



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

January 17, 2013

DAVE MACOMBER
MACOMBER RANCH
70643 MILLER CANYON RD
RILEY, OR 97758

Reference: File G-17581

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 34.76 cubic feet per second (CFS) of water from Well 1, Well 2, Well 3, Well 4, Well 5, Well 6, Well 7, Well 8, Well 9, Well 10, Well 11, Well 12, and Well 13 in Miller Canyon Basin for irrigation of 2073.89 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 1, Well 2, Well 3, Well 4, Well 5, Well 6, Well 7, Well 8, Well 9, Well 10, Well 11, Well 12, and Well 13 in Miller Canyon Basin for irrigation is allowable under the Malheur Lake Basin Program.
4. Ground water will not likely be available within the capacity of the resource and/or without 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. The application indicated primary irrigation of 2073.95 acres but the map indicated 2073.89 acres. Please clarify the total number of acres, and provide a revised map if appropriate by Thursday, February 21, 2013. 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.**

6. 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 25.92 CFS. 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, February 21, 2013. If you need additional time, you may send a written request 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 25.92 CFS.**
7. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Allowable Water Use

Because not all items above are favorable, the appropriation of 25.92 CFS water from Well 1, Well 2, Well 3, Well 4, Well 5, Well 6, Well 7, Well 8, Well 9, Well 10, Well 11, Well 12, and Well 13 in Miller Canyon Basin for irrigation of 2073.89 acres is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

It appears that two of the five map sheets have errors.

- The map sheet showing Well 9 describes 40.0 acres in each of the four quarter-quarters in the NW1/4 of Section 2, T23S, R26E, W.M. However, based on the coordinates of Well 9, it appears that the map should list 40.0 acres in each of the quarter-quarters in the SE 1/4 of Section 2. Please provide a revised map which clarifies the location of Well 9 as well as the place of use in Section 2.
- The map sheet showing Well 3, Well 4, Well 7, and Well 8, has describes the SW section corner as being Section 11, rather than Section 12, T23S, R26E, W.M.

Please submit this information no later than Thursday, February 21, 2013. 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.

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.

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, January 31, 2013**. 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. 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 503-986-0816 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-17581
WAB 12- no psi
POU 12- no psi
GW

APPLICATION FACT SHEET

Application File Number: G-17581

Applicant: DAVE MACOMBER; MACOMBER RANCH

County: Harney

Watermaster: 10

Priority Date: August 31, 2012

Source: WELL 1, WELL 2, WELL 3, WELL 4, WELL 5, WELL 6, WELL 7, WELL 8, WELL 9, WELL 10, WELL 11, WELL 12, AND WELL 13 IN MILLER CANYON BASIN

Use: IRRIGATION OF 2073.89 ACRES

Quantity: 34.76 CUBIC FEET PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 1A SILVER CR MISC

Well Locations:

WELL 1 - SWSW, SECTION 11, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET EAST FROM SW CORNER, SECTION 11

WELL 2 - SESE, SECTION 11, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET WEST FROM SE CORNER, SECTION 11

WELL 3 - SWSW, SECTION 12, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET EAST FROM SW CORNER, SECTION 12

WELL 4 - SESE, SECTION 12, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET WEST FROM SE CORNER, SECTION 12

WELL 5 - NWNW, SECTION 11, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 12

WELL 6 - NENE, SECTION 11, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET WEST FROM NE CORNER, SECTION 12

WELL 7 - NWNW, SECTION 12, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 12

WELL 8 - NENE, SECTION 12, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET WEST FROM NE CORNER, SECTION 12

WELL 9 - SESE, SECTION 2, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET WEST FROM SE CORNER, SECTION 2

WELL 10 - SWSW, SECTION 1, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET EAST FROM SW CORNER, SECTION 1

WELL 11 - SESE, SECTION 1, T23S, R26E, W.M.; 1320 FEET NORTH AND 1315 FEET WEST FROM SE CORNER, SECTION 1

WELL 12 - NWNW, SECTION 1, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 1

WELL 13 - NENE, SECTION 1, T23S, R26E, W.M.; 1320 FEET SOUTH AND 1315 FEET WEST FROM NE CORNER, SECTION 1

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.85 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.85 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.85 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.85 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.85 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 39.85 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 39.85 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.85 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.69 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.69 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.69 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.69 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.69 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.69 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.69 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.69 ACRES
SECTION 1

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SECTION 2

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.08 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.07 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.07 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.08 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.08 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.07 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.07 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.08 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.08 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.07 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.07 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.08 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.08 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.07 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.07 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.08 ACRES
SECTION 11

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.78 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.78 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.77 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.78 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.78 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 39.78 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 39.77 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.77 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 39.77 ACRES
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SW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.77 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.77 ACRES

SECTION 12

TOWNSHIP 23 SOUTH, RANGE 26 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Thursday, January 31, 2013

PUBLIC NOTICE DATE: Tuesday, January 22, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, February 21, 2013

Mailing List for IR Copies

Application #G-17581

IR Date: January 17, 2013

Original sent via EMAIL to applicant:

DAVE MACOMBER
MACOMBER RANCH
70643 MILLER CANYON RD
RILEY, OR 97758

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
--

SENT VIA EMAIL:

1. WRD - Watermaster #10
2. Applicant - drymountain@hotmail.com
3. Agent - goldenrulefarms@gmail.com

Copies sent to:

1. WRD - File # G-17581
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN

Affected Landowners (include "Notice of Initial Review--Affected Landowner")

1. Allan Smith & D. Anne Macomber Smith, 71066 Miller Canyon Rd, Riley, OR 97758
2. David Macomber & M. Marie Macomber, 70643 Miller Canyon Rd, Riley, OR 97758

Caseworker: Kerry Kavanagh

VCOPYSHT.IR

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed about water right topics, weekly public notice, forms and fees please visit our web site at www.wrd.state.or.us

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 Information Group (WRIG) at 503-986-0801

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
- 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
- seven 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
- administrative hold may be requested in writing by applicant

Stop Processing deadline is within 14 days of Initial Review - use the form below
- applicant may request no further action and fee refund of all but \$200

STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # _____

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$200 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 \$200 examination fee) be returned.

This notice must be received at Water Resources Department by _____

Return the notice to: OWRD, Water Rights Division

STOP PROCESSING

725 Summer Street, NE - Suite A

Salem OR 97301-1271