

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

Water Right Application S-88064 in the
name of J C WATSON CO.)
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)

FINAL ORDER

Summary: Order approving Application S-88064 and issuing a draft permit.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and the Malheur Basin Program OAR 690-510. These statutes and rules can be viewed on the Oregon Water Resources website:

<https://www.oregon.gov/OWRD/programs/policylawandrules/Pages.default.aspx>.

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

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190.

FINDINGS OF FACT

1. On March 23, 2015, submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on March 27, 2018. The protest period closed May 11, 2018, and no protest was filed.
3. The findings of fact in the Proposed Final Order are incorporated herein with the following modification:
 - a. Pursuant to OAR 690-033-0115 and 690-033-0310, the Department received input from the Oregon Department of Fish and Wildlife and the Department of Environmental Quality. Both

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

HEARING RIGHTS

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed. Only the applicant or protestant may appeal this order. (ORS 537.170(7)(b)).

agencies indicated that “no loss or net loss to fish habitat is expected from the proposed use” and did not recommend any further conditions.

CONCLUSIONS OF LAW

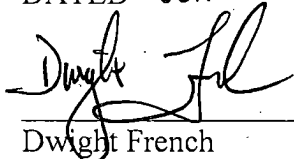
1. The conclusions of law in the Proposed Final Order issued March 27, 2018 are incorporated herein with the above modification.
2. The proposed use, as conditioned, use would not impair or be detrimental to the public interest.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of the water to be appropriated for the project.

ORDER

Application S-88064 is approved and a draft permit is issued. A permit consistent with the attached draft permit shall be issued upon approval of Application G-17923.

DATED JUN 06 2019



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

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- If you have any questions about statements contained in this document, please contact Kim French at Kim.R.French@oregon.gov or 503-986-0816.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503 986-0900.
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STATE OF OREGON
COUNTY OF MALHEUR

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

J C WATSON CO.
PO BOX 300
PARMA ID 83660

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

APPLICATION FILE NUMBER: S-88064

SOURCE OF WATER: LOCKET GULCH, TRIBUTARY TO SNAKE RIVER

PURPOSE OR USE OF THE WATER: SUPPLEMENTAL IRRIGATION OF 434.7 ACRES

MAXIMUM RATE: 5.43 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH MARCH 31 AND OCTOBER 16 THROUGH OCTOBER 31

DATE OF PRIORITY: MARCH 23, 2015

POINT OF DIVERSION:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
20 S	47 E	WM	7	SW SW	1240 FEET NORTH AND 230 FEET EAST FROM SW CORNER, SECTION 7

THE PLACE OF USE IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q	Acres
20 S	46 E	WM	13	NE NE	24.7
20 S	46 E	WM	13	NW NE	35.0
20 S	46 E	WM	13	SW NE	37.0
20 S	46 E	WM	13	SE NE	30.5
20 S	46 E	WM	13	NE NW	37.0
20 S	46 E	WM	13	NW NW	36.0
20 S	46 E	WM	13	SW NW	35.0
20 S	46 E	WM	13	SE NW	38.0
20 S	46 E	WM	14	NE NE	29.0
20 S	46 E	WM	14	SE NE	23.0
20 S	46 E	WM	14	NE SE	28.0
20 S	46 E	WM	14	NW SE	5.0
20 S	46 E	WM	14	SE SE	22.0
20 S	47 E	WM	7	SW SW	21.0
20 S	47 E	WM	7	SE SW	0.5
20 S	47 E	WM	18	NW NW	24.0
20 S	47 E	WM	18	SW NW	9.0

1. Water Use Measurement, Recording, and Reporting Condition:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. 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 diverted each month, and shall submit a report which includes 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. A fishway to ensure adequate upstream and downstream passage for fish is required for any in-channel obstruction, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission.
 3. The permittee maybe required in the future to install, maintain, and operate fish screening and bypass devices to prevent fish from entering the proposed diversion and to provide adequate upstream and downstream passage fir fish.
 4. At the time of perfection, the permittee may request that the use be certificated as primary irrigation, if water has been used beneficially according to the terms and conditions of this permit, and if underlying primary water rights are simultaneously diminished or canceled.

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. 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.
3. 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.
4. 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.
5. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

6. Construction of the water system 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 begin construction deadline is missed.
7. 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.
8. 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

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