



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

CERTIFIED MAIL
Return Receipt Requested

FRANK ILLE
LOVE'S TRAVEL STOPS & COUNTRY STORES
10601 N PENNSYLVANIA
OKLAHOMA CITY, OK 73120

December 13, 2013

Reference: File G-17690

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 direct use of water for irrigation via Tank 1 is a bulge-in-the-system during the irrigation season, and therefore is not considered as part of the storage component of this application.
2. The application indicated the storage of only 0.31 acre feet (AF) of ground water in Tank 1, but described the use of stored water in the amount of 10.1 AF for commercial use. Therefore, the Department is interpreting this portion of your application to be for the use of 10.1 AF of stored ground water for commercial use. If our understanding is incorrect, please contact us by Thursday, January 16, 2014, to clarify the application.
3. The application proposed the appropriation of 0.07 cubic foot per second (CFS) of water from Well 1 in Columbia River Basin for irrigation of 4.56 acres April 1 through October 31 of each year. In addition, the application proposed the storage of 10.1 AF of ground water in Tank 1, to be appropriated for year-round commercial use.
4. The proposed use is not prohibited by law or rule except where otherwise noted below.
5. The appropriation of water from Well 1 in Columbia River Basin for irrigation, storage of ground water and commercial use is allowable under the Umatilla Basin Program.
6. 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.

7. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. In the absence of other information, if the application is approved, the rate allowed for irrigation will be limited to 0.06 CFS. However, Oregon Revised Statute 537.621(4) allows the Department to authorize a rate and/or duty that is higher than the general basin-wide standard. If you would like to provide additional information for the Department to consider, please do so by **Thursday, January 16, 2014**. If you need additional time, you may send a written request for up to 180 days. **If we do not receive additional information to consider or a hold request by this date, the Department will limit the rate to 0.06 CFS for irrigation.**
8. The application indicates Frank Ille/Love's Travel Stops & Country Stores is the owner of the property described, however information from Morrow County indicates that the current property owner is the City of Boardman. Therefore, the Department will send a copy of this Initial Review to the City of Boardman as an affected landowner.
9. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

The appropriation of 0.07 CFS from Well 1 in Columbia River Basin for irrigation and year-round commercial use, further limited to 0.06 CFS for irrigation of 4.56 acres April 1 through October 31 of each year, is allowable.

The storage of 10.1 AF of ground water in Tank 1 is allowable year-round.

The appropriation of 10.1 AF of stored ground water for commercial use is allowable year-round.

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.

Additional Information Required

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

- A revised map that shows the location of Tank 1 in relation to the place of use and includes the north/south and east/west coordinates by reference to a recognized public land survey corner.
- A revised map indicating quarter-quarter lines and the number of acres to be irrigated in each quarter-quarter. It appears from the map that the irrigated acreage may be in all four quarter-quarters within the NE 1/4.

Please submit this information no later than Thursday, January 16, 2014. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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 \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, December 27, 2013**. 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 well.
 - B. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device at Tank 1.
 - C. The permittee shall maintain the meters in good working order.
 - D. The permittee shall keep a complete record of the amount of water diverted and stored each month, and shall submit a report which includes the recorded water-use and water-storage 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.
 - E. The permittee shall allow the watermaster access to the meter; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.

- F. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. If substantial interference with surface water or 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.
 3. 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 months of February/March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial February/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.

4. Dedicated Measuring Tube: Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.
5. Ground water production shall only be from a single aquifer in the Columbia River Basalt reservoir between approximately 950 and 1050 feet below land surface.
6. Ground water production shall be limited to a single aquifer in the Columbia River Basalt Group. Each well shall be continuously cased and continuously sealed to within 100 feet of the bottom of the open borehole. A larger open interval may be approved by the Department if the permittee can demonstrate to the Department's satisfaction, using packer tests or other suitable methods, that the hydraulic heads of water-bearing zones in the proposed open interval are equivalent or that the open interval is part of a continuous zone of interconnected porous materials. Following well completion, the wells shall be thoroughly developed to remove cuttings and drilling fluids. A video log of the wells shall be collected to demonstrate to the satisfaction of the Department that each well is only open to a single aquifer.
7. Each well with a pump shall be equipped with a dedicated 3/4-inch diameter (minimum) water-level measurement tube, separate from other methods of measuring the water level such as airlines or transducers. The annual water-level measurement required in the permit shall be measured through the measuring tube.
8. Drill cuttings shall be collected at the permitted wells and any test holes. Samples shall be collected at ten-foot intervals and at changes in lithology. The samples shall be stored in one-quart freezer bags with the Start Card Number and depth interval clearly marked on the bag.
9. All hydrologic, geologic, geochemical and video data collected shall be provided to the Oregon Water Resources Department in a report and in an electronic format specified by the Department.
10. 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.
11. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.
12. Surface water shall not be appropriated to fill or maintain the reservoir without a water right permitting the diversion and use of such surface water.

13. The permittee is required to pass all surface water flow for which a water-use authorization does not exist.
14. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that surface-water flow is not impeded. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

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: Kim French-Gorski, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kim French-Gorski
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17690
WAB 7-No PSI
POU 7-
GW

APPLICATION FACT SHEET

Application File Number: G-17690

Applicant: FRANK ILLE; LOVE'S TRAVEL STOPS & COUNTRY STORES

County: Morrow

Watermaster: 5

Priority Date: June 25, 2013

Source: WELL 1 IN COLUMBIA RIVER BASIN;

Use: IRRIGATION OF 4.56 ACRES STORAGE OF GROUND WATER AND COMMERCIAL USES

Quantity: 0.07 CUBIC FOOT PER SECOND, 10.1 AF

Basin Name & Number: Umatilla, #7

Stream Index Reference: Volume 3A COLUMBIA R & MISC

Point of Diversion or Well Location(s):

WELL 1: NESE, SECTION 15, T4N, R24E, W.M.; 1589 FEET NORTH AND 1199 FEET WEST FROM SE CORNER, SECTION 15

TANK 1: NESE, SECTION 15, T4N, R24E, W.M.

Place of Use:

NE $\frac{1}{4}$ SE $\frac{1}{4}$ IRRIGATION, COMMERCIAL USES AND STORAGE
NW $\frac{1}{4}$ SE $\frac{1}{4}$ IRRIGATION, COMMERCIAL USES AND STORAGE
SW $\frac{1}{4}$ SE $\frac{1}{4}$ IRRIGATION, COMMERCIAL USES AND STORAGE
SE $\frac{1}{4}$ SE $\frac{1}{4}$ IRRIGATION, COMMERCIAL USES AND STORAGE
SECTION 15
TOWNSHIP 4 NORTH, RANGE 24 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 27, 2013

PUBLIC NOTICE DATE: Tuesday, December 17, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, January 16, 2014

Mailing List for IR Copies

Application #G-17690

IR Date: December 13, 2013

Original mailed to applicant:

Frank Ille; Love's Travel Stops & Country Stores, 10601 N Pennsylvania, Oklahoma City, OK 73120

SENT VIA EMAIL:

WRD - Watermaster # 5
AGAY@USKH.COM

Copies sent to:

WRD - File # G-17690
WRD - Water Availability: Shawn Turner

IR, Map, and Fact Sheet Copies sent to:

WRD - Regional Manager:
Department of Agriculture

Affected Landowners (include "Notice of Initial Review--Affected Landowner")
City of Boardman, PO Box 229, Boardman, OR 97818

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

Caseworker: Kim French-Gorski

COPYSHT.IR

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed 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 Information Group (WRIG) 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
- 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
- seven 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
- **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

Stop Processing deadline is within 14 days of Initial Review - use the form below

- applicant may request no further action and fee refund of all but \$225

STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # _____

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$225 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 \$225 examination fee) be returned.

This notice must be received at Water Resources Department by _____

Return the notice to: OWRD, Water Rights Division
STOP PROCESSING
725 Summer Street, NE - Suite A
Salem OR 97301-1271

5. *Final Order (FO)*

- if no protest is filed, Final Order is issued

The protest process

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order 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 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