



Water Right Application Initial Review

July 19, 2019

JAMES K. KENNEY
RUTH A. KENNEY
2635 NE TERRITORIAL RD
CANBY OR 97013

Reference: Application S-88710

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:

Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)

1. The application proposes the diversion of 0.056 cubic foot per second (CFS) of water from four unnamed springs and two intermittent, unnamed streams for year-round domestic use for one household and irrigation of 0.5 acre March 1 to October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Domestic use and irrigation are allowable uses under the John Day Basin Program (690-506-0040(2)).
4. An assessment of water availability at 80% exceedance for the proposed use was completed using the Department's Water Availability Reporting System. A copy of this assessment is in the application file. This review is done consistent with OAR 690-410-0070(2)(a). The assessment established that surface water is not available for further diversion during the period May 1 through March 31 of each year. Oregon Revised Statute (ORS) 537.153(3)(b); OAR 690-310-0080(1)(b)
5. OAR 690-033-0120(2)(a) prohibits the diversion of surface water from April 15 through September 30 each year.
6. The proposed use is located above the John Day Scenic Waterway, as designated under Oregon Revised Statute 390.826.

7. Based on information provided by the applicant, Department Watermasters, and the Department's review, the sources of water do not form any well-defined channels, nor do they flow off the lands on which they first arise, and are therefore exempt springs and intermittent streams. It is unlikely the springs and intermittent streams are in connection with other surface water sources; therefore OAR 690-033 and surface water availability will not be a consideration unless information can be provided proving otherwise.
8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.

Summary of Preliminary Determinations
The diversion of 0.056 CFS of water from four exempt, unnamed springs and two exempt, intermittent, unnamed streams for year-round domestic use for one household and irrigation of 0.5 acre March 1 to October 31 of each year is allowable.

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Because of the favorable determinations described herein, Application S-88710 can move to the next phase of the water-rights application review process, which includes a public interest review.

Public Comment & Further Review:

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.

At this time, you must decide whether to proceed or to withdraw the application.

- To 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.
- To 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 **August 2, 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 water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. A permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. **Measurement Devices and Recording/Reporting of Annual Water Storage Conditions:**
 - A. The Director may require the permittee to install a staff gage that measures the entire range and stage between full reservoir level and dead-pool level in the reservoir. If no dead-pool, the gage


must measure the full depth of the reservoir. If the Director notifies the permittee to install a staff gage, the permittee shall install such device within the period stated in the notice. Once installed, the permittee shall maintain the device in good working order and shall allow the watermaster access to the device.

- B. The Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage 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.
- C. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

For Further Information:

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 Poage
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
S-88710
WAB: (exempt) 6-69953

APPLICATION FACT SHEET

Application File Number: S-88710

Applicant: JAMES K. KENNEY AND RUTH A. KENNEY

County: GRANT

Watermaster: ERIC JULSRUD, 4, NCR

Priority Date: June 25, 2019

Source: FOUR EXEMPT UNNAMED SPRINGS AND TWO EXEMPT INTERMITTENT,
UNNAMED STREAMS

Purpose or Use of the stored water: DOMESTIC USE FOR ONE HOUSEHOLD AND IRRIGATION
OF 0.5 ACRE

Rate: 0.056 CUBIC FOOT PER SECOND

Basin Name & Number: John Day, # 6

WAB: LONG CR > M FK JOHN DAY R - AB S FK LONG CR

Points of Diversion:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
SPRING 1	10 S	31 E	WM	21	SW NW	1256 FEET NORTH AND 29 FEET WEST FROM SE CORNER, SWNW, SECTION 21
SPRING 2	10 S	31 E	WM	21	SW NW	1275 FEET NORTH AND 203 FEET WEST FROM SE CORNER, SWNW, SECTION 21
SPRING 3	10 S	31 E	WM	21	SW NW	1004 FEET NORTH AND 381 FEET WEST FROM SE CORNER, SWNW, SECTION 21
SPRING 4	10 S	31 E	WM	21	SW NW	911 FEET NORTH AND 292 FEET WEST FROM SE CORNER, SWNW, SECTION 21
INTERMITTENT STREAM 1	10 S	31 E	WM	21	SW NW	613 FEET NORTH AND 77 FEET WEST FROM SE CORNER, SWNW, SECTION 21
INTERMITTENT STREAM 2	10 S	31 E	WM	21	SE NW	512 FEET NORTH AND 810 FEET EAST FROM SE CORNER, SWNW, SECTION 21

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
10 S	31 E	WM	21	SW NW	0.50

PUBLIC NOTICE DATE: July 23, 2019

14 DAY STOP PROCESSING DEADLINE DATE: August 2, 2019

30 DAY COMMENT DEADLINE DATE: August 22, 2019

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information about water right topics, weekly public notice, forms and fees please visit our web site at www.wrd.state.or.us

1. Pre-application considerations

- Follow instructions in the application packet.
- If you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Customer Service Group at (503) 986-0801.

2. Application filing

- Application with fee is received by the Department.
- Department determines completeness of application.
- If use is not allowed by statute (ORS 538), the application and fees are returned to the applicant.
- An incomplete application and fees are returned to the applicant.
- Only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing.

3. Initial Review (IR)

- Caseworker reviews application by considering basin plans, water availability, statutory restrictions, and all other appropriate factors.
- Caseworker sends IR report to Applicant.
- Contact the Caseworker if you have questions about the IR.
- Four days after date of the IR, it is included in Department's weekly Public Notice.
- Public comments must be submitted within 30 days after the Public Notice.
- **An administrative hold** may be requested in writing by Applicant.

4. Proposed Final Order (PFO)

- Caseworker evaluates application against required criteria and develops draft permit, if appropriate.
- PFO includes instructions for filing of protests.
- Caseworker considers public comments and mails PFO to Applicant.
- The PFO is included in Department's weekly Public Notice.
- Public protests to the PFO must be submitted within 45 days after the Public Notice.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is issued.

Permit holder responsibilities

- Comply with all water use conditions of the permit.
- Advise Department of address change or assignment to new permit holder.
- If need arises, request extension of time or authorize cancellation of permit.
- Submit timely claim of beneficial use (COBU) to the Department.
- Most permits require COBU to be prepared by a Certified Water Right Examiner.
- Permits may be canceled by the permit holder or by the Department for failure to comply

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 **S-88710**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 examination 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 processing fee) be returned.
- This notice must be received at Water Resources Department by:

August 2, 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 S-88710

IR Date: July 19, 2019

Original and map mailed to applicant:

JAMES K. KENNEY
RUTH A. KENNEY
2635 NE TERRITORIAL RD
CANBY OR 97013

Sent via auto email:

1. WRD – Watermaster Eric Julsrud # 4
2. ODFW
3. DEQ

Copies sent to:

4. WRD - File S-88710
5. WRD – SW Section

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)

Application Specialist: Barbara Park Poage