

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16890

Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Application History

On June 29, 2007, Pacific Foods of Oregon Inc submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on June 24, 2008. The protest period closed August 8, 2008, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe a condition of the permit.

Ground water production in each well shall be limited to a single aquifer in the Columbia River Basalt Group lavas. The open interval in each well shall be no greater than 100.0 feet except as noted below. Open interval means the total length of borehole that is not behind sealed casing. The borehole above the open interval shall be continuously cased and continuously sealed to land surface. A larger open interval may be approved

by the Department if the applicant can conclusively demonstrate, using packer tests or other suitable methods, that the hydraulic heads of water-bearing zones in the proposed open interval are similar enough to prevent loss of artesian pressure from one zone to another.

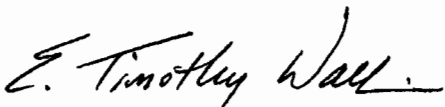
Order

Application G-16890 is therefore approved with these modifications to the Proposed Final Order. Upon payment of outstanding fees in the amount of \$300, a permit shall be issued authorizing the proposed water use.

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

DATED October 30, 2008



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Joel Plahn. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0815.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF MARION

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

PACIFIC FOODS OF OREGON INC.
19480 SW 97TH AVE
TUALATIN, OR 97062

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16890

SOURCE OF WATER: WELL 1, WELL 2, WELL 3, AND WELL 4 IN WILLAMETTE RIVER
BASIN

PURPOSE OR USE: IRRIGATION USE ON 133.2 ACRES

MAXIMUM RATE: 1.67 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: JUNE 29, 2007

WELL LOCATIONS:

- WELL 1 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, T3S, R1W, W.M.; 1500 FEET SOUTH
AND 970 FEET WEST FROM NE CORNER, SECTION 32
- WELL 2 - SE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, T3S, R1W, W.M.; 2020 FEET SOUTH
AND 220 FEET WEST FROM NE CORNER, SECTION 32
- WELL 3 - NW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 33, T3S, R1W, W.M.; 1200 FEET SOUTH
AND 150 FEET EAST FROM NW CORNER, SECTION 33
- WELL 4 - NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, T3S, R1W, W.M.; 390 FEET SOUTH AND
510 FEET WEST FROM NE CORNER, SECTION 32

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 29.4 ACRES
 NW $\frac{1}{4}$ NE $\frac{1}{4}$ 18.7 ACRES
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.7 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 22.2 ACRES
 SECTION 32

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 20.7 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 28.5 ACRES
 SECTION 33

TOWNSHIP 3 SOUTH, RANGE 1 WEST, W.M.

Measurement, recording and reporting conditions:

- 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 meter(s) in good working order. The permittee shall keep a complete record of the amount of water used each month, and shall submit an annual report which includes the recorded water use measurements to the Department by December 1 of each year. 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.
 - B. The permittee shall allow the watermaster access to the meter(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- (1) 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 three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
 - (2) 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 subsection (a) of this section, 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 shall be available from the Department.
- (e) 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 in section (1) are evidenced by the well measurement required in section (2).

Ground water production in each well shall be limited to a single aquifer in the Columbia River Basalt Group lavas. The open interval in each well shall be no greater than 100.0 feet except as noted below. Open interval means the total length of borehole that is not behind sealed casing. The borehole above the open interval shall be continuously cased and continuously sealed to land surface. A larger open interval may be approved by the Department if the applicant can conclusively demonstrate, using packer tests or other suitable methods, that the hydraulic heads of water-bearing zones in the proposed open interval are similar enough to prevent loss of artesian pressure from one zone to another.

Drill cuttings shall be collected at 10.0 foot intervals from at least one of the wells. Cuttings shall be provided to the Water Resources Department upon completion of the well to provide information about the geologic and hydrologic properties of the basalt unit.

STANDARD CONDITIONS

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

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.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

The well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes substantially with any prior surface or ground water rights.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2008

DRAFT - THIS IS NOT A PERMIT

for Phillip C. Ward, Director
Water Resources Department