



Water Right Application Initial Review

July 17, 2020

KATHY LAYTON
10268 CHAMPOEG RD NE
AURORA OR 97002

Reference: Application G-18960

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-18960 proposes the appropriation of 0.13 cubic foot per second (CFS) of water from Well 1 (MARI 313) and Well 2 in Willamette River Basin for year-round nursery use on 10.4 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are included in irrigation and agriculture use, both of which are allowed under the Willamette Basin Program (OAR 690-502-0160(2)).
4. Groundwater will likely be available within the capacity of the resource, and if properly conditioned (and if authorized), 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 The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.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. See **Additional Information Required** section below for deficiencies with the application.

Summary of Preliminary Determinations

The appropriation of 0.13 CFS of water from Well 1 (MARI 313) in Willamette River Basin for nursery use (irrigation and agriculture use) on 10.4 acres is allowable January 1 through December 31 of each year, contingent on the submission of additional required information.

Because of the favorable determinations described herein, Application G-18960 can move to the next phase of the water-rights application review process, which includes a public interest review.

Additional Information Required:

Additional exam fees are required prior to issuance of any Proposed Final Order that may recommend permit approval, as the application requests appropriation of water from two wells. The total exam fee is \$2,040, and the Department has received a total of \$1,690; please submit the remaining fee of \$350.

Category	Fee
Base	\$1,340
Up to 1 CFS	\$ 350
1 additional well	\$ 350
TOTAL EXAM FEES:	\$2,040

Please note, prior to permit issuance, an additional \$520 for recording fees must be received; this fee is not due at this time.

Please submit the payment no later than August 20, 2020. If you are unable to meet this deadline, 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 item 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 31, 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. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water used each month, and shall submit an annual report which includes the recorded water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

4. Static Water Level Condition:

Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:

- A. An average water-level decline of 3 or more feet per year for five consecutive years; or
- B. A total water-level decline of 15 or more feet; or
- C. A hydraulic interference decline of 15 or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).

- A. Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.

- B. In addition to the measurement required in the subsection above, a water-level measurement shall be made each year during the period March 1 through March 31.
- C. All water-level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
- D. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment is available from the Department.

The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited herein are evidenced by the well measurement required in the static water level condition.

- 5. Each basalt well shall be open to a single aquifer of the Columbia River Basalt Group (CRBG) and shall meet applicable well construction standards (OAR 690-200 and OAR 690-210). In addition, the open interval in each well shall be no greater than 100 feet. An open interval of greater than 100 feet may be allowed if substantial evidence of a single aquifer completion can be demonstrated to the satisfaction of the Department Hydrogeologists, using information from a video log, downhole flowmeter, water chemistry and temperature, or other downhole geophysical methods. These methods shall characterize the nature of the basalt rock and assess whether water is moving in the borehole. Any discernable movement of water within the well bore when the well is not being pumped shall be assumed as evidence of the presence of multiple aquifers in the open interval.
- 6. If during well construction, it becomes apparent that the well can be constructed to eliminate interference with hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Groundwater/Hydrology Section Manager to request approval of such construction. The request shall be in writing and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the request is made after casing and seal are placed, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.
- 7. A dedicated water-level measuring tube shall be installed in each well. The measuring tube shall meet the standards described in OAR 690-215-0060. When requested, access to the wells shall be provided to Department staff in order to make water-level measurements.
- 8. The applicant shall coordinate with the driller to ensure that drill cuttings are collected at 10-foot intervals and at changes in formation in each well. A split of each sampled interval shall be provided to the Department.

9. If any geologic and hydrogeologic reports are completed for the permittee during the development of the wells, including geophysical well logs and borehole video logs, then copies of the reports shall be provided to the Department. Except for borehole video logs, two paper copies, or a single electronic copy, shall be provided of each report. Digital tables of any data shall be provided upon request.

10. Well Identification Tag Condition:

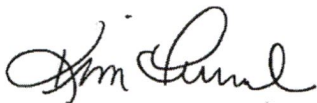
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including 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,



Kim French
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18960
WAB: No PSI

APPLICATION FACT SHEET

Application File Number: G-18960

Applicant: KATHY LAYTON

County: MARION

Watermaster: JOEL M. PLAHN, 22, NWR

Priority Date: APRIL 10, 2020

Source: WELL 1 (MARI 313) AND WELL 2 IN WILLAMETTE RIVER BASIN

Use: NURSERY USE (IRRIGATION AND AGRICULTURE USE) ON 10.4 ACRES

Quantity: 0.13 CUBIC FOOT PER SECOND

Basin Name & Number: WILLAMETTE, #2

WAB: WILLAMETTE R > COLUMBIA R - AB MOLALLA R

Well Location(s):

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	4 S	1 W	WM	6	SE NE	147 FEET SOUTH AND 54 FEET WEST FROM NE CORNER, SENE, SECTION 6
WELL 2	4 S	1 W	WM	6	SW NW	339 FEET SOUTH AND 144 FEET EAST FROM NE CORNER, SENE, SECTION 6

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	1 W	WM	5	NW NW	1.5
4 S	1 W	WM	5	SW NW	4.2
4 S	1 W	WM	6	NE NE	2.5
4 S	1 W	WM	6	SE NE	2.2

PUBLIC NOTICE DATE: July 21, 2020

14 DAY STOP PROCESSING DEADLINE DATE: July 31, 2020

30 DAY COMMENT DEADLINE DATE: August 20, 2020

Mailing List for IR Copies

Application G-18960

IR Date: July 17, 2020

Original and map mailed to applicant:

KATHY LAYTON
10268 CHAMPOEG RD NE
AURORA OR 97002

Sent via auto email:

1. Applicant - klayton72@gmail.com
2. WRD – Watermaster #22, Joel M. Plahn
3. WRD – Mike McCord NWR

Copies sent to:

1. WRD - File G-18960

Application Specialist: Kim French

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

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-18960**.

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 31, 2020

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A
Salem, OR 97301-1271
