



Oregon

John A. Kitzhaber, MD, 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

J RICHARD FLEMING
VIRTUE FINANCIAL SOLUTIONS LLC
PO BOX 477
BAKER CITY, OR 97814

May 18, 2012

Reference: File G-17551

Dear Applicant:

**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 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 you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the appropriation of 300 gallons per minute of water, which is 0.67 cubic foot per second (CFS), from Well 1 (BAKE 50897/L54162) and Well 2 (BAKE 52193/L107097) in Second Creek Basin for supplemental irrigation of 55.6 acres March 1 through November 30 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 1 (BAKE 50897/L54162) and Well 2 (BAKE 52193/L107097) in Second Creek Basin for supplemental irrigation March 1 through November 30 of each year is allowable under the Powder Basin Program.
4. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

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.

Summary of Initial Determinations

The appropriation of 0.67 CFS from Well 1 (BAKE 50897/L54162) and Well 2 (BAKE 52193/L107097) in Second Creek Basin for supplemental irrigation of 55.6 acres March 1 through November 30 of each year is allowable during.

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, June 1, 2012**. 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 or other suitable measuring device as approved by the Director 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 diverted 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. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place
Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Reference Water Level Determination

Following the first year of water use, the user shall report one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The Director may require the user to obtain and report additional water levels after the reference level has been determined. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well 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 non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until 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 senior water rights. The water user shall in no instance 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.

- 3. 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 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 503-986-0859 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: Jeana Eastman, 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 'Jeana Eastman'.

Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17551
WAB 9-no psi
POU 9-
GW

APPLICATION FACT SHEET

Application File Number: G-17551

Applicant: J RICHARD FLEMING VIRTUE FINANCIAL SOLUTIONS LLC

County: Baker

Watermaster: 8

Priority Date: April 13, 2012

Source: WELL 1 (BAKE 50897/L54162) AND WELL 2 (BAKE 52193/L107097) IN SECOND CREEK BASIN

Use: SUPPLEMENTAL IRRIGATION OF 55.6 ACRES

Quantity: 0.67 CUBIC FOOT PER SECOND

Basin Name & Number: Powder, #9

Stream Index Reference: Volume 2A RUCKLES CR & MISC

Point of Diversion or Well Location(s):

WELL 1 (BAKE 50897/L54162): SESW, SECTION 29, T9S, R42E, W.M.; 4145 FEET SOUTH AND 1637 FEET EAST FROM NW CORNER, SECTION 29

WELL 2 (BAKE 52193/L107097): NWNE, SECTION 32, T9S, R42E, W.M.; 5584 FEET SOUTH AND 3049 FEET EAST FROM NW CORNER, SECTION 29

Place of Use:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 11.9 ACRES

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 17.0 ACRES

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 23.6 ACRES

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.4 ACRE

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 0.7 ACRE

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 2.0 ACRES

SECTION 29

TOWNSHIP 9 SOUTH, RANGE 42 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 1, 2012

PUBLIC NOTICE DATE: Tuesday, May 22, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, June 21, 2012

Mailing List for IR Copies

Application #G-17551

IR Date: May 18, 2012

Original mailed to applicant:

J RICHARD FLEMING VIRTUE FINANCIAL SOLUTIONS LLC, PO BOX 477, BAKER CITY, OR 97814

Copies sent to:

1. WRD - File # G-17551
2. WRD - Water Availability: Ken Stahr

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

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager (not SCR): E
4. WRD - Watermaster # 8