



Water Right Application Initial Review

June 21, 2019

PAUL SOGN
RACHELLE SOGN
WINTERSOGN FARM LLC
54657 ROSA ROAD
BANDON OR 97411

Reference: Application G-18586

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-18586 proposes the appropriation of 0.11 cubic foot per second (CFS) of water from Well 1 (COOS 52085/L48464) and a holding sump/well in North Fork Johnson Creek Basin for irrigation (including cranberry use) on 10.0 acres March 1 to November 15; and 0.06 CFS, further limited to 5000 gallons per month, from Well 2 (COOS 53715/L80263) for irrigation of 1.0 acre March 1 to November 10, and year-round domestic use.
2. It appears that the holding sump/well is a bulge-in-the-system for irrigation purposes and does not need to be permitted. Please notify the Department if the holding sump/well is not being used as a bulge-in-the-system during the irrigation season.
3. The proposed use is not prohibited by law or rule except where otherwise noted below.
4. Irrigation including cranberry use and domestic use are allowed under the South Coast Basin Program. (OAR 690-517-0000(12)) (OAR 690-500-0020(4))
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use from Well 1 (COOS 52085/L48464), the holding sump/well, and Well 2 (COOS 53715/L80263) will have the potential for substantial interference with Johnson Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available at any time of the 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 The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.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 Oregon 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. The standard allowable rate for irrigation is $1/80^{\text{th}}$ CFS per acre, being 0.0125 CFS for irrigation of 1.0 acre. If the application is approved, irrigation of 1.0 acre will be limited to a rate of 0.0125 CFS.
10. The standard allowable rate for domestic use is 0.005 CFS (2.24 gallons per minute) per household. If the application is approved, domestic use will be limited to a rate of 0.005 CFS.
11. The Department Well Construction and Compliance Section determined that two of the application wells do not comply with current minimum well construction standards:
 - There is no construction report associated with the holding sump/well, and therefore no way to determine whether the well is actually a sump, per definition, or if it is a dug well. If you intend to include the holding sump/well as a permitted point of appropriation for this application, the Department requires that the holding sump/well be brought into compliance with current minimum well construction standards (OAR 690-210) or that you provide information showing that the well meets the definition of a sump per OAR 690-200-0050(103);
 - Based on a review of the Well Report, Well 2 (COOS 53715/L80263) does not appear to comply with current minimum well construction standards (OAR 690-210). The oversize steel sleeve placed over the plastic casing does not meet the Department's minimum well construction standards. In order to meet minimum well construction standards, the steel sleeve must extend at least four feet into the ground within the annular space.

Prior to the issuance of a Proposed Final Order recommending approval, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well(s), you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Joel Jeffery of the Department's Well Construction and Compliance Section at 503-986-0852 to determine how to proceed.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's groundwater supply (OAR 690-200).

Summary

The appropriation of 0.11 CFS of water from Well 1 (COOS 52085/L48464) in North Fork Johnson Creek Basin for irrigation including cranberry use on 10.0 acres March 1 to November 15 is not allowable due to the potential for surface water interference and surface water not being available.

The appropriation of 0.0175 CFS, being 0.0125 CFS for irrigation of 1.0 acre March 1 to November 10, and 0.005 CFS for year-round domestic use for one household, further limited to 5000 GPM from Well 2 (COOS 53715/L80263) is not allowable due to the potential for surface water interference and surface water not being available, AND because Well 2 (COOS 53715/L80263) and the holding sump/well (if not a bulge-in-the-system) do not comply with current minimum well construction standards.

See Additional Information Opportunity section below for the opportunity for a reduced rate-permit.

Not all determinations herein are favorable; therefore **it is unlikely that Application G-18586 will be approved.**

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

If the proposed rate from Well 2 (COOS 53715/L80263) for irrigation including cranberry use on 10.0 acres is reduced to 0.01 CFS, the potential for substantial interference with surface water will be avoided, water availability will not be a factor, and Division 33 reviews would not be required. The application may be approved at the reduced rate of 0.01 CFS, **contingent upon bringing Well 2 (COOS 53715/L80263) into current well compliance standards (and the holding sump/well if it is to be permitted).**

If the proposed rate from Well 1 (COOS 52085/L48464) for irrigation of 1.0 acre March 1 to November 10 and for year-round domestic use is reduced to 0.01 CFS (being 0.005 CFS for irrigation and 0.005 CFS for domestic use), the potential for substantial interference with surface water will be avoided, water availability will not be a factor, and Division 33 reviews would not be required. The application may be approved at the reduced rate of 0.01 CFS from Well 1 (COOS 52085/L48464).

If you would like to pursue a limited rate permit, please submit a request in writing to the Department no later than **July 25, 2019**. If the Department does not receive a request from you to reduce the proposed rate to 0.011 CFS by **July 25, 2019**, the Department will likely issue a Proposed Final Order to deny the application.

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 **July 5, 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. **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 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. **Static Water Level Conditions:**

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

5. 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 503-986-0900. 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 Park Poage
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18586
WAB: 70228

APPLICATION FACT SHEET

Application File Number: G-18586

Applicant: WINTER SOGN FARM LLC, PAUL SOGN AND RACHELLE SOGN

County: COOS

Watermaster: Greg Wacker, #19

Priority Date: November 27, 2017

Source: WELL 1 (COOS 52085/L48464), HOLDING SUMP WELL, AND WELL 2 (COOS 53715/L80263) IN NORTH FORK JOHNSON CREEK BASIN

Use: IRRIGATION INCLUDING CRANBERRY USE OF 10.0 ACRES, IRRIGATION OF 1.0 ACRE, AND DOMESTIC USE

Quantity: 0.11 CUBIC FOOT PER SECOND

Basin Name & Number: SOUTH COAST, #17

WAB: JOHNSON CR > PACIFIC OCEAN - AT MOUTH

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (COOS 52085/L48464)	28 S	14 W	WM	31	SE SE	850 FEET NORTH AND 90 FEET WEST OF SE CORNER, SECTION 31
HOLDING WELL SUMP	28 S	14 W	WM	31	SE SE	925 FEET NORTH AND 100 FEET WEST OF SE CORNER, SECTION 31
WELL 2 (COOS 53715/L80263)	29 S	14 W	WM	5	NW NW	940 FEET SOUTH AND 980 FEET EAST OF NW CORNER, SECTION 5

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	14 W	WM	5	NW NW	1.00
29 S	14 W	WM	5	NW NW	10.00

PUBLIC NOTICE DATE: June 25, 2019

14 DAY STOP PROCESSING DEADLINE DATE: July 5, 2019

30 DAY COMMENT DEADLINE DATE: July 25, 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.oregon.gov/OWRD

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) 986-0900.

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-18586**.
- 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:

July 5, 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-18586

IR Date: June 21, 2019

Original and map mailed to applicant:

WINTER SOGN FARM LLC
PAUL SOGN
RACHELLE SOGN
54657 ROSA ROAD
BANDON OR 97411

Sent via auto email:

1. WRD – Watermaster Greg Wacker, #19
2. ODFW
3. DEQ

Copies sent to:

1. WRD - File G-18586
2. WRD – SW Section (PSI)
3. ALO – Chere Winters, PO Box 525, Bandon, OR 97411

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)

Application Specialist: Barbara Park Poage