

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of Aquifer Storage and)
Recovery (ASR) Permit Application #004)
Washington County

PROPOSED FINAL ORDER

Summary of Recommendation

The Department recommends that the application be approved as conditioned in the attached draft permit.

Authority

Oregon Revised Statutes (ORS) 537.534 and Oregon Administrative Rules (OAR) 690-350-0030 establish the process by which an application for an ASR permit may be submitted and evaluated by the Department.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- recommendations by other state agencies
- any applicable comprehensive plan or zoning ordinance
- the results of testing under an ASR limited license
- the rates and volume of the proposed use
- the water rights and water quality of existing users of the aquifer and source water
- provisions of any critical groundwater areas
- the water right for injection source water
- applicable statutes, administrative rules, and case law
- the pre-application conference
- any comments received

Findings of Fact

1. On August 3, 2018, Hillsboro School District submitted an application for an ASR permit:

Maximum Diversion Rate:	0.22 cubic feet per second (100 gallons per minute)
Maximum Injection Rate:	0.14 cubic feet per second (65 gallons per minute)
Maximum Storage Volume:	25 million gallons
Maximum Withdrawal Rate:	0.95 cubic feet per second (425 gallons per minute)
Maximum Storage Duration:	Ongoing
Injection Source Water:	ORS 538.420; Certificates 67891, 85913, 81026, 81027, 89117, 89115; Permits G-8755, G-10479, G-10124, G-10455; T10489
ASR Injection Well Location:	670 feet North & 1450 feet East from SW Corner, Section 14, Township 1 N, Range 2 W, W.M.

2. On October 29, 2018, the application was determined incomplete by the Department. The application was resubmitted on January 29, 2019, and determined complete on March 13, 2019.
3. On March 19, 2019, the Department provided public notice of the application in the Department's weekly notice, thereby initiating a 60-day comment period.

4. The ASR permit application referenced ORS 538.420, Certificates 67891, 85913, 81026, 81027, 89117, 89115; Permits G-8755, G-10479, G-10124, and G-10455; T-10489 as injection source water for the proposed ASR permit.
5. Hillsboro School District conducted ASR testing under ASR Limited License #017 during water years 2010 through 2019.
6. Hillsboro School District has submitted results of ASR testing in annual reports and a summary of testing in the ASR permit application.
7. The Department requested and received comments on the application from the Oregon Department of Environmental Quality and Oregon Health Authority (Drinking Water Program). The attached draft permit is conditioned to address concerns raised in those comments.

Conclusions of Law


Under the provisions of ORS 537.534 and OAR 690-350-0030, the Director may issue an ASR permit with proper conditions, if the proposed use will not impair or be detrimental to the public interest and there is a water right for injection source water.

1. The ASR permit application is supported by test results under ASR Limited Licenses #017.
2. Permit conditioning can reasonably address requirements in rule, the concerns of commenters, and, otherwise protect the public welfare, safety, and health.
3. The proposed use complies with requirements of the State Agency Coordination Program regarding land use.
4. The proposed use complies with rules of the Water Resources Commission not otherwise described above.
5. ORS 538.420, Certificates 67891, 85913, 81026, 81027, 89117, 89115; Permits G-8755, G-10479, G-10124, and G-10455; T-10489 are the source water rights for the proposed ASR project.

Proposed Order

The Department recommends that ASR Permit Application #004 be approved, and the attached draft permit be issued as limited by the conditions contained therein.

Dated at Salem, Oregon on June 18, 2019



Alyssa Mucken
Water Rights Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

Protests

Under the provisions of ORS 537.621(8), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **Friday, August 2, 2019**, be in writing, and include the following:

1. Your name, address, and telephone number;
2. 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;
3. A detailed description of how the action proposed in this Proposed Final Order would impair or be detrimental to your interest;
4. A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
5. Any citation of legal authority to support your protest, if known.
6. 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.
7. If you are the applicant, a protest fee of \$410 as required by ORS 536.050.
8. If you are not the applicant, the protest fee of \$810 as required by ORS 536.050, and proof of service of the protest upon the applicant.
9. If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the Proposed Final Order.
10. If you do not protest this Proposed Final Order, and if no substantive changes are made in the Final Order, you will not have an opportunity for judicial review, protest or appeal of the Final Order when it is issued.

Requests for Standing

Under the provisions of ORS 537.621(8), 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 **Friday, August 2, 2019**, be in writing, and include the following:

1. The requester's name, mailing address and telephone number;
2. If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
3. A statement that the requester supports the Proposed Final Order as issued;
4. A detailed statement of how the requester would be harmed if the Proposed Final Order is modified.
5. A standing fee of \$230.00. If a hearing is scheduled, an additional fee of \$250.00 must be submitted, along with a request for intervention.

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

1. upon review of the issues, the Director finds that there are significant disputes related to the proposed use of water, or
2. 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 Servicemembers: Active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0900. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF WASHINGTON

DRAFT PERMIT FOR AQUIFER STORAGE AND RECOVERY (ASR)

THIS DRAFT ASR PERMIT IS HEREBY ISSUED TO:

HILLSBORO SCHOOL DISTRICT
4901 SE WITCH HAZEL
HILLSBORO, OR 97123

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

APPLICATION FILE NUMBER: ASR PERMIT #004

PREVIOUS ASR TESTING AUTHORIZATION: ASR LIMITED LICENSE #017

SOURCE OF WATER: ORS 538.420, CERTIFICATES 67891, 85913, 81026, 81027, 89117, 89115;
PERMITS G-8755, G-10479, G-10124, and G-10455, Transfer T-10489

POINTS OF DIVERSION:

Source Water Right	POD Location
Certificate 81026	POD 1: 750 FEET NORTH, 590 FEET EAST FROM THE SW CORNER OF SECTION 14, T1S, R5W W.M. POD 2: 650 FEET SOUTH, 650 FEET WEST FROM THE NE CORNER OF SECTION 20, T1S, R4W W.M. POD 3: 695 FEET NORTH, 685 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 67891	POD 1: 1080 FEET NORTH, 210 FEET WEST FROM THE SE CORNER OF SECTION 20, T1S, R5W W.M. POD 2: 500 FEET NORTH, 415 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 81027	POD 1: 750 FEET NORTH, 590 FEET EAST FROM THE SW CORNER OF SECTION 14, T1S, R5W W.M. POD 2: 650 FEET SOUTH, 650 FEET WEST FROM THE NE CORNER OF SECTION 20, T1S, R4W W.M. POD 3: 695 FEET NORTH, 685 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 85913	POD 1: 515 FEET NORTH, 475 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
ORS 538.420	660 FEET NORTH, 670 FEET WEST FROM THE SE CORNER OF SECTION 26, T1S, R5E W.M.
Permit G-8755, T-10489	WEST WELL FIELD WELL 1 - 2250 FEET SOUTH AND 1650 FEET WEST FROM NE CORNER OF SECTION 16, T1N, R2E W.M.

Permit G- 8755, T-10489 (continued)	WEST WELL FIELD WELL 2 - 2100 FEET NORTH AND 650 FEET WEST FROM SE CORNER OF SECTION 16, T1N, R2E W.M.
	WEST WELL FIELD WELL 3 - 2050 FEET NORTH AND 550 FEET EAST FROM THE SW CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 4 - 3150 FEET SOUTH AND 2050 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 5 - 3400 FEET SOUTH AND 1650 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 6 - 650 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 10, T1N, R2E W.M.
	WEST WELL FIELD WELL 7 - 2550 FEET SOUTH AND 850 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 8 - 2250 FEET SOUTH AND 1650 FEET WEST FROM NE CORNER OF SECTION 16, T1N, R2E W.M.
	WEST WELL FIELD WELL 9 - 2050 FEET NORTH AND 550 FEET EAST FROM THE SW CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 10 - 1150 FEET NORTH AND 2700 FEET WEST FROM THE SE CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 11 - 650 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 10, T1N, R2E W.M.
	WEST WELL FIELD WELL 12 - 450 FEET SOUTH AND 1500 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 13 - 2550 FEET SOUTH AND 850 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.
	WEST WELL FIELD WELL 14 - 1650 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.
	EAST WELL FIELD WELL 1 - 400 FEET NORTH AND 6000 FEET WEST FROM THE SE CORNER OF SECTION 13, T1N, R2 E, W.M.
EAST WELL FIELD WELL 2 - 150 FEET NORTH AND 4000 FEET WEST FROM THE SE CORNER OF SECTION 13, T1N, R2 E, W.M.	
EAST WELL FIELD WELL 3 - 1750 FEET SOUTH AND 3550 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.	
EAST WELL FIELD WELL 4 - 3300 FEET SOUTH AND 4500 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.	

	<p>EAST WELL FIELD WELL 5 - 500 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.</p> <p>EAST WELL FIELD WELL 6 - 2200 FEET SOUTH AND 1250 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.</p> <p>EAST WELL FIELD WELL 7 - 700 FEET SOUTH AND 150 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 8 - 2500 FEET SOUTH AND 200 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 9 - 850 FEET SOUTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 10 - 2450 FEET SOUTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 11 - 1300 FEET SOUTH AND 1450 FEET WEST FROM THE NE CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 12 - 4050 FEET SOUTH AND 850 FEET EAST FROM THE NW CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 13 - 1300 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 14 - 1700 FEET SOUTH AND 1100 FEET WEST FROM THE NE CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 15 - 1000 FEET SOUTH AND 2300 FEET EAST FROM THE NW CORNER OF SECTION 21, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 16 - 1400 FEET SOUTH AND 3300 FEET EAST FROM THE NW CORNER OF SECTION 21, T1N, R3E, W.M.</p> <p>WELL L-67558 - 730 FEET NORTH AND 920 FEET EAST FROM THE W¼ CORNER OF SECTION 23, T1N, R2E, W.M.</p>
Certificate 89115, Permit G-10124	<p>Well 17/MULT 1283 - 140 FEET SOUTH, 1390 FEET EAST FROM NW CORNER, JOHN CROSBY DLC 40</p> <p>Well 18/MULT 1284 - 400 FEET SOUTH, 2450 FEET EAST FROM NW CORNER, JOHN CROSBY DLC 40</p> <p>Well 19/MULT 1288: 320 FEET SOUTH, 990 FEET WEST FROM NW CORNER, JOHN CROSBY DLC 40</p>
Certificate 89117, Permit G-10479	<p>Well 34/MULT 1131 - 80 FEET NORTH, 1070 FEET EAST FROM NE CORNER, E L QUIMBY DLC 41</p>

Permit G-10455	Well 15/PW-13/MULT 1286 - NORTH 60 DEGREES 30 MINUTES 48 SECONDS FROM MEANDER CORNER, SECTIONS 20 & 21
	Well 16/PW-12/MULT 1287 - NORTH 82 DEGREES 27 MINUTES 12 SECONDS FROM MEANDER CORNER, SECTIONS 20 & 21

ASR WELL LOCATION:

ASR WELL (WASH 58925):	SW ¼ SW ¼, SECTION 14, T2N, R27E, W.M.; 670 FEET NORTH, 1450 FEET EAST FROM SW CORNER, SECTION 14, T1N, R2W W.M.
MAXIMUM DIVERSION RATE:	0.22 CUBIC FEET PER SECOND (100 GPM)
MAXIMUM INJECTION RATE:	0.14 CUBIC FEET PER SECOND (65 GPM) AT THE ASR WELL
MAXIMUM VOLUME OF STORAGE:	25 MILLION GALLONS (92.07 ACRE-FEET)
MAXIMUM WITHDRAWAL RATE:	0.95 CUBIC FEET PER SECOND (425 GPM) OF STORED WATER THROUGH THE ASR WELL
MAXIMUM STORAGE DURATION:	ONGOING

The ASR project shall be operated according to the following conditions, pursuant to OAR 690-350-0030(6). Failure to comply with any of the provisions of this permit may result in action including, but not limited to, revocation of the permit.

1) **Record of Use.** The permittee shall maintain a record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The record of use may be reviewed by Department staff upon request.

2) **Modification/Revocation.** The Department shall notify the permittee in writing and allow the permittee to respond when considering the following actions:

(A) The Department may modify the ASR permit for any of the following reasons:

(i) to reflect changes in Oregon Health Authority (OHA) and Oregon Department of Environmental Quality (DEQ) water quality or treatment standards;

(ii) to address needed technological changes as requested by OHA or DEQ to minimize constituents regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165);

(iii) upon written request from the permittee for minor adjustments to the authorization in the permit.

(iv) upon written request from the permittee for changes to the limits for the recovery of stored water. Any person operating an ASR project under a permit, upon approval by the Director, may recover up to 100 percent of the water stored in the aquifer storage facility if valid scientific data gathered during operations under the limited license or permit demonstrate that the injected source water is not lost through migration or other means and that groundwater otherwise present in the aquifer has not been lost irretrievably as a result of aquifer storage or recovery.

(B) The Director may revoke or modify the ASR permit for any of the following reasons:

- (i) to prevent or mitigate substantial interference with other water rights, minimum perennial streamflows established prior to the granting of the ASR permit, or aquifer water quality; or
- (ii) to address any other unintended, injurious effects of the ASR activity.

(C) The Department shall offer an additional public comment opportunity consistent with the notice and comment provisions of OAR 690-350-0030 prior to modifying the permit.

3) Compliance with Other Laws. The injection of acceptable water into the aquifer, as well as its storage and recovery under this permit, shall comply with all applicable local, state or federal laws. This shall include, but not limited to, compliance with the DEQ Underground Injection Control registration program as authorized under the Safe Drinking Water Act (40 CFR 144.26). Also, discharges to waterways must be in compliance with all DEQ requirements.

4) Water Quality Conditions and Limits:

(A) The permittee shall minimize, to the extent technically feasible, practical and cost-effective, the concentration of constituents in the injection source water that are not naturally present in the aquifer;

(B) Except as otherwise provided in (C) of this condition, if the injection source water contains constituents regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165) that are detected at greater than 50 percent of the established levels (MCLs or MMLs in the cited rules), the permittee shall employ technically feasible, practical and cost-effective methods to minimize concentrations of such constituents in the injection source water;

(C) Constituents that have a secondary contaminant level or constituents that are associated with disinfection of the injection source water may be injected into the aquifer up to the standards established under OAR 333-061-0030 (ORS 448.131 and ORS 448.273);

(D) The Department may, based upon valid scientific data, further limit certain constituents in the injection source water if the Department finds that those constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses;

(E) If during the course of ASR testing, a constituent which is regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165) is detected above the 50% level prescribed in condition (4)(B) or the 100% level prescribed in condition (4)(C), the permittee shall immediately stop injection activities upon receipt of lab data and notify the Department within five days. Injection may recommence after constituent levels return to acceptable levels pursuant to conditions (4)(B) or (4)(C).

5) Water Quality Sampling.

(A) The permittee shall sample and analyze injection source water for the constituents and at the frequency described in the current, approved monitoring program. Modifications to this plan may be proposed to the Department in writing for review and written approval or denial.

6) Water Level Monitoring.

(A) The permittee shall monitor groundwater levels in wells in the manner described in the approved ASR water-level monitoring plan. Modifications to this plan may be proposed to the Department in writing for review and written approval or denial.

(B) Transducer and airline data shall be verified and corrected with manual measurements if an e-tape can be lowered past obstructions to the water level. In the event a pump is pulled, wells shall be equipped with an unobstructed, dedicated measuring tube pursuant to Figure 200-5 in OAR 690-200.

7) Recovery. The availability of stored water for recovery is based on the following factors:

(A) Available stored water is determined on a well-by-well basis.

(B) The following two-step accounting method applies to each annual cycle:

(i.) The permittee may recover up to 95 percent of the quantity injected during the same water year.

(ii.) At the end of each water year, 95 percent of the storage account balance is carried over to the next year. The storage account balance consists of the sum of water not recovered within the water year and water carried over from previous ASR cycles.

(C) Any water withdrawn from an ASR well identified in this permit shall first be debited against the quantity available in the aquifer by virtue of ASR storage. When the ASR storage is depleted at an ASR well, any water withdrawn from an ASR well shall be considered a draft of natural groundwater, thereby requiring separate or additional authorization. At no time does this permit authorize withdrawal of more water than was credited by injection.

(D) The availability of stored water is a running account that is subject to determination at any time.

8) Annual Reporting. The permittee shall provide the Department a written report of ASR operations for each water year by February 15th of the following water year. Modifications to this reporting plan may be proposed to the Department in writing for review, approval or denial.

(A) The report shall:

- Summarize water quality data and include laboratory analytical reports
- Account for the volumes injected and recovered
- Identify injection and recovery schedules

(B) The permittee also shall provide the following to the Department:

(i) Submission of any and all hydrogeologic data collected and reports developed for the project, including, but not limited to, cuttings analysis, video logs, geophysical logs, aquifer tests, and step tests.

(ii) Submission of digital water level data for all ASR wells and any other wells measured in conjunction with the project (in a Department specified format).

(iii) Submission of annual reports with locations and elevations for all project wells (actual locations of built wells and proposed locations for proposed wells) and locations and elevations for all non-project wells that have been used for collecting water levels or other data pertinent to the project (in a Department specified format).

(iv) Notification in the annual report of any changes in well construction.

(v) Associating all project well data with the Department Well Identification Number (Well ID Number), the Department Well Log ID, if available, and the project Well Name.

9) **Protection for Existing Water Users.** In the event of conflicts with existing appropriators, the permittee shall conduct all testing so as to mitigate the injurious effects. In addition, the permittee shall cooperate with the efforts of the Department to protect existing water rights and the water quality of existing users that rely upon the receiving aquifer and the injection source water.

10) **Use of Recovered Water.** The permittee shall use any recovered water for the purposes described in the source water rights that authorize diversion.

11) **Additional Conditions on an Informal Basis.** The Department may suggest additional conditions to the permittee. Provided that those conditions are agreed to and undertaken by the permittee, the Department may forego formal changes to this permit. This informal process does not extend to obligation reductions.

12) **Other Measures.** The permittee shall take any additional measures appropriate to address ASR-related issues of landslide activation, seepage, streamflow increases, aquifer boundary determination, aquifer storage efficiency, and water quality protection.

Issued _____, 2019

DRAFT NOT A PERMIT

Dwight French *for* Thomas M. Byler, Director
Water Resources Department

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

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Washington County

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1. On August 3, 2018, Hillsboro School District submitted an application for an ASR permit:

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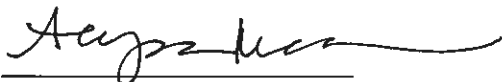
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Dated at Salem, Oregon on June 18, 2019



Alyssa Mucken
Water Rights Section Manager, for
Thomas M. Byler, Director
Oregon Water Resources Department

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Under the provisions of ORS 537.621(8), you can protest this Proposed Final Order. Protests must be received in the Water Resources Department no later than **Friday, August 2, 2019**, be in writing, and include the following:

1. Your name, address, and telephone number;
2. 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;
3. A detailed description of how the action proposed in this Proposed Final Order would impair or be detrimental to your interest;
4. A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
5. Any citation of legal authority to support your protest, if known.
6. 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.
7. If you are the applicant, a protest fee of \$410 as required by ORS 536.050.
8. If you are not the applicant, the protest fee of \$810 as required by ORS 536.050, and proof of service of the protest upon the applicant.
9. If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the Proposed Final Order.
10. If you do not protest this Proposed Final Order, and if no substantive changes are made in the Final Order, you will not have an opportunity for judicial review, protest or appeal of the Final Order when it is issued.

Requests for Standing

Under the provisions of ORS 537.621(8), 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 **Friday, August 2, 2019**, be in writing, and include the following:

1. The requester's name, mailing address and telephone number;
2. If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
3. A statement that the requester supports the Proposed Final Order as issued;
4. A detailed statement of how the requester would be harmed if the Proposed Final Order is modified.
5. A standing fee of \$230.00. If a hearing is scheduled, an additional fee of \$250.00 must be submitted, along with a request for intervention.

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

1. upon review of the issues, the Director finds that there are significant disputes related to the proposed use of water, or
2. 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 Servicemembers: Active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>. The Oregon Military Department does not have a toll free telephone number.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0900. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF WASHINGTON

DRAFT PERMIT FOR AQUIFER STORAGE AND RECOVERY (ASR)

THIS DRAFT ASR PERMIT IS HEREBY ISSUED TO:

HILLSBORO SCHOOL DISTRICT
 4901 SE WITCH HAZEL
 HILLSBORO, OR 97123

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

APPLICATION FILE NUMBER: ASR PERMIT #004

PREVIOUS ASR TESTING AUTHORIZATION: ASR LIMITED LICENSE #017

SOURCE OF WATER: ORS 538.420, CERTIFICATES 67891, 85913, 81026, 81027, 89117, 89115;
 PERMITS G-8755, G-10479, G-10124, and G-10455, Transfer T-10489

POINTS OF DIVERSION:

Source Water Right	POD Location
Certificate 81026	POD 1: 750 FEET NORTH, 590 FEET EAST FROM THE SW CORNER OF SECTION 14, T1S, R5W W.M. POD 2: 650 FEET SOUTH, 650 FEET WEST FROM THE NE CORNER OF SECTION 20, T1S, R4W W.M. POD 3: 695 FEET NORTH, 685 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 67891	POD 1: 1080 FEET NORTH, 210 FEET WEST FROM THE SE CORNER OF SECTION 20, T1S, R5W W.M. POD 2: 500 FEET NORTH, 415 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 81027	POD 1: 750 FEET NORTH, 590 FEET EAST FROM THE SW CORNER OF SECTION 14, T1S, R5W W.M. POD 2: 650 FEET SOUTH, 650 FEET WEST FROM THE NE CORNER OF SECTION 20, T1S, R4W W.M. POD 3: 695 FEET NORTH, 685 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
Certificate 85913	POD 1: 515 FEET NORTH, 475 FEET EAST FROM THE SW CORNER OF SECTION 8, T1S, R3W W.M.
ORS 538.420	660 FEET NORTH, 670 FEET WEST FROM THE SE CORNER OF SECTION 26, T1S, R5E W.M.
Permit G-8755, T-10489	WEST WELL FIELD WELL 1 - 2250 FEET SOUTH AND 1650 FEET WEST FROM NE CORNER OF SECTION 16, T1N, R2E W.M.

Permit G-
8755, T-10489
(continued)

WEST WELL FIELD WELL 2 - 2100 FEET NORTH AND 650 FEET WEST FROM SE CORNER OF SECTION 16, T1N, R2E W.M.

WEST WELL FIELD WELL 3 - 2050 FEET NORTH AND 550 FEET EAST FROM THE SW CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 4 - 3150 FEET SOUTH AND 2050 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 5 - 3400 FEET SOUTH AND 1650 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 6 - 650 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 10, T1N, R2E W.M.

WEST WELL FIELD WELL 7 - 2550 FEET SOUTH AND 850 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 8 - 2250 FEET SOUTH AND 1650 FEET WEST FROM NE CORNER OF SECTION 16, T1N, R2E W.M.

WEST WELL FIELD WELL 9 - 2050 FEET NORTH AND 550 FEET EAST FROM THE SW CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 10 - 1150 FEET NORTH AND 2700 FEET WEST FROM THE SE CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 11 - 650 FEET NORTH AND 150 FEET EAST FROM THE SW CORNER OF SECTION 10, T1N, R2E W.M.

WEST WELL FIELD WELL 12 - 450 FEET SOUTH AND 1500 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 13 - 2550 FEET SOUTH AND 850 FEET WEST FROM THE NE CORNER OF SECTION 15, T1N, R2E W.M.

WEST WELL FIELD WELL 14 - 1650 FEET SOUTH AND 700 FEET EAST FROM THE NW CORNER OF SECTION 15, T1N, R2E W.M.

EAST WELL FIELD WELL 1 - 400 FEET NORTH AND 6000 FEET WEST FROM THE SE CORNER OF SECTION 13, T1N, R2 E, W.M.

EAST WELL FIELD WELL 2 - 150 FEET NORTH AND 4000 FEET WEST FROM THE SE CORNER OF SECTION 13, T1N, R2 E, W.M.

EAST WELL FIELD WELL 3 - 1750 FEET SOUTH AND 3550 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.

EAST WELL FIELD WELL 4 - 3300 FEET SOUTH AND 4500 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.

	<p>EAST WELL FIELD WELL 5 - 500 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.</p> <p>EAST WELL FIELD WELL 6 - 2200 FEET SOUTH AND 1250 FEET WEST FROM THE NE CORNER OF SECTION 24, T1N, R2 E, W.M.</p> <p>EAST WELL FIELD WELL 7 - 700 FEET SOUTH AND 150 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 8 - 2500 FEET SOUTH AND 200 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 9 - 850 FEET SOUTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 10 - 2450 FEET SOUTH AND 1650 FEET EAST FROM THE NW CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 11 - 1300 FEET SOUTH AND 1450 FEET WEST FROM THE NE CORNER OF SECTION 19, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 12 - 4050 FEET SOUTH AND 850 FEET EAST FROM THE NW CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 13 - 1300 FEET SOUTH AND 1550 FEET EAST FROM THE NW CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 14 - 1700 FEET SOUTH AND 1100 FEET WEST FROM THE NE CORNER OF SECTION 20, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 15 - 1000 FEET SOUTH AND 2300 FEET EAST FROM THE NW CORNER OF SECTION 21, T1N, R3E, W.M.</p> <p>EAST WELL FIELD WELL 16 - 1400 FEET SOUTH AND 3300 FEET EAST FROM THE NW CORNER OF SECTION 21, T1N, R3E, W.M.</p> <p>WELL L-67558 - 730 FEET NORTH AND 920 FEET EAST FROM THE W¼ CORNER OF SECTION 23, T1N, R2E, W.M.</p>
Certificate 89115, Permit G-10124	<p>Well 17/MULT 1283 - 140 FEET SOUTH, 1390 FEET EAST FROM NW CORNER, JOHN CROSBY DLC 40</p> <p>Well 18/MULT 1284 - 400 FEET SOUTH, 2450 FEET EAST FROM NW CORNER, JOHN CROSBY DLC 40</p> <p>Well 19/MULT 1288: 320 FEET SOUTH, 990 FEET WEST FROM NW CORNER, JOHN CROSBY DLC 40</p>
Certificate 89117, Permit G-10479	<p>Well 34/MULT 1131 - 80 FEET NORTH, 1070 FEET EAST FROM NE CORNER, E L QUIMBY DLC 41</p>

Permit G-10455	Well 15/PW-13/MULT 1286 - NORTH 60 DEGREES 30 MINUTES 48 SECONDS FROM MEANDER CORNER, SECTIONS 20 & 21
	Well 16/PW-12/MULT 1287 - NORTH 82 DEGREES 27 MINUTES 12 SECONDS FROM MEANDER CORNER, SECTIONS 20 & 21

ASR WELL LOCATION:

ASR WELL (WASH 58925):	SW ¼ SW ¼, SECTION 14, T2N, R27E, W.M.; 670 FEET NORTH, 1450 FEET EAST FROM SW CORNER, SECTION 14, T1N, R2W W.M.
MAXIMUM DIVERSION RATE:	0.22 CUBIC FEET PER SECOND (100 GPM)
MAXIMUM INJECTION RATE:	0.14 CUBIC FEET PER SECOND (65 GPM) AT THE ASR WELL
MAXIMUM VOLUME OF STORAGE:	25 MILLION GALLONS (92.07 ACRE-FEET)
MAXIMUM WITHDRAWAL RATE:	0.95 CUBIC FEET PER SECOND (425 GPM) OF STORED WATER THROUGH THE ASR WELL
MAXIMUM STORAGE DURATION:	ONGOING

The ASR project shall be operated according to the following conditions, pursuant to OAR 690-350-0030(6). Failure to comply with any of the provisions of this permit may result in action including, but not limited to, revocation of the permit.

1) **Record of Use.** The permittee shall maintain a record of injection and recovery, including the total number of hours of injection and recovery and the total metered quantity injected and recovered. The record of use may be reviewed by Department staff upon request.

2) **Modification/Revocation.** The Department shall notify the permittee in writing and allow the permittee to respond when considering the following actions:

(A) The Department may modify the ASR permit for any of the following reasons:

(i) to reflect changes in Oregon Health Authority (OHA) and Oregon Department of Environmental Quality (DEQ) water quality or treatment standards;

(ii) to address needed technological changes as requested by OHA or DEQ to minimize constituents regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165);

(iii) upon written request from the permittee for minor adjustments to the authorization in the permit.

(iv) upon written request from the permittee for changes to the limits for the recovery of stored water. Any person operating an ASR project under a permit, upon approval by the Director, may recover up to 100 percent of the water stored in the aquifer storage facility if valid scientific data gathered during operations under the limited license or permit demonstrate that the injected source water is not lost through migration or other means and that groundwater otherwise present in the aquifer has not been lost irretrievably as a result of aquifer storage or recovery.

(B) The Director may revoke or modify the ASR permit for any of the following reasons:

- (i) to prevent or mitigate substantial interference with other water rights, minimum perennial streamflows established prior to the granting of the ASR permit, or aquifer water quality; or
- (ii) to address any other unintended, injurious effects of the ASR activity.

(C) The Department shall offer an additional public comment opportunity consistent with the notice and comment provisions of OAR 690-350-0030 prior to modifying the permit.

3) Compliance with Other Laws. The injection of acceptable water into the aquifer, as well as its storage and recovery under this permit, shall comply with all applicable local, state or federal laws. This shall include, but not limited to, compliance with the DEQ Underground Injection Control registration program as authorized under the Safe Drinking Water Act (40 CFR 144.26). Also, discharges to waterways must be in compliance with all DEQ requirements.

4) Water Quality Conditions and Limits:

(A) The permittee shall minimize, to the extent technically feasible, practical and cost-effective, the concentration of constituents in the injection source water that are not naturally present in the aquifer;

(B) Except as otherwise provided in (C) of this condition, if the injection source water contains constituents regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165) that are detected at greater than 50 percent of the established levels (MCLs or MMLs in the cited rules), the permittee shall employ technically feasible, practical and cost-effective methods to minimize concentrations of such constituents in the injection source water;

(C) Constituents that have a secondary contaminant level or constituents that are associated with disinfection of the injection source water may be injected into the aquifer up to the standards established under OAR 333-061-0030 (ORS 448.131 and ORS 448.273);

(D) The Department may, based upon valid scientific data, further limit certain constituents in the injection source water if the Department finds that those constituents will interfere with or pose a threat to the maintenance of the water resources of the state for present or future beneficial uses;

(E) If during the course of ASR testing, a constituent which is regulated under OAR 333-061-0030 (ORS 448.131 and ORS 448.273) or OAR 340-040 (ORS 468B.165) is detected above the 50% level prescribed in condition (4)(B) or the 100% level prescribed in condition (4)(C), the permittee shall immediately stop injection activities upon receipt of lab data and notify the Department within five days. Injection may recommence after constituent levels return to acceptable levels pursuant to conditions (4)(B) or (4)(C).

5) Water Quality Sampling.

(A) The permittee shall sample and analyze injection source water for the constituents and at the frequency described in the current, approved monitoring program. Modifications to this plan may be proposed to the Department in writing for review and written approval or denial.

6) Water Level Monitoring.

(A) The permittee shall monitor groundwater levels in wells in the manner described in the approved ASR water-level monitoring plan. Modifications to this plan may be proposed to the Department in writing for review and written approval or denial.

(B) Transducer and airline data shall be verified and corrected with manual measurements if an e-tape can be lowered past obstructions to the water level. In the event a pump is pulled, wells shall be equipped with an unobstructed, dedicated measuring tube pursuant to Figure 200-5 in OAR 690-200.

7) Recovery. The availability of stored water for recovery is based on the following factors:

(A) Available stored water is determined on a well-by-well basis.

(B) The following two-step accounting method applies to each annual cycle:

(i.) The permittee may recover up to 95 percent of the quantity injected during the same water year.

(ii.) At the end of each water year, 95 percent of the storage account balance is carried over to the next year. The storage account balance consists of the sum of water not recovered within the water year and water carried over from previous ASR cycles.

(C) Any water withdrawn from an ASR well identified in this permit shall first be debited against the quantity available in the aquifer by virtue of ASR storage. When the ASR storage is depleted at an ASR well, any water withdrawn from an ASR well shall be considered a draft of natural groundwater, thereby requiring separate or additional authorization. At no time does this permit authorize withdrawal of more water than was credited by injection.

(D) The availability of stored water is a running account that is subject to determination at any time.

8) Annual Reporting. The permittee shall provide the Department a written report of ASR operations for each water year by February 15th of the following water year. Modifications to this reporting plan may be proposed to the Department in writing for review, approval or denial.

(A) The report shall:

- Summarize water quality data and include laboratory analytical reports
- Account for the volumes injected and recovered
- Identify injection and recovery schedules

(B) The permittee also shall provide the following to the Department:

(i) Submission of any and all hydrogeologic data collected and reports developed for the project, including, but not limited to, cuttings analysis, video logs, geophysical logs, aquifer tests, and step tests.

(ii) Submission of digital water level data for all ASR wells and any other wells measured in conjunction with the project (in a Department specified format).

(iii) Submission of annual reports with locations and elevations for all project wells (actual locations of built wells and proposed locations for proposed wells) and locations and elevations for all non-project wells that have been used for collecting water levels or other data pertinent to the project (in a Department specified format).

(iv) Notification in the annual report of any changes in well construction.

(v) Associating all project well data with the Department Well Identification Number (Well ID Number), the Department Well Log ID, if available, and the project Well Name.

9) **Protection for Existing Water Users.** In the event of conflicts with existing appropriators, the permittee shall conduct all testing so as to mitigate the injurious effects. In addition, the permittee shall cooperate with the efforts of the Department to protect existing water rights and the water quality of existing users that rely upon the receiving aquifer and the injection source water.

10) **Use of Recovered Water.** The permittee shall use any recovered water for the purposes described in the source water rights that authorize diversion.

11) **Additional Conditions on an Informal Basis.** The Department may suggest additional conditions to the permittee. Provided that those conditions are agreed to and undertaken by the permittee, the Department may forego formal changes to this permit. This informal process does not extend to obligation reductions.

12) **Other Measures.** The permittee shall take any additional measures appropriate to address ASR-related issues of landslide activation, seepage, streamflow increases, aquifer boundary determination, aquifer storage efficiency, and water quality protection.

Issued _____, 2019

DRAFT NOT A PERMIT

Dwight French *for* Thomas M. Byler, Director
Water Resources Department

Mailing List for PFO

Scheduled Mailing Date: _____, 2019

Application:

ASR Permit #004

Original mailed to Applicant:

**Hillsboro School District
c/o Dave Peterson
4901 SE Witch Hazel
Hillsboro, OR 97123**

<p>Copies Mailed</p> <p>by: <u>6/18/2019</u> (STAFF)</p> <p>on: <u>TM</u> (DATE)</p>

Copies of PFO sent to:

1. Watermaster District 18, Jake Constans
2. Region Manager, Mike McCord
3. File

Copies of PFO sent to other interested persons (CWRE, Agent, Commenter, etc.):

1. Tom Pattee, Oregon Health Authority Drinking Water Program
Tom.PATTEE@dhsosha.state.or.us
2. Seth Sadofsky, Oregon Department of Environmental Quality
Seth.Sadofsky@state.or.us
3. Larry Eaton, GSI Water Solutions, Inc.: leaton@gsiws.com

CASEWORKER: Jen Woody

