

PUBLIC INTEREST REVIEW FOR GROUND WATER APPLICATIONS

TO: Water Rights Section Date January 27, 2009

FROM: Ground Water/Hydrology Section Michael Zwart
Reviewer's Name

SUBJECT: Application G- 17135 Supersedes review of _____
Date of Review(s)

PUBLIC INTEREST PRESUMPTION; GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525. Department staff review ground water applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. This review is based upon available information and agency policies in place at the time of evaluation.*

A. GENERAL INFORMATION: Applicant's Name: 9L Farms, LLC County: Harney

A1. Applicant(s) seek(s) 1.5 cfs from one well(s) in the Malheur Lake Basin,
_____subbasin Quad Map: Carson Point

A2. Proposed use: Irrigation, 125.2 acres Seasonality: March 1 to October 31

A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well 1	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	Proposed	1	Basin fill	1.5	23S/33E-10 SW-SW	120' N. 720' E fr SW cor S 10
2						
3						
4						
5						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	4128	125	20*		300	0-24	0-100	None	None			

Use data from application for proposed wells.

A4. **Comments: NOTE: This application is for the same proposed well and acreage as G-17041. A permit (G-16426) was issued for that file on January 9, 2009, which allowed nearly the full rate, so it is not clear why a second application has been filed. All construction information is from the application. *I estimate that the static water level will be deeper.**

A5. ☒ **Provisions of the Malheur Lake** Basin rules relative to the development, classification and/or management of ground water hydraulically connected to surface water ☐ are, or ☒ are not, activated by this application.
(Not all basin rules contain such provisions.)
Comments: _____

A6. ☐ **Well(s) #** _____, _____, _____, _____, _____, tap(s) an aquifer limited by an administrative restriction.
Name of administrative area: _____
Comments: _____

B. GROUND WATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070

B1. **Based upon available data**, I have determined that ground water* for the proposed use:

- a. ☐ **is** over appropriated, ☐ **is not** over appropriated, or ☒ **cannot be determined to be** over appropriated during any period of the proposed use. * This finding is limited to the ground water portion of the over-appropriation determination as prescribed in OAR 690-310-130;
- b. ☐ **will not** or ☐ **will** likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the ground water portion of the injury determination as prescribed in OAR 690-310-130;
- c. ☐ **will not** or ☐ **will** likely to be available within the capacity of the ground water resource; or
- d. ☒ **will, if properly conditioned**, avoid injury to existing ground water rights or to the ground water resource:
 - i. ☒ The permit should contain condition #(s) 7N;
 - ii. ☐ The permit should be conditioned as indicated in item 2 below.
 - iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;

- B2.
- a. ☐ **Condition** to allow ground water production from no deeper than _____ ft. below land surface;
 - b. ☐ **Condition** to allow ground water production from no shallower than _____ ft. below land surface;
 - c. ☐ **Condition** to allow ground water production only from the _____ ground water reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. ☐ **Well reconstruction** is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Ground Water Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

- B3. **Ground water availability remarks:** Region Manager Ivan Gall recommends use of Condition 7N in this basin. This proposed well is about 8 miles north of an area where local well owners have expressed some concern about well interference and ground-water availability. Currently, a water-level recorder has been monitoring water levels at one well and several other wells have been selected for quarterly monitoring. Insufficient data have yet been collected to conclude that the ground-water resource is over appropriated or that additional appropriations would cause substantial interference with existing users of ground water.

C. GROUND WATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040**C1. 690-09-040 (1):** Evaluation of aquifer confinement:

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1	Likely interbedded sand, gravel and clay (Qal)	☐	☒
		☐	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: Regionally, the basin-fill aquifer is unconfined and discharges to Malheur Lake.

C2. 690-09-040 (2) (3): Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected?			Potential for Subst. Interfer. Assumed?	
						YES	NO	ASSUMED	YES	NO
1	1	Malheur Slough	4060±	4124	15200	☐	☒	☐	☐	☒
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: Malheur Slough is dry in most years and therefore is not considered for Division 9 reviews, per memo by Ivan Gall, January 15, 2008.

Water Availability Basin the well(s) are located within: Malheur Slough > Malheur Lake ab Ninemile Slough (31200107); Hot Springs Slough > Malheur Slough at mouth (31200102).

C3a. 690-09-040 (4): Evaluation of stream impacts for each well that has been determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that surface water source, and not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% *natural* flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked ☒ box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐

		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐

C3b. **690-09-040 (4):** Evaluation of stream impacts by total appropriation for all wells determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. **Complete only if Q is distributed among wells.** Otherwise same evaluation and limitations apply as in C3a above.

	SW #		Q _w > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Q _w > 1% ISWR?	80% Natural Flow (cfs)	Q _w > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐

Comments: This section does not apply.

C4a. **690-09-040 (5):** Estimated impacts on **hydraulically connected surface water sources greater than one mile** as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

Basis for impact evaluation:

C5. ☐ **If properly conditioned**, the surface water source(s) can be adequately protected from interference, and/or ground water use under this permit can be regulated if it is found to substantially interfere with surface water:

i. ☐ The permit should contain condition #(s) _____;

ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. SW / GW Remarks and Conditions

References Used: Local well logs; local recent reviews; GW Report 16, by Leonard, 1970; Greene, Walker, and Corcoran, 1972, Geologic Map of the Burns Quadrangle, Oregon, USGS Miscellaneous Geologic Investigations Map I-680; Memo by Ivan Gall, 1/15, 2008, Stream Assessment for Division 9 Review in the Malheur Lakes Basin.

D. WELL CONSTRUCTION, OAR 690-200

- D1. Well #: _____ Logid: _____
- D2. **THE WELL does not meet current well construction standards based upon:**
- a. ☐ review of the well log;
 - b. ☐ field inspection by _____;
 - c. ☐ report of CWRE _____;
 - d. ☐ other: (specify) _____
- D3. **THE WELL construction deficiency:**
- a. ☐ constitutes a health threat under Division 200 rules;
 - b. ☐ commingles water from more than one ground water reservoir;
 - c. ☐ permits the loss of artesian head;
 - d. ☐ permits the de-watering of one or more ground water reservoirs;
 - e. ☐ other: (specify) _____
- D4. **THE WELL construction deficiency is described as follows:** _____

- D5. **THE WELL**
- a. ☐ was, or ☐ was not constructed according to the standards in effect at the time of original construction or most recent modification.
 - b. ☐ I don't know if it met standards at the time of construction.
- D6. ☐ **Route to the Enforcement Section.** I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Enforcement Section and the Ground Water Section.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

- D7. ☐ Well construction deficiency has been corrected by the following actions: _____

- _____, 200____.
- (Enforcement Section Signature)
- D8. ☐ **Route to Water Rights Section (attach well reconstruction logs to this page).**