



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

RANDY MARSHALL
79263 AYERS ROAD
WAMIC, OR 97063

November 20, 2009

Reference: File G-17252

Dear Mr. Marshall:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit 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 you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the use of 448.0 gallons per minute, or 1.0 cubic foot per second, of water from Well 1 (WASC 51459) within Rock Creek Basin for irrigation of 135.3 acres from March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 (WASC 51459) within Rock Creek Basin for irrigation is allowable under the Deschutes Basin Program.
4. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

5. Based on information in the application file, the Department cannot determine if Well 1 (WASC 51459) meets current minimum well construction standards. At the time the well was drilled, based on the well report for WASC 51459, the ground water was encountered at a depth of 699 feet below land surface (bls) and the static water level was measured at a depth of 500 feet bls. The ground water level rose nearly 200 feet from where it was encountered indicating that the aquifer is under artesian pressure. In order to determine if special construction standards that address artesian wells were met, additional information is needed. Therefore, in order for the Department to make this determination, you must provide a down-hole video and/or temperature log.

Prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted to the Department, and the Department's Enforcement Section must approve the well construction. In repairing the well(s), 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 Kris Byrd of the Department's Enforcement Section at 503-986-0851 to determine how to proceed.

Please note that repair of the well(s) will not necessarily overcome the potential for substantial interference with surface water and might not result in the issuance of a permit.

6. Regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's ground water supply (OAR 690-200).
7. The proposed use is located above the Deschutes Scenic Waterway, as designated under ORS 390.826.

Summary of Initial Determinations

The use of 1.0 CFS of water from Well 1 (WASC 51459) within Rock Creek Basin for irrigation of 135.3 acres is allowable during the full period requested, March 1 through October 31, contingent upon the submittal of evidence demonstrating compliance with current minimum well construction standards for Well 1 (WASC 51459).

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically 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.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, December 4, 2009**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. 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 or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a 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.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. 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.
3. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
4. 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.
5. The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data.

The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

The water source identified in your 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 Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17252
WAB Deschutes-no psi
POU Deschutes-no psi
GW

APPLICATION FACT SHEET

Application File Number: G-17252

Applicant: RANDY MARSHALL

County: WASCO

Watermaster: 3

Priority Date: AUGUST 13, 2009

Source: WELL 1 (WASC 51459)

Use: IRRIGATION OF 135.3 ACRES

Quantity: 1.0 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, 5

Stream Index Reference: Volume 3 ROCK CR & MISC

Well Location: SESW, SECTION 28, T4S, R12E, W.M.; 1170 FEET NORTH AND 1930 FEET EAST FROM SW CORNER, SECTION 28

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.8 ACRES

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 27.9 ACRES

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 5.9 ACRES

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.2 ACRES

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 36.3 ACRES

SECTION 28

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.3 ACRES

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 9.3 ACRES

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 7.6 ACRES

SECTION 33

TOWNSHIP 4 SOUTH, RANGE 12 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 4, 2009

PUBLIC NOTICE DATE: Tuesday, November 24, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, December 24, 2009

Mailing List for IR Copies

Application #G-17252

IR Date: November 20, 2009

Original mailed to applicant:

RANDY MARSHALL
79263 AYERS ROAD
WAMIC, OR, 97063

Copies sent to:

1. WRD - File # G-17252
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: NC
4. WRD - Watermaster # 3
5. WRD - Kris Bryd, Enforcement
6. WRD - NC Regional Well Inspector

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

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

6. Larry Toll, CWRE #132
Tenneson Engineering Corp, PO Box 1132, The Dalles OR 97058

Caseworker: Kerry Kavanagh

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