



Water Right Application Initial Review

September 9, 2022

DAVID REED
KATHLEEN M. REED
59049 SEVEN DEVILS RD
BANDON OR 97411

Reference: Application G-19156

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-19156 proposes the appropriation of 1.0 cubic foot per second (CFS) of water from Well 1 and Well 2 in Dafoe Creek Basin for irrigation of 83.1 acres March 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 South Coast Basin Program. (OAR 690-517-0000(12))
4. Groundwater will **not** likely be available within the capacity of the resource, and the proposed use of groundwater **will** cause injury to existing groundwater rights.
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will have the potential for substantial interference with Twomile Creek, an unnamed tributary to Twomile Creek, Whiskey Run, and an unnamed tributary to Sevenmile Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. During the period of use requested, **surface water is not available**.
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 The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.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 sensitive, threatened, or endangered (STE) fish species may be present, this application will be reviewed by the Oregon Department of Fish and Wildlife and the Oregon Department of Environmental Quality. 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. See the **Division 33 Review** section below for more information.
9. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.

Summary of Preliminary Determinations
The appropriation of 1.0 CFS of water from Well 1 and Well 2 in Dafoe Creek Basin for irrigation of 83.1 acres is not allowable.

Public Comment:

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 STE fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

You may be required to mitigate for potential impacts identified in the Division 33 review process. 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 \$790 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 \$310 examination fee per application). You must notify the Department **in writing** by **September 23, 2022**. 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:**
 - 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. Well Identification Tag:

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 Elisabeth.A.Graham@water.oregon.gov or 503-979-3130 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: Lisa Graham, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Lisa Graham

Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-19156
WAB: 72804 & 72964
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19156

Applicant: DAVID REED AND KATHLEEN M. REED

County: COOS

Watermaster: SUSAN M. DOUTHIT, 15, SWR

Priority Date: JUNE 11, 2021

Source: WELL 1 AND WELL 2 IN DAFOE CREEK BASIN

Use: IRRIGATION OF 83.1 ACRES

Quantity: 1.0 CUBIC FOOT PER SECOND

Period of Use: MARCH 1 THROUGH OCTOBER 31

Basin Name & Number: SOUTH COAST, #17

WAB: TWOMILE CR > PACIFIC OCEAN - AT MOUTH

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	27 S	14 W	WM	21	SE NW	917 FEET NORTH AND 528 FEET WEST FROM C1/4 CORNER, SECTION 21
WELL 2	27 S	14 W	WM	21	SW NW	945 FEET NORTH AND 1707 FEET WEST FROM C1/4 CORNER, SECTION 21

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
27 S	14 W	WM	21	NE NW	30.7
27 S	14 W	WM	21	NW NW	31.2
27 S	14 W	WM	21	SW NW	7.2
27 S	14 W	WM	21	SE NW	14.0

PUBLIC NOTICE DATE: September 13, 2022

14 DAY STOP PROCESSING DEADLINE DATE: September 23, 2022

30 DAY COMMENT DEADLINE DATE: October 13, 2022

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) 986-0900.

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.
- 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.

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-19156**.

After reviewing the Initial Review for my application, I request that processing be stopped and fees be refunded (minus a \$310 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 \$310 examination fee) be returned.

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

September 23, 2022

- Return the notice to:

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