

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

Water Right Application G-18614 in the            )  
name of CHRIS RAMSEY, DOMAINE                )  
SERENE VINEYARDS & WINERY INC.            )  
AND FOXGLOVE PROPERTIES LLP

PROPOSED FINAL ORDER

**Summary:** The Department proposes to issue an order approving Application G-18614 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 February 26, 2018, Chris Ramsey, Domaine Serene Vineyards & Winery Inc. and Foxglove Properties LLP filed a complete application for the following water use:

Source	WELL 3 IN MILLER CREEK BASIN
Use	IRRIGATION OF 129.1 ACRES
Rate	0.17 CUBIC FOOT PER SECOND (CFS)
County	YAMHILL COUNTY
Place of Use	SECTION 4, TOWNSHIP 4 SOUTH, RANGE 3 WEST, W.M.

2. On November 2, 2018, the Department mailed the applicant notice of its Initial Review, determining that **"The appropriation of 0.17 CFS of water from Well 3 in Miller Creek Basin for irrigation of 108.9 acres and primary irrigation to make up a deficiency in rate on 20.2 acres is allowable."** The applicant did not notify the Department to stop processing the application within 14 days of that date.
3. On November 6, 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 November 7, 2018 the Department received a revised application map, identifying the location of acres under water rights certificates 80890 and 90771.
5. On January 7, 2019, the agent for the application clarified that the place of use described on the map for this application more accurately describes the area under irrigation than the Final Proof Surveys maps previously submitted for Water Right Certificates 80890 and 90771. Although the acreage differs per quarter-quarter, the total acreage matches the same 20.2 acres described on these certificates. The attached draft permit reflects the newer place of use description.

### Presumption Criteria (a) - Consistency with Basin Program

6. 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

7. An assessment of groundwater availability has been completed by the Department's 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

8. 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**

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. 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)
11. The Department has determined that the proposed groundwater use 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)
12. 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**

13. No comments were received by the close of the comment period. OAR 690-310-0140(3)(a)
14. 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**

15. 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)
16. The amount requested, 0.17 cubic foot per second CFS, is necessary for the proposed use. ORS 537.621(3)(c); OAR 690-310-0150(2)(d)
17. 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**

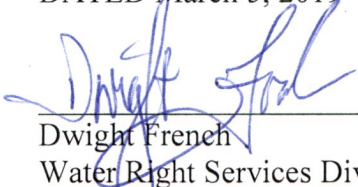
1. The proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

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-18614 and issuance of a permit consistent with the attached draft permit.

DATED March 5, 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 **April 19, 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 **April 19, 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

- A standing fee of \$230. If a hearing is scheduled, an additional fee of \$580 must be submitted along with a petition for party status.

After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and either:

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear or fail to appear at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a prima facie case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative may represent a partnership, corporation, association, governmental subdivision or public or private organization if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act. 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>

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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](mailto:Scott.A.Grew@oregon.gov) or 503-986-0899.
  - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0820.
  - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
  - Address any correspondence to :      Water Right Services Division  
725 Summer St NE, Suite A  
Salem, OR 97301-1266  
Fax: 503-986-0901
-

**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

CHRIS RAMSEY  
DOMAINE SERENE VINEYARDS & WINERY INC.  
FOXGLOVE PROPERTIES LLP  
6555 NE HILLTOP LANE  
DAYTON OR 97114

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

APPLICATION FILE NUMBER: G-18614

SOURCE OF WATER: WELL 3 IN MILLER CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 108.9 ACRES AND PRIMARY IRRIGATION TO MAKE UP A DEFICIENCY IN RATE FOR IRRIGATION OF 20.2 ACRES

MAXIMUM RATE: 0.17 CUBIC FOOT PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: FEBRUARY 26, 2018

WELL LOCATION:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
4 S	3 W	WM	4	NE SW	3	150 FEET SOUTH AND 1500 FEET EAST FROM W1/4 CORNER, SECTION 4

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:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
3 S	3 W	WM	33	SW SW		38	1.97
4 S	3 W	WM	4	NE NW		38	8.96
4 S	3 W	WM	4	NE NW	7		14.87
4 S	3 W	WM	4	NW NW		38	14.16
4 S	3 W	WM	4	NW NW	6		1.78

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	4	SW NW	5		18.35
4 S	3 W	WM	4	SW NW		41	2.37
4 S	3 W	WM	4	SE NW		41	4.25
4 S	3 W	WM	4	SE NW	4		25.55
4 S	3 W	WM	4	NE SW	3		4.50
4 S	3 W	WM	4	NE SW		41	4.62
4 S	3 W	WM	4	NW SW		41	0.80
4 S	3 W	WM	5	NE NE		38	0.86
4 S	3 W	WM	5	NE NE	2		0.22
4 S	3 W	WM	5	SE NE	1		3.16
4 S	3 W	WM	5	SE NE		41	2.31
4 S	3 W	WM	5	NE SE		41	0.15

IRRIGATION, DEFICIENCY IN RATE							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
4 S	3 W	WM	4	NW NW	6		0.98
4 S	3 W	WM	4	NW NW		38	1.47
4 S	3 W	WM	4	SW NW	5		12.70
4 S	3 W	WM	5	NE NE	2		0.21
4 S	3 W	WM	5	NE NE		38	0.10
4 S	3 W	WM	5	SE NE	1		4.74

**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 Conditions:**

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. Each basalt well shall be cased and continuously sealed from land surface to a depth of at least 335 feet below land surface, to reduce the chances of forming a hydraulic connection to nearby streams or interference with nearby wells.
- 4. Each basalt well shall be open to a single aquifer of the Columbia River Basalt Group and shall meet the applicable well construction standards (OAR 690-200 and OAR 690-210). In addition, the open interval in each well shall be no greater than 100 feet. However, an open interval of greater than 100 feet may be allowed if substantial evidence of a single aquifer completion can be demonstrated to the satisfaction of the Department hydrogeologists, using information from a video log, downhole flowmeter, water chemistry and temperature, or other downhole geophysical methods. These methods shall characterize the nature of the basalt rock and assess whether water is moving in the borehole. Any discernable movement of water within the well bore when the well is not being pumped shall be assumed as evidence of the presence of multiple aquifers in the open interval.
- 5. If during well construction it becomes apparent that the well can be constructed to eliminate interference with hydraulically connected streams in a manner other than specified in this permit (including but not limited to SPECIAL CONDITIONS 1 and 2 above), the permittee can contact the

Department Hydrogeologist for this permit or the Groundwater Hydrology Section Manager to request approval of such construction. The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the request is made after casing and seal are placed, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.

6. A dedicated water-level measuring tube shall be installed in each well. The measuring tube shall meet the standards described in OAR 690-215-0060. When requested, access to the wells shall be provided to Department staff in order to make water-level measurements.
7. The applicant shall coordinate with the driller to ensure that drill cuttings are collected at 10-ft intervals and at changes in formation in each well. A split of each sampled interval shall be provided to the Department.
8. Copies of all geologic and hydrogeologic reports completed for the permittee during the development of the wells, including geophysical well logs and borehole video logs, shall be provided to the Department. Except for borehole video logs, two paper copies, or a single electronic copy, shall be provided of each report. Digital tables of any data shall be provided upon request.

9. **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**

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

# Mailing List for PFO Copies

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Application G-18614

PFO Date March 5, 2019

**Original mailed via CERTIFIED MAIL to applicant:**

CHRIS RAMSEY  
DOMAINE SERENE VINEYARDS & WINERY INC.  
FOXGLOVE PROPERTIES LLP  
6555 NE HILLTOP LANE  
DAYTON OR 97114

**SENT VIA AUTO EMAIL:**

1. WRD - Joel Plahn - # 16
2. Agent - Bill Flatz – Stuntzner Engineering  
billflatz@stuntzner.com

**SENT VIA EMAIL:**

3. Applicant - Chris Ramsey - chris@domaineserene.com

**Copies sent to:**

4. WRD - File # G-18614

Copies Mailed

By: \_\_\_\_\_  
(SUPPORT STAFF)

on: \_\_\_\_\_  
(DATE)

03/ 01/ 2019  
Protest/ Standing Dates  
checked

Caseworker Processor: Scott Grew