



Water Right Application Initial Review

February 26, 2021

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PO BOX 587
DIABLO CA 94528

Reference: Application R-88807

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 appropriation of 9.6 acre-feet (AF) of groundwater from Well 1 (DESC 51137) in the Deschutes River Basin, to be appropriated under Application G-18915, for storage, being 9.0 AF in Pond 1, 0.3 AF in Pond 2 and 0.3 AF in Pond 3 for year-round wildlife, fire protection, recreation and aesthetics.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Storage for wildlife, fire protection, recreation and aesthetics is allowable under the Deschutes Basin Program (OAR 690-505-0010).
4. An assessment of groundwater availability was completed by the Department. The Department determined that upon submission of documentary evidence that mitigation has been obtained under Application G-18915, groundwater will be available for the proposed use.
5. The proposed use is located above the Deschutes Scenic Waterway, as designated under Oregon Revised Statute 390.826.
6. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

Summary of Preliminary Determinations

The appropriation of 9.6 acre-feet (AF) of groundwater from Well 1 (DESC 51137) in the Deschutes River Basin, to be appropriated under Application G-18915, for storage, being 9.0 AF in Pond 1, 0.3 AF in Pond 2 and 0.3 AF in Pond 3 for year-round wildlife, fire protection, recreation and aesthetics is allowable, contingent upon the approval of Application G-18915.

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.

Division 33 Review – The Department’s Division 33 administrative rules (OAR 690-033) 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 (STE) fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

Your application will now undergo an 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 required to mitigate for potential impacts identified in the review.

Mitigation for impacts to STE Species – 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 an existing water right. Following the Initial Review, you will be notified if mitigation is required, due to impacts to STE fish species.

If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options. There will be an additional fee of \$670 required with any mitigation proposal submitted.

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 **March 12, 2021**. For your convenience you may use the enclosed "STOP PROCESSING" form.

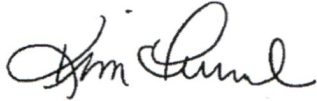
If a permit is issued, it will likely include the following conditions:

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. **Water Use Measurement, Recording, and Reporting Condition:**
 - A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in each reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. 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 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
3. Routine maintenance or repair of the dam, its spillway, and all appurtenant structures shall be performed to include, but not be limited to, removal of woody or high vegetation from the embankment, abutments and spillway; removal of debris from the reservoir, and annual or more frequent cycling of the valve or gate for the low level conduit.
4. Repair or replacement of defective or worn out equipment (including but not limited to gates, valves, and conduits) shall be completed as needed to keep the dam safe.
5. If the dam is enlarged, modified, or otherwise altered, this work must be based on design plans and specifications prepared by a Registered Professional Engineer licensed in Oregon. These plans must be approved by the Water Resources Dam Safety Program prior to such alterations of the dam, its spillway, or any appurtenant structure(s).
6. No valve shall be installed at the downstream end of the low level conduit, and the low level conduit shall not be operated in a pressurized condition unless the dam has been designed for pressurized operation by the design engineer. There must be an operations manual for the dam that describes pressurized operation, and necessary inspections of pressurized conduits for the dam.
7. If used, flashboards shall be maintained in good condition, replaced as needed, and removed as necessary prior to potential winter storms, or unusual rainfall or snowmelt events at any time of the year.

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
R-88807
WAB: 30530112

APPLICATION FACT SHEET

Application File Number: R-88807

Applicant: DAVID WELSH AND STACY WELSH

County: DESCHUTES

Watermaster: JEREMY GIFFIN, 11, SCR

Priority Date: FEBRUARY 12, 2020

Source: WELL 1 (DESC 51137) IN THE DESCHUTES RIVER BASIN, TO BE APPROPRIATED UNDER APPLICATION G-18915

Purpose or Use of the stored water: WILDLIFE, FIRE PROTECTION, RECREATION AND AESTHETICS

Storage Facility Name: POND 1, POND 2 AND POND 3

Volume: 9.6 ACRE-FEET

Basin Name & Number: DESCHUTES, # 5

WAB: DESCHUTES R > COLUMBIA R - AB BUCKHORN CAN

Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
17 S	11 E	WM	1	SW NE	55 FEET NORTH AND 20 FEET EAST FROM C1/4 CORNER, SECTION 1

Reservoir Locations:

POND Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Dam Height
POND 1	17 S	11 E	WM	1	SW NE	150 FEET NORTH AND 230 FEET EAST FROM C1/4 CORNER, SECTION 1	0 FEET
POND 2	17 S	11 E	WM	1	NW SE	75 FEET SOUTH AND 485 FEET EAST FROM C1/4 CORNER, SECTION 1	0 FEET
POND 3	17 S	11 E	WM	1	NW SE	240 SOUTH AND 655 FEET EAST FROM C1/4 CORNER, SECTION 1	0 FEET

The Area to be submerged by the Reservoirs:

Twp	Rng	Mer	Sec	Q-Q
17 S	11 E	WM	1	SW NE
17 S	11 E	WM	1	NW SE

PUBLIC NOTICE DATE: March 2, 2021

14 DAY STOP PROCESSING DEADLINE DATE: March 12, 2021

30 DAY COMMENT DEADLINE DATE: April 1, 2021

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 **R-88807**.
- 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:

March 12, 2021

- Return the notice to:

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