



# 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**

MIRACLE LAND & LIVESTOCK LLC  
20020 UPPER PLEASANT RD  
CALDWELL, ID 83607

May 11, 2012

Reference: File G-17544

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 6.18 cubic feet per second (CFS) of ground water from Miracle Well 1, Miracle Well 2, and Miracle Well 3 in Snake River Basin for primary irrigation of 74.9 acres and supplemental irrigation of 420.0 acres March 1 through October 31, and year-round pond maintenance.

The application also proposed to store 104.3 acre feet (AF), being 2.0 AF in Sediment Pond 1, 4.6 AF in Sediment Pond 2a, 4.1 AF in Sediment Pond 2b, 2.5 AF in Treatment Pond 1, 90.0 AF in Wetland/Storage Pond, and 1.1 AF in Treatment Pond 2.

In addition, the application proposed to use 90.0 AF from Wetland/Storage Pond for primary irrigation of 74.9 acres and supplemental irrigation of 420.0 acres March 1 through October 31, and year-round fish life, wildlife, and recreation.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of ground water in the Snake River Basin for irrigation March 1 through October 31, and year-round pond maintenance is allowable under the Grande Ronde Basin Program.

In addition, the use of stored ground water for irrigation March 1 through October 31, and year-round wetland enhancement and recreation is allowable under the Grande Ronde 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.

5. 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.
6. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. If the application is approved, the rate allowed will be limited to 0.93 CFS for primary irrigation of 74.9 acres and 5.25 CFS for supplemental irrigation of 420.0 acres.
7. The standard allowable rate of water necessary for pond maintenance is 0.01 CFS for each acre foot of stored water. If the application is approved, the rate for pond maintenance will be limited to 1.04 CFS.
8. The application indicated primary irrigation of 74.4 acres, but the map indicated 74.9 acres. Please clarify the total number of acres, and provide a revised map if appropriate by Thursday, June 14, 2012. If you need additional time, you may send a written request for up to 180 days. **If we do not receive clarification and/or a revised map or a hold request by this date, the Department will proceed with the acreage shown on the map.**
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 6.18 CFS, being no more than 0.93 CFS for primary irrigation of 74.9 acres and 5.25 CFS for supplemental irrigation of 420.0 acres March 1 through October 31, and 1.04 CFS for year-round pond maintenance, from Miracle Well 1, Miracle Well 2, and Miracle Well 3 in Snake River Basin is allowable, contingent on the submission of the required additional information.**

**The year-round storage of 104.3 AF, being 2.0 AF in Sediment Pond 1, 4.6 AF in Sediment Pond 2a, 4.1 AF in Sediment Pond 2b, 2.5 AF in Treatment Pond 1, 90.0 AF in Wetland/Storage Pond, and 1.1 AF in Treatment Pond 2, is allowable, contingent on the submission of the required additional information.**

**The use of 90.0 AF from Wetland/Storage Pond for primary irrigation of 74.9 acres and supplemental irrigation of 420.0 acres March 1 through October 31, and year-round fish life, wildlife, and recreation is allowable, contingent on the submission of the required additional information.**

#### **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:

- The application proposed supplemental irrigation in areas that are not covered by the primary water rights identified in the application (please see attached spreadsheet). However, it appears there are other primary water rights of record which are *not* identified as primary water rights in the application materials that may cover all or a portion of these lands.

Please provide a revised map that differentiates (by a unique color/pattern) and identifies all the underlying primary water rights that you are seeking supplemental water for under this application. If no underlying primary water right exists, please identify the acreage as primary irrigation on the revised map.

- Please provide a revised map that indicates the location (distance north/south and distance east/west from a recognized public land survey corner) of the irrigation pump for Wetland/Storage Pond.
- Please provide a revised map that indicates the location (distance north/south and distance east/west from a recognized public land survey corner) of the dam for Sediment Pond 1, Sediment Pond 2a, Sediment Pond 2b, Treatment Pond 1, and Treatment Pond 2.
- Please provide a revised map that correctly identifies the NW 1/4 of the SW 1/4. (Note the application map erroneously describes this quarter-quarter as the NW 1/4 of the SE 1/4.)

Please provide the revised map by Thursday, June 14, 2012. If you need additional time, you may send a written request for up to 180 days. **If we do not receive a revised map or a hold request by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.**

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, May 25, 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 well.

- B. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed in each pond. The staff gages shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
  - C. The permittee shall maintain all required devices in good working order.
  - D. The permittee shall keep a complete record of the amount of water diverted (from the wells) and stored (in the ponds) each month, and shall submit a report which includes the recorded water-use (from the wells) and water-storage (from the ponds) 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 all required devices; provided however, where a device 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. 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. 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.

- 4. The wells shall produce water only from the Glenns Ferry Formation between 40 feet and 600 feet below land surface.
- 5. The storage of water allowed herein is subject to the installation and maintenance of outlet pipes, or the provision of other means to evacuate water from each pond when determined necessary by the Water Resources Director to satisfy prior downstream rights.
- 6. Surface water shall not be appropriated to fill or maintain the reservoirs without a water right permitting the diversion and use of such surface water.
- 7. The permittee is required to pass all surface water flow for which a water-use authorization does not exist.
- 8. The permittee is required to pass all surface water for which a storage right does not exist. 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](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". The signature is stylized and cursive.

Jeana Eastman  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form  
G-17544 WAB 8-no psi POU 8- GW

# APPLICATION FACT SHEET

Application File Number: G-17544

Applicant: MIRACLE LAND & LIVESTOCK LLC

County: Malheur

Watermaster: 9

Priority Date: April 4, 2012

Source: MIRACLE WELL 1, MIRACLE WELL 2, AND MIRACLE WELL 3 IN SNAKE RIVER BASIN

STORAGE FACILITIES: SEDIMENT POND 1, SEDIMENT POND 2A, SEDIMENT POND 2B, TREATMENT POND 1, WETLAND/STORAGE POND, AND TREATMENT POND 2

Use of ground water: PRIMARY IRRIGATION OF 74.9 ACRES, SUPPLEMENTAL IRRIGATION OF 420.0 ACRES, AND POND MAINTENANCE

Use of stored ground water: PRIMARY IRRIGATION OF 74.9 ACRES, SUPPLEMENTAL IRRIGATION OF 420.0 ACRES, FISH LIFE, WILDLIFE, AND RECREATION

Quantity: 6.18 CUBIC FEET PER SECOND FROM WELLS; 104.3 ACRE FEET FROM PONDS

Basin Name & Number: Grande Ronde, #8

Stream Index Reference: Volume 2A SNAKE R & MISC

Point of Diversion or Well Location(s):

MIRACLE WELL 1: SWNE, SECTION 25, T15S, R46E, W.M.; 3920 FEET NORTH AND 2380 FEET WEST FROM SE CORNER, SECTION 25

MIRACLE WELL 2: NENE, SECTION 25, T15S, R46E, W.M.; 3960 FEET NORTH AND 650 FEET WEST FROM SE CORNER, SECTION 25

MIRACLE WELL 3: NENE, SECTION 31, T15S, R47E, W.M.; 400 FEET SOUTH AND 530 FEET WEST FROM NE CORNER, SECTION 31

SEDIMENT POND 1: SENE, SECTION 25, T15S, R46E, W.M.;

SEDIMENT POND 2A: SENE, SECTION 25, T15S, R46E, W.M.;

SEDIMENT POND 2B: SENE, SECTION 25, T15S, R46E, W.M.;

TREATMENT POND 1: SENE, SECTION 25, T15S, R46E, W.M.;

WETLAND/STORAGE POND: SECTION 25, T15S, R46E, W.M.;

TREATMENT POND 2: SWNE, SECTION 25, T15S, R46E, W.M.;

Place of Use:

QQ	SEC	TWP	RNG	WM	primary irrigation	supplemental irrigation	pond maintenance
NENE	25	15 S	46 E	WM		34.0	
NWNE	25	15 S	46 E	WM		38.5	X
SWNE	25	15 S	46 E	WM		27.0	X
SENE	25	15 S	46 E	WM	16.0		X
NENW	25	15 S	46 E	WM		9.0	
SWNW	25	15 S	46 E	WM	3.0		
SENW	25	15 S	46 E	WM	1.7	37.8	
NESW	25	15 S	46 E	WM	5.0	31.6	
NWSW	25	15 S	46 E	WM		6.7	
SWSW	25	15 S	46 E	WM		14.5	
SESW	25	15 S	46 E	WM	0.5	14.5	
NWSE	25	15 S	46 E	WM	26.0	13.0	
SWSE	25	15 S	46 E	WM		20.0	
NWNW	30	15 S	47 E	WM	14.0		
SWNW	30	15 S	47 E	WM	8.7		
SESW	30	15 S	47 E	WM		38.0	
NESE	30	15 S	47 E	WM		38.4	
SWSE	30	15 S	47 E	WM		36.8	
SESE	30	15 S	47 E	WM		37.9	
NENE	31	15 S	47 E	WM		16.7	
NWNE	31	15 S	47 E	WM		5.6	

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 25, 2012**

**PUBLIC NOTICE DATE: Tuesday, May 15, 2012**

**30 DAY COMMENT DEADLINE DATE: Thursday, June 14, 2012**



# Mailing List for IR Copies

Application #G-17544

IR Date: May 11, 2012

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**Original mailed to applicant:**

MIRACLE LAND & LIVESTOCK LLC, 20020 UPPER PLEASANT RD, CALDWELL, ID 83607

Copies sent to:

1. WRD - File # G-17544
2. WRD - Water Availability: Ken Stahr

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager (not SCR): E
4. WRD - Watermaster # 9
5. Department of Agriculture

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

1. Pat Woodcock, CK3, LLC, 368 SW 5<sup>th</sup> Ave, Ontario OR 97914
2. Owyhee Irrigation District, 17 South 1st St, Nyssa OR 97913

Caseworker: Jeana Eastman

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