



Water Right Application Initial Review

June 26, 2020

EVERETTE KYNISTON
JANET KYNISTON
434 FOOTHILL DR
ONTARIO OR 97914

Reference: Application G-18992

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 under Oregon Administrative Rule (OAR) 690-310-0080:

1. Application G-18992 proposes the appropriation of 0.13 cubic foot per second (CFS) of water from a well in Malheur River Basin for irrigation of 2.65 acres April 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Irrigation is allowed under the Malheur Basin Program. (OAR 690-510-0000(1))
4. Groundwater will likely be available within the capacity of the resource, and the proposed use of groundwater will avoid injury to existing groundwater rights.
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will not have the potential for substantial interference with any surface water source.
6. The proposed use is not located within or above any state or federal scenic waterway.
7. The point of appropriation is not located within a critical, limited, or withdrawn groundwater area.
8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
9. The Department has determined that the well does not meet current minimum well construction standards. There is no well report associated with the well that shows how it was originally constructed to verify compliance with well construction standards.

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. If repair is needed, 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 Travis Kelly of the Department's Well Construction and Compliance Section at 503-986-0852 to determine how to proceed.

10. The standard basin-wide allowable rate for irrigation from groundwater is 1/80 CFS per acre. In the absence of other information, if the application is approved, the rate allowed will be limited to 0.03 CFS for irrigation of 2.65 acres. However, Oregon Revised Statute 537.621(4) allows the Department to consider and authorize a rate that is higher than the general basin-wide standard. If you would like to provide additional information for the Department to consider, please do so by **August 6, 2020**. If you need additional time, you may send a written request for up to 180 days. **If we do not receive additional information to consider or a hold request by this date, the Department will limit the rate to 0.03 CFS for irrigation of 2.65 acres.**

Summary of Preliminary Determinations
The appropriation of 0.03 CFS of water from a well in Malheur River Basin for irrigation of 2.65 acres is not allowable, unless evidence demonstrating compliance with well construction standards is submitted and approved by the Department.

Please submit this information no later than July 30, 2020. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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 examination fee per application). You must notify the Department **in writing** by **July 10, 2020**. 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. The Director may require the permittee to install a totalizing flow meter at each point of appropriation. If the Director notifies the permittee to install a measuring device, 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 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.
 - C. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

4. Well Identification Tag Condition:

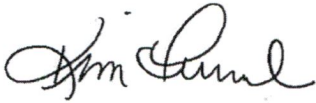
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including 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 website at <https://www.oregon.gov/ODA> to learn more about the plans and how they may affect the proposed water use.

For Further Information:

Feel free to contact me at Kim.R.French@oregon.gov or 503-986-0816 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: Kim French, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim French". The signature is fluid and cursive, with the first name "Kim" and last name "French" clearly distinguishable.

Kim French
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18992
WAB: NO PSI

APPLICATION FACT SHEET

Application File Number: G-18992

Applicant: EVERETTE KYNISTON AND JANET KYNISTON

County: MALHEUR

Watermaster: JARED HOSHAW, 9, ER

Priority Date: JUNE 3, 2020

Source: A WELL IN MALHEUR RIVER BASIN

Use: IRRIGATION OF 2.65 ACRES

Quantity: 0.13 CUBIC FOOT PER SECOND

Basin Name & Number: MALHEUR, #10

WAB: MALHEUR R > SNAKE R - AT MOUTH

Well Location(s):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	47 E	WM	29	NE SW	660 FEET SOUTH AND 363 FEET EAST FROM NW CORNER, NESW, SECTION 29

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
17 S	47 E	WM	29	NE SW	2.65

PUBLIC NOTICE DATE: June 30, 2020

14 DAY STOP PROCESSING DEADLINE DATE: July 10, 2020

30 DAY COMMENT DEADLINE DATE: July 30, 2020

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-18992**.

After reviewing the Initial Review for my application, I request that processing be stopped and 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 examination fee) be returned.

- This notice must be received by the Water Resources Department no later than:

July 10, 2020

- 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-18992

IR Date: June 26, 2020

Original and map mailed to applicant:

EVERETTE KYNISTON
JANET KYNISTON
434 FOOTHILL DR
ONTARIO OR 97914

Sent via auto email:

1. Applicant - ekyniston@yahoo.com ekyniston@yahoo.com
2. WRD – Watermaster #9, Jared Hoshaw
3. WRD - Jason Spriet ER

Copies sent to:

1. WRD - File G-18992

Application Specialist: Kim French

<p>Copies Mailed</p> <p>By: _____ (SUPPORT STAFF)</p> <p>On: _____ (DATE)</p>
