



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

NZ RANCH LLC
5065 WILLOW CREEK RD
IRONSIDE, OR 97908

November 30, 2012

Reference: File G-17577

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 materials indicate 129.9 acres of primary irrigation and 53.6 acres of supplemental irrigation; however, the application map indicates a total of 127.4 acres of primary irrigation and 52.8 acres of supplemental irrigation. **The Department will use the acreage shown on the map unless a revised map is received by Thursday, January 3, 2013.**
2. The application proposed the appropriation of 2.0 cubic feet per second (CFS) of water from NZ Well 1 in Willow Creek Basin for primary irrigation of 127.4 acres and supplemental irrigation of 52.8 acres April 1 through October 1 of each year.
3. The proposed use is not prohibited by law or rule except where otherwise noted below.
4. The appropriation of water from NZ Well 1 in Willow Creek Basin for irrigation is allowable under the Malheur Basin Program.
5. 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.

6. The 10.0 acres in the NWNE and the 1.7 acres in the NENW proposed as supplemental irrigation are covered by primary Certificate 55002. The Department determined the well under this application and the well authorized by Certificate 55002 are likely developing water from the same ground water aquifer. Because these wells develop water from the same ground water source, the well under this application cannot be supplemental to the well authorized by Certificate 55002. **Therefore, the acreage cannot be allowed under this application for supplemental irrigation, unless you resolve the conflict.**

If you would like to use NZ Well 1 under Application G-17577 to irrigate these 11.7 acres, the Department must receive one of the following by Thursday, January 3, 2013:

- A completed form authorizing cancellation of the conflicting portions of the existing right, along with a map describing those portions; or
- A transfer application addressing the conflicting portions of the existing rights; or
- Another means of dealing with the conflict between the existing rights and the use proposed under this application.

If you would like to continue to use the well authorized by Certificate 55002 for these 11.7 acres, and only use NZ Well 1 under Application G-17577 to irrigate the lands that *do not conflict*, the Department must receive a revised map for Application G-17577 *excluding* these 11.7 acres by Thursday, January 3, 2013.

If you need additional time, you may send a written request for an administrative hold for up to 180 days.

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 will be limited to 2.0 CFS, being no more than 1.59 CFS for primary irrigation of 127.4 acres and no more than 0.51 CFS for supplemental irrigation of 41.1 acres.

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 3, 2013. If you need additional time, you may send a written request for an administrative hold 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 2.0 CFS, being no more than 1.59 CFS for primary irrigation of 127.4 acres and no more than 0.51 CFS for supplemental irrigation of 41.1 acres.

8. The Department is aware that you notified Malheur County Planning Department of your pending application. However, the Planning Department did not indicate the status of land-use approvals on the Land Use Information Form that were submitted with the application materials. I contacted the Planning Department on November 15, 2012, but as of the date of this Initial Review, I haven't heard from them.

Please provide documentation from the Planning Department that demonstrates the proposed use complies with the acknowledged comprehensive land-use plan, or that you are actively pursuing approval from the Malheur County Planning Department by Thursday, January 3, 2013. If you need additional time, you may send a written request for an administrative hold for up to 180 days. **If we do not receive this information 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.**

Summary of Initial Determinations

The appropriation of 2.0 CFS, being no more than 1.59 CFS for primary irrigation of 127.4 acres and no more than 0.51 CFS for supplemental irrigation of 41.1 acres, April 1 through October 1 of each year from NZ Well 1 in Willow Creek Basin may be allowed, contingent upon the submission of the required additional information.

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 #6 and #7 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 **Friday, December 14, 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 allow ground water production from no shallower than 40.0 feet below land surface.
4. 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 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 503-986-0859 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,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17577
WAB 10-no psi
POU 10-
GW

APPLICATION FACT SHEET

Application File Number: G-17577

Applicant: NZ RANCH LLC

County: Malheur

Watermaster: 9

Priority Date: August 27, 2012

Source: NZ WELL 1 IN WILLOW CREEK BASIN

Use: PRIMARY IRRIGATION OF 127.4 ACRES AND SUPPLEMENTAL IRRIGATION OF 52.8 ACRES

Quantity: 2.0 CUBIC FEET PER SECOND

Basin Name & Number: Malheur, #10

Stream Index Reference: Volume 2 WILLOW CR MISC

Point of Diversion or Well Location(s): NWNE, SECTION 22, T14S, R39E, W.M.;385 FEET SOUTH AND 3446 FEET EAST FROM NW CORNER, SECTION 22

Place of Use:	<u>QQ</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
	NW ¼ NE ¼	5.6 ACRES	10.0 ACRES
	SW ¼ NE ¼	3.6 ACRES	
	NE ¼ NW ¼	14.2 ACRES	21.6 ACRES
	NW ¼ NW ¼		6.5 ACRES
	SW ¼ NW ¼		14.4 ACRES
	SE ¼ NW ¼	19.9 ACRES	0.3 ACRE
	NE ¼ SW ¼	23.5 ACRES	
	NW ¼ SW ¼	1.3 ACRES	
	NW ¼ SE ¼	19.3 ACRES	
	SW ¼ SE ¼	40.0 ACRES	
	SECTION 22		
	TOWNSHIP 14 SOUTH, RANGE 39 EAST, W.M.		

14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 14, 2012

PUBLIC NOTICE DATE: Tuesday, December 4, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, January 3, 2013

Mailing List for IR Copies

Application #G-17577

IR Date : November 30, 2012

Original mailed to applicant:

~~NZ RANCH LLC, 5065 WILLOW CREEK RD, IRONSIDE, OR 97908~~

SENT VIA EMAIL:

applicant - nzranch@ortelco.net
WM #9

Copies sent to:

1. WRD - File # G-17577
2. WRD - Water Availability: Ken Stahr

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

IR, Map, and Fact Sheet Copies sent to:

1. WRD - Regional Manager (not SCR): E

Caseworker: Jeana Eastman

COPYSHT.IR