



Water Right Application Initial Review

February 19, 2021

JERRY STROUD
MOBILE RV/AUTO INC.
91760 PRAIRIE RD
JUNCTION CITY OR 97448

Reference: Application G-18903

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-18903 proposes the appropriation of 0.64 cubic foot per second (CFS) of water from Well 1, Well 2, Well 3 and Well 4 in Flat Creek Basin for year-round nursery use on 3.0 acres and irrigation of 45.0 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. Uses included in nursery use are included in irrigation and agriculture use, both of which are allowed under the Willamette Basin Program (OAR 690-502-0160(2)).
4. Groundwater will **not** likely be available within the capacity of the resource without causing injury to existing groundwater rights.
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use from Well 1 and Well 2 will not have the potential for substantial interference with any surface water source.
6. The Department has determined, based upon OAR 690-009, that the proposed groundwater use from Well 3 and Well 4 **will** have the potential for substantial interference with two unnamed sloughs, tributaries to the Willamette River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is available during the entire period of use requested.
7. The proposed use is not located within or above any state or federal scenic waterway.

8. The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.
9. 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.
10. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
11. The Department has determined that Well 4 may not meet current minimum well construction standards. There is no well report associated with this well that shows how it was originally constructed to verify compliance with well construction standards.

Prior to the issuance of a Proposed Final Order recommending approval, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. 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 Travis Kelly of the Department’s Well Construction and Compliance Section at 503-986-0852 to determine how to proceed.

Please also note that 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 groundwater supply (OAR 690-200)..

Summary of Preliminary Determinations
The appropriation of 0.64 CFS of water from Well 1, Well 2, Well 3 and Well 4 in Flat Creek Basin for nursery use on 3.0 acres and irrigation of 45.0 acres is <u>not</u> allowable.

Although it is unlikely that the application will be approved, if the Department’s findings change and a permit can be issued, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department prior to issuance of any Proposed Final Order that may recommend approval.

Additionally, the maps submitted do not clearly identify the acreage proposed for nursery use and irrigation. The Department interpreted the maps to the best of our ability, however, there is some information that is missing from the maps provided. If the findings change and a permit is issued, we will require maps that meet the requirements of OAR 690-310-0050(4)(a), being maps that show the number of acres proposed for irrigation and the number of acres proposed for nursery use in each quarter-quarter. Each area must be clearly indicated on the map and identified by shading or hatching.

Public Comment & Further Review:

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.

Your application will now undergo an additional review from numerous federal, state, local, and tribal governmental entities. 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.

Mitigation for impacts to STE Species – 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 \$670 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 \$260 examination fee per application). You must notify the Department **in writing** by **March 5, 2021**. 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 Condition:**
 - 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 Condition:

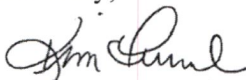
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including 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 Kim.R.French@oregon.gov or 503-986-0816 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: Kim French, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kim French
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18903
WAB: 30200321
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-18903

Applicant: JERRY STROUD AND MOBILE RV/AUTO INC.

County: LANE

Watermaster: LANAYA F. BLAKELY, 2, NWR

Priority Date: JANUARY 13, 2020

Source: WELL 1, WELL 2, WELL 3 AND WELL 4 IN FLAT CREEK BASIN

Use: NURSERY USE ON 2.0 ACRES AND IRRIGATION OF 45.0 ACRES

Quantity: 0.64 CUBIC FOOT PER SECOND

Basin Name & Number: WILLAMETTE, #2

WAB: WILLAMETTE R > COLUMBIA R - AB PERIWINKLE CR AT GAGE 14174

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	16 S	4 W	WM	28	SW NE	1500 FEET SOUTH AND 2700 FEET EAST FROM NW CORNER, SECTION 28
WELL 2	15 S	4 W	WM	3	SE NE	2525 FEET SOUTH AND 210 FEET WEST FROM NE CORNER, SECTION 3
WELL 3	15 S	4 W	WM	33	SE NW	2700 FEET SOUTH AND 2000 FEET EAST FROM NW CORNER, SECTION 33
WELL 4	15 S	4 W	WM	33	SW NE	2450 FEET SOUTH AND 2800 FEET EAST FROM NW CORNER, SECTION 33

Place of Use:

NURSERY USE					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	4 W	WM	3	SE NE	1.0
16 S	4 W	WM	28	NE NW	1.0

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
15 S	4 W	WM	3	SE NE	0.7
15 S	4 W	WM	3	SW NW	1.0
15 S	4 W	WM	3	NW SW	0.1
15 S	4 W	WM	3	NE SE	3.2
16 S	4 W	WM	28		20.0
16 S	4 W	WM	33	SW NE	3.5
16 S	4 W	WM	33	SE NW	16.5

PUBLIC NOTICE DATE: February 23, 2021

14 DAY STOP PROCESSING DEADLINE DATE: March 5, 2021

30 DAY COMMENT DEADLINE DATE: March 25, 2021

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.oregon.gov/OWRD

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.
- Contact the Caseworker if you have questions about the IR.
- 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.
- **An 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.

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-18903**.

After reviewing the Initial Review for my application, I request that processing be stopped and fees be refunded (minus a \$260 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 \$260 examination fee) be returned.

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

March 5, 2021

- Return the notice to:

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