited permit, you have the option of reducing the rate of use to 0.0518 CFS (approximately 23.0 gallons per minute) for the months where the potential for substantial interference with surface water occurs (June 1 to October 31).

In reducing the rate to 0.0518 CFS, June 1 to October 31 of each year, there would be no potential for substantial interference with surface water and no need for reviews of the application from numerous federal, state, local, and tribal governmental entities.

If you would like to pursue this limited permit opportunity, please contact the Department in writing by **February 28, 2019**. If the Department does not receive notification from you by **February 28, 2019**, and you do not offer a mitigation proposal, the Department will proceed with processing the application for the months of March through May only, and will require notification from you on how beneficial use of water will be accomplished with this reduced season.

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 **February 1, 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-18730
WAB: 70745

APPLICATION FACT SHEET

Application File Number: G-18730

Applicant: MITCHELL REGAL

County: YAMHILL

Watermaster: Joel Plahn, 16, NWR

Priority Date: August 28, 2018

Source: WELL 1 (YAMH 53959/L74404) AND WELL 2 IN RUSSELL CREEK BASIN

Use: IRRIGATION of 76.3 ACRES

Quantity: 0.11 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

WAB: PANTHER CR > N YAMHILL R - AT MOUTH

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
Well 1 (YAMH 53959/L74404)	3 S	5 W	WM	16	NW SE	1525 FEET NORTH AND 1915 FEET WEST FROM SE CORNER, SECTION 16
Well 2	3 S	5 W	WM	16	NW SE	1620 FEET NORTH AND 1610 FEET WEST FROM SE CORNER, SECTION 16

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	5 W	WM	16	NE SW	4.10
3 S	5 W	WM	16	NE SE	17.50
3 S	5 W	WM	16	NW SE	17.30
3 S	5 W	WM	16	SW SE	20.10
3 S	5 W	WM	16	SE SE	17.30

PUBLIC NOTICE DATE: January 2, 2019

14 DAY STOP PROCESSING DEADLINE DATE: February 8, 2019

30 DAY COMMENT DEADLINE DATE: February 28, 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-18730**.
- 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:

February 8, 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-18730

IR Date: January 25, 2019

Original and map mailed to applicant:

MITCHELL REGAL
15869 SUNSET TRAIL
PINE CITY MN 55063

SENT VIA AUTO EMAIL:

1. WRD – Watermaster Joel Plahn # 16
2. ODFW
3. DEQ
4. Agent – Doann Hamilton, PHGDMH@GMAIL.COM

IR, Map, and Fact Sheet Copies sent to:

1. WRD - File G-18730
2. WRD – SW Section

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)

Application Specialist: Barbara Park Poage