



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

July 26, 2012

BO THORENFELDT
885 HILLSBOROUGH BLVD
HILLSBOROUGH, CA 94010

Reference: File G-17562

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 20.0 cubic feet per second (CFS), or 1.54 CFS per well, from thirteen proposed wells in Rock Creek Basin for irrigation of 1908.9 acres and supplemental irrigation of 507.3 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 3, Well 4, Well 5, Well 6, Well 7, Well 8, Well 9, Well 10, Well 11, Well 12, Well 13, Well 14, and Well 15 in Rock Creek Basin for irrigation and supplemental irrigation is allowable under the Malheur Lake 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.

5. A portion of the area proposed to be irrigated under this application is currently covered by existing surface-water irrigation rights evidenced by Certificates 15529 and 49303 (Rock Creek Decree, Harney County). As noted in the application materials, we understand that the portion of Certificate 15529 located in the SW 1/4 of Section 31, Township 22 South, Range 33 East, W.M. will be voluntarily cancelled upon approval of a permit under this application.

However, in addition to the overlap of some acreage authorized under Certificate 15529, there is also a portion of the area proposed for primary irrigation located in the SE1/4 NE1/4, Section 20, Township 22 South, Range 33 East, W.M., which is covered by Certificate 49303. Please let us know how you propose to resolve the conflict with Certificate 49303, and submit a revised map, if appropriate.

Please provide information regarding the status of the overlapping acreage and how you would like to proceed no later than **Thursday, August 30, 2012**. 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 information described above or a hold request by this date, the Department may proceed with a proposed final order which omits the overlapping acreage.**

6. The application indicated primary irrigation of 1808.9 acres and supplemental irrigation of 507.1 acres, but the map indicated 1908.9 acres primary and 507.3 acres supplemental. Please clarify the total number of acres, and provide a revised map if appropriate by Thursday, August 30, 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.**
7. 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 20.0 CFS for primary irrigation of 1908.9 acres further limited to 6.34 CFS for supplemental irrigation of 507.3 acres.
8. The proposed supplemental irrigation of 507.3 acres use shall be limited to match that of the primary water right. The Rock Creek (Harney County) Decree allows the use of water for irrigation from April 1 through October 1. If the application is approved, the season allowed for supplemental irrigation will be April 1 through October 1. However, primary irrigation may be allowed on these same 507.3 acres March 1 through March 31 and October 2 through October 31.

Summary of Initial Determinations

The appropriation of 20.0 CFS from Well 3, Well 4, Well 5, Well 6, Well 7, Well 8, Well 9, Well 10, Well 11, Well 12, Well 13, Well 14, and Well 15 in Rock Creek Basin, for primary irrigation of 1908.9 acres March 1 through October 31, further limited to no more than 6.34 CFS for primary irrigation of 507.3 acres March 1 through March 31 and October 2 through October 31 and supplemental irrigation of 507.3 acres April 1 through October 1, may be allowed.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to **#7 and #8** above, your application will likely be limited accordingly.

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.

At this time, you must decide whether to proceed or to withdraw your application as described below.

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 **Thursday, August 9, 2012**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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.

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. 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.

3. The well(s) shall be continuously cased and continuously sealed to a minimum depth of 100 feet below land surface. The well(s) may not be completed in such a manner to allow ground water to be developed from shallower water-bearing zones. If during well construction, it becomes apparent that the well can be constructed to eliminate interference with nearby shallow wells or hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval of such construction. The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the well is constructed first and then the request made, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.
4. The permittee shall construct one minimum six-inch diameter observation well to penetrate the same aquifer as the production wells. The well shall meet the Department's minimum well construction standards and shall be cased and sealed to the same depth as the production wells. The well shall be constructed at a location approved by the Department for the purpose of instrumentation with continuous water-level monitoring equipment. The landowner or permittee shall provide access to Department staff to install and maintain the monitoring equipment. The well shall not be used for any other purpose while the Department is monitoring water levels. The well shall be completed prior to water use under the terms of any permit issued.
5. 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.
6. Dedicated Measuring Tube: Wells with pumps shall be equipped with an unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200.

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

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17562
WAB 12- no psi
POU 12- no psi
GW

APPLICATION FACT SHEET

Application File Number: G-17562

Applicant: BO THORENFELDT

County: Harney

Watermaster: 10

Priority Date: June 11, 2012

Source: WELL 3, WELL 4, WELL 5, WELL 6, WELL 7, WELL 8, WELL 9, WELL 10, WELL 11, WELL 12, WELL 13, WELL 14, AND WELL 15 IN ROCK CREEK BASIN

Use: IRRIGATION OF 1908.9 ACRES; SUPPLEMENTAL IRRIGATION OF 507.3 ACRES

Quantity: 20.0 CUBIC FEET PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 2 ROCK CR & MISC

Well Locations:

WELL 3 - NENE, SECTION 29, T22S, R33E, W.M.; 4150 FEET NORTH AND 640 FEET WEST FROM SE CORNER, SECTION 29

WELL 4 - NESE, SECTION 20, T22S, R33E, W.M. ; 6940 FEET NORTH AND 680 FEET WEST FROM SE CORNER, SECTION 29

WELL 5 - NENE, SECTION 20, T22S, R33E, W.M.; 9560 FEET NORTH AND 620 FEET WEST FROM SE CORNER, SECTION 29

WELL 6 - SWNE, SECTION 30, T22S, R33E, W.M.; 3900 FEET NORTH AND 6700 FEET WEST FROM SE CORNER, SECTION 29

WELL 7 - NWSE, SECTION 30, T22S, R33E, W.M.; 1420 FEET NORTH AND 6720 FEET WEST FROM SE CORNER, SECTION 29

WELL 8 - NWSW, SECTION 29, T22S, R33E, W.M.; 1420 FEET NORTH AND 4050 FEET WEST FROM SE CORNER, SECTION 29

WELL 9 - SWNE, SECTION 31, T22S, R33E, W.M.; 1920 FEET SOUTH AND 7850 FEET WEST FROM SE CORNER, SECTION 29

WELL 10 - SWNW, SECTION 32, T22S, R33E, W.M.; 1950 FEET SOUTH AND 5180 FEET WEST FROM SE CORNER, SECTION 29

WELL 11 - SENW, SECTION 32, T22S, R33E, W.M.; 1960 FEET SOUTH AND 2760 FEET WEST FROM SE CORNER, SECTION 29

Well Locations (continued):

WELL 12 - NWSE, SECTION 31, T22S, R33E, W.M.; 3940 FEET SOUTH AND 7800 FEET WEST FROM SE CORNER, SECTION 29

WELL 13 - SWSW, SECTION 32, T22S, R33E, W.M.; 3940 FEET SOUTH AND 5160 FEET WEST FROM SE CORNER, SECTION 29

WELL 14 - SWSE, SECTION 32, T22S, R33E, W.M.; 3940 FEET SOUTH AND 2480 FEET WEST FROM SE CORNER, SECTION 29

WELL 15 - SENW, SECTION 28, T22S, R33E, W.M.; 2740 FEET NORTH AND 1980 FEET EAST FROM SE CORNER, SECTION 29

Place of Use:

Q-Q	Acres	Twp	Rng	Mer	Sec	PRIMARY IRRIGATION SEASON	SUPPLEMENTAL IRRIGATION SEASON
SWSW	0.2	22S	33E	WM	16	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NENE	10.4	22S	33E	WM	20	3/1 through 10/31	
NENE	29.6	22S	33E	WM	20	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWNE	40.0	22S	33E	WM	20	3/1 through 10/31	
SENE	10.0	22S	33E	WM	20	3/1 through 10/31	
SENE	30.0	22S	33E	WM	20	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NESE	1.6	22S	33E	WM	20	3/1 through 10/31	
NESE	38.4	22S	33E	WM	20	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SESE	39.9	22S	33E	WM	20	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NWNW	26.8	22S	33E	WM	21	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWNW	19.6	22S	33E	WM	21	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NWSW	16.4	22S	33E	WM	21	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWSW	7.3	22S	33E	WM	21	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1

Place of Use (continued):

Q-Q	Acres	Twp	Rng	Mer	Sec	PRIMARY IRRIGATION SEASON	SUPPLEMENTAL IRRIGATION SEASON
NENW	40.0	22S	33E	WM	28	3/1 through 10/31	
NWNW	11.0	22S	33E	WM	28	3/1 through 10/31	
NWNW	28.3	22S	33E	WM	28	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWNW	0.6	22S	33E	WM	28	3/1 through 10/31	
SWNW	35.6	22S	33E	WM	28	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SEnw	40.0	22S	33E	WM	28	3/1 through 10/31	
NESW	40.0	22S	33E	WM	28	3/1 through 10/31	
NWSW	34.4	22S	33E	WM	28	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWSW	10.0	22S	33E	WM	28	3/1 through 10/31	
SWSW	27.6	22S	33E	WM	28	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SESW	40.0	22S	33E	WM	28	3/1 through 10/31	
NENE	0.7	22S	33E	WM	29	3/1 through 10/31	
NENE	37.2	22S	33E	WM	29	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NWNE	40.0	22S	33E	WM	29	3/1 through 10/31	
SWNE	39.1	22S	33E	WM	29	3/1 through 10/31	
SWNE	0.9	22S	33E	WM	29	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SENE	40.0	22S	33E	WM	29	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NENW	9.0	22S	33E	WM	29	3/1 through 10/31	
SWNW	38.0	22S	33E	WM	29	3/1 through 10/31	
SEnw	39.4	22S	33E	WM	29	3/1 through 10/31	
NESW	40.0	22S	33E	WM	29	3/1 through 10/31	
NWSW	40.0	22S	33E	WM	29	3/1 through 10/31	
SWSW	40.0	22S	33E	WM	29	3/1 through 10/31	
SESW	40.0	22S	33E	WM	29	3/1 through 10/31	

Place of Use (continued):

Q-Q	Acres	Twp	Rng	Mer	Sec	PRIMARY IRRIGATION SEASON	SUPPLEMENTAL IRRIGATION SEASON
NESE	6.6	22S	33E	WM	29	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NWSE	28.0	22S	33E	WM	29	3/1 through 10/31	
NWSE	0.3	22S	33E	WM	29	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWSE	10.8	22S	33E	WM	29	3/1 through 10/31	
NENE	0.4	22S	33E	WM	30	3/1 through 10/31	
NWNE	25.7	22S	33E	WM	30	3/1 through 10/31	
SWNE	40.0	22S	33E	WM	30	3/1 through 10/31	
SENE	38.2	22S	33E	WM	30	3/1 through 10/31	
NESE	40.0	22S	33E	WM	30	3/1 through 10/31	
NWSE	40.0	22S	33E	WM	30	3/1 through 10/31	
SWSE	40.0	22S	33E	WM	30	3/1 through 10/31	
SESE	40.0	22S	33E	WM	30	3/1 through 10/31	
NENE	40.0	22S	33E	WM	31	3/1 through 10/31	
NWNE	40.0	22S	33E	WM	31	3/1 through 10/31	
SWNE	40.0	22S	33E	WM	31	3/1 through 10/31	
SENE	40.0	22S	33E	WM	31	3/1 through 10/31	
NENW	40.0	22S	33E	WM	31	3/1 through 10/31	
NWNW	40.0	22S	33E	WM	31	3/1 through 10/31	
SWNW	40.0	22S	33E	WM	31	3/1 through 10/31	
SENW	40.0	22S	33E	WM	31	3/1 through 10/31	
NESW	38.0	22S	33E	WM	31	3/1 through 10/31	
NWSW	38.0	22S	33E	WM	31	3/1 through 10/31	
SWSW	40.0	22S	33E	WM	31	3/1 through 10/31	
SESW	40.0	22S	33E	WM	31	3/1 through 10/31	
NESE	38.0	22S	33E	WM	31	3/1 through 10/31	
NWSE	38.0	22S	33E	WM	31	3/1 through 10/31	
SWSE	40.0	22S	33E	WM	31	3/1 through 10/31	
SESE	40.0	22S	33E	WM	31	3/1 through 10/31	

Place of Use (continued):

Q-Q	Acres	Twp	Rng	Mer	Sec	PRIMARY IRRIGATION SEASON	SUPPLEMENTAL IRRIGATION SEASON
SWNE	11.0	22S	33E	WM	32	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SENE	11.2	22S	33E	WM	32	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NENW	40.0	22S	33E	WM	32	3/1 through 10/31	
NWNW	40.0	22S	33E	WM	32	3/1 through 10/31	
SWNW	40.0	22S	33E	WM	32	3/1 through 10/31	
SENW	40.0	22S	33E	WM	32	3/1 through 10/31	
NESW	38.0	22S	33E	WM	32	3/1 through 10/31	
NWSW	38.0	22S	33E	WM	32	3/1 through 10/31	
SWSW	40.0	22S	33E	WM	32	3/1 through 10/31	
SESW	40.0	22S	33E	WM	32	3/1 through 10/31	
NESE	4.0	22S	33E	WM	32	3/1 through 10/31	
NESE	34.0	22S	33E	WM	32	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
NWSE	4.0	22S	33E	WM	32	3/1 through 10/31	
NWSE	32.0	22S	33E	WM	32	3/1 through 3/31 and 10/2 through 10/31	4/1 through 10/1
SWSE	40.0	22S	33E	WM	32	3/1 through 10/31	
SESE	40.0	22S	33E	WM	32	3/1 through 10/31	

14 DAY STOP PROCESSING DEADLINE DATE: Thursday, August 9, 2012

PUBLIC NOTICE DATE: Tuesday, July 31, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, August 30, 2012

Mailing List for IR Copies

Application #G-17562

IR Date : July 26, 2012

Original mailed to applicant:

BO THORENFELDT
885 HILLSBOROUGH BLVD
HILLSBOROUGH, CA 94010

Copies sent to:

1. WRD - File # G-17562
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN
4. WRD - Watermaster # 10

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

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

5. Steven Applegate Consulting, 3395 Huckleberry Ct S, Salem OR 97302

COPYSHT.IR

Caseworker: Kerry Kavanagh