



Water Resources Department North Mall Office Building 725 Summer Street NE, Suite A Salem, OR 97301-1271 503-986-0900 FAX 503-986-0904

March 8, 2013

GOLDEN RULE FARMS INC PO BOX 255 CHRISTMAS VALLEY, OR 97641

Reference: File G-17592

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 indicated 4192.57 acres and the application maps total 4180.96 acres. The Department will consider the acreage on the application maps unless revised maps are received by Thursday, April 11, 2013.
- 2. The application proposed the appropriation of 80.2 cubic feet per second (CFS), being 2.67 CFS each from Briggs 6, Briggs 7, Briggs 8, Briggs 9 North, Briggs 9 South, Briggs 10, Briggs 11, Briggs 12, Briggs 13, Briggs 14, Briggs 15, Briggs 16, Briggs 17, Briggs 18, Briggs 19, Briggs 20, Briggs 21, Briggs 22, Briggs 23, Briggs 24, Briggs 25, Briggs 26, Briggs 27, Briggs 28, Briggs 29, Briggs 30, Briggs 31, Briggs 32, Briggs 33, and Briggs 34 in Malheur Lake Basin, for irrigation of 4180.96 acres March 1 through October 31 of each year.
- 3. The proposed use is not prohibited by law or rule except where otherwise noted below.
- 4. Ground water **will not** likely be available in the amount requested without injury to existing ground water rights. In addition, ground water **will not** likely be available within the capacity of the ground water resource.
- 5. The Department has determined, based upon OAR 690-009, that Briggs 25, Briggs 26, Briggs 28, Briggs 30, Briggs 31, Briggs 32, and Briggs 33 will have the potential for substantial interference with Malheur Lake. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is available in the amount and for the full period requested.
- 6. The appropriation of ground water from wells that do not have the potential for substantial interference with surface water for irrigation within Malheur Lake Basin is allowable under the Malheur Basin Program.

7. The appropriation of ground water from wells that have the potential for substantial interference with surface water within Malheur Lake Basin **is not** allowable under the Malheur Basin Program. The Department **shall not** issue a permit for any use of ground water which has the potential to substantially interfere with surface water in the Malheur Lake Basin unless the applicant shows, by a preponderance of evidence, that unappropriated water is available to supply the proposed use at the times and in the amounts requested. The evidence provided shall be prepared by a qualified hydrologist or other water resources specialist and shall include:

(a) Streamflow measurements of gage records from the stream in hydraulic connection with the source; or

(b) An estimate of water availability from the stream in hydraulic connection with the source which includes correlations with streamflow measurements or gage records on other similar streams and considers current demands for water affecting the stream flows.

Please submit this information no later than Thursday, Thursday, April 11, 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.

- 8. OAR 690-033-0120(2) prohibits the use of ground water with the potential for substantial interference with surface water from April 15 through September 30 of each year.
- 9. Please refer to the <u>Additional Information Required</u> 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 80.2 CFS, being 2.67 CFS each from Briggs 6, Briggs 7, Briggs 8, Briggs 9 North, Briggs 9 South, Briggs 10, Briggs 11, Briggs 12, Briggs 13, Briggs 14, Briggs 15, Briggs 16, Briggs 17, Briggs 18, Briggs 19, Briggs 20, Briggs 21, Briggs 22, Briggs 23, Briggs 24, Briggs 25, Briggs 26, Briggs 27, Briggs 28, Briggs 29, Briggs 30, Briggs 31, Briggs 32, Briggs 33, and Briggs 34 in Malheur Lake Basin, for irrigation of 4180.96 acres March 1 through October 31 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.

- The coordinate for Briggs 17 appears to be closer to 1400 feet east rather than 1075 feet east. Please provide clarification and/or a revised map as appropriate.
- The coordinate for Briggs 18 appears to be closer to 700 feet west rather than 70 feet west. Please provide clarification and/or a revised map as appropriate.

- The coordinate for Briggs 34 appears to be east rather than west from the NW corner. Please provide clarification and/or a revised map as appropriate.
- <u>Conflict resolution</u>: A portion of the area proposed to be irrigated under this application appears to be covered by Permit G-12262, Permit G-12938, and Certificate 23294, which conflict with the application. (See attached maps.)

If you would like this application to be the primary right, the Department must receive:

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

Please submit this information no later than Thursday, Thursday, April 11, 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 **Friday, March 22, 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 at each point of appropriation. The permittee shall maintain the meter 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 report 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; provided however, where any meter 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. 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.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

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,

5-84

Jeana Eastman Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17592 WAB 10-no wab POU 10-GW

APPLICATION FACT SHEET

Application File Number: G-17592

Applicant: GOLDEN RULE FARMS INC

County: Harney

Watermaster: 10

Priority Date: October 26, 2012

Source: BRIGGS 6, BRIGGS 7, BRIGGS 8, BRIGGS 9 NORTH, BRIGGS 9 SOUTH, BRIGGS 10, BRIGGS 11, BRIGGS 12, BRIGGS 13, BRIGGS 14, BRIGGS 15, BRIGGS 16, BRIGGS 17, BRIGGS 18, BRIGGS 19, BRIGGS 20, BRIGGS 21, BRIGGS 22, BRIGGS 23, BRIGGS 24, BRIGGS 25, BRIGGS 26, BRIGGS 27, BRIGGS 28, BRIGGS 29, BRIGGS 30, BRIGGS 31, BRIGGS 32, BRIGGS 33, AND BRIGGS 34 IN MALHEUR LAKE BASIN

Use: IRRIGATION OF 4180.96 ACRES

Quantity: 80.2 CUBIC FEET PER SECOND (CFS), BEING 2.67 CFS FROM EACH WELL

Basin Name & Number: Malheur, #10

Stream Index Reference: Volume 1 SFK MALHEUR R

Well Locations:

BRIGGS 6: NENE, SECTION 6, T27S, R34E, W.M.; 1320 FEET SOUTH AND 1315 FEET WEST FROM NE CORNER, SECTION 6

BRIGGS 7: NESE, SECTION 6, T27S, R34E, W.M.; 2790 FEET SOUTH AND 1315 FEET WEST FROM NE CORNER, SECTION 6

BRIGGS 8: NWSW, SECTION 6, T27S, R34E, W.M.; 1320 FEET NORTH AND 1315 FEET EAST FROM SW CORNER, SECTION 6

BRIGGS 9 NORTH: SENW, SECTION 8, T27S, R34E, W.M.; 2460 FEET SOUTH AND 2000 FEET EAST FROM NW CORNER, SECTION 8

BRIGGS 9 SOUTH: NENE, SECTION 17, T27S, R34E, W.M.; 1250 FEET SOUTH AND 1160 FEET WEST FROM NE CORNER, SECTION 17

BRIGGS 10: SESE, SECTION 20, T27S, R34E, W.M.; 660 FEET NORTH AND 660 FEET WEST FROM SE CORNER, SECTION 20

BRIGGS 11: SWNE, SECTION 20, T27S, R34E, W.M.; 2640 FEET NORTH AND 1930 FEET WEST FROM SE CORNER, SECTION 20

BRIGGS 12: NWNW, SECTION 20, T27S, R34E, W.M.; 1320 FEET SOUTH AND 1320 FEET EAST FROM NW CORNER, SECTION 20

BRIGGS 30: NESE, SECTION 23, T26S, R32E, W.M.; 1320 FEET NORTH AND 1320 FEET WEST FROM SE CORNER, SECTION 23

BRIGGS 29: NENE, SECTION 26, T26S, R32E, W.M.; 1320 FEET SOUTH AND 1320 FEET WEST FROM NE CORNER, SECTION 26

BRIGGS 28: SWSW, SECTION 26, T26S, R32E, W.M.; 1320 FEET NORTH AND 1320 FEET EAST FROM SW CORNER, SECTION 26

BRIGGS 27: NWNW, SECTION 9, T27S, R32E, W.M.; 660 FEET SOUTH AND 660 FEET EAST FROM NW CORNER, SECTION 9

BRIGGS 26: SESE, SECTION 5, T27S, R32E, W.M.; 20 FEET NORTH AND 1310 FEET WEST FROM SE CORNER, SECTION 5

BRIGGS 25: NENE, SECTION 34, T26S, R32E, W.M.; 1320 FEET SOUTH AND 1310 FEET WEST FROM NE CORNER, SECTION 34

BRIGGS 24: SESE, SECTION 34, T26S, R32E, W.M.; 1320 FEET NORTH AND 1310 FEET WEST FROM SE CORNER, SECTION 34

BRIGGS 23: SWSW, SECTION 35, T26S, R32E, W.M.; 1320 FEET NORTH AND 1310 FEET EAST FROM SW CORNER, SECTION 35

BRIGGS 22: NESW, SECTION 2, T27S, R32E, W.M.; 2640 FEET NORTH AND 2640 FEET EAST FROM SW CORNER, SECTION 2

BRIGGS 21: NWSW, SECTION 2, T27S, R32E, W.M.; 1650 FEET NORTH AND 920 FEET EAST FROM SW CORNER, SECTION 2

BRIGGS 20: NENE, SECTION 10, T27S, R32E, W.M.; 290 FEET SOUTH AND 660 FEET WEST FROM NE CORNER, SECTION 10

BRIGGS 19: NENW, SECTION 3, T27S, R32E, W.M.; 750 FEET SOUTH AND 2140 FEET EAST FROM NW CORNER, SECTION 3

BRIGGS 18: SENE, SECTION 3, T27S, R32E, W.M.; 1980 FEET SOUTH AND 70 FEET WEST FROM NE CORNER, SECTION 3

BRIGGS 17: SENW, SECTION 19, T27S, R34E, W.M.; 1400 FEET SOUTH AND 1075 FEET EAST FROM NW CORNER, SECTION 19

BRIGGS 16: NWSE, SECTION 18, T27S, R34E, W.M.; 1320 FEET NORTH AND 2630 FEET WEST FROM SE CORNER, SECTION 18

BRIGGS 15: SWNW, SECTION 17, T27S, R34E, W.M.; 2600 FEET SOUTH AND 30 FEET EAST FROM NW CORNER, SECTION 17

BRIGGS 14: SWSW, SECTION 17, T27S, R34E, W.M.; 770 FEET NORTH AND 135 FEET EAST FROM SW CORNER, SECTION 17

BRIGGS 13: NENE, SECTION 19, T27S, R34E, W.M.; 1310 FEET SOUTH AND 1310 FEET WEST FROM NE CORNER, SECTION 19

BRIGGS 31: NWSW, SECTION 24, T26S, R32E, W.M.; 1330 FEET NORTH AND 1320 FEET EAST FROM SW CORNER, SECTION 24

BRIGGS 32: NENE, SECTION 24, T26S, R32E, W.M.; 1320 FEET SOUTH AND 1320 FEET WEST FROM NE CORNER, SECTION 24

BRIGGS 33: NWNE, SECTION 1, T27S, R31E, W.M.; 1320 FEET SOUTH AND 1330 FEET WEST FROM NE CORNER, SECTION 1

BRIGGS 34: NENW, SECTION 6, T27S, R32E, W.M.; 1320 FEET SOUTH AND 1145 FEET WEST FROM NW CORNER, SECTION 6

Place of Use:

NE ¼ SE ¼ 40.0 ACRES NW 4 SE 4 40.0 ACRES SW ¼ SE ¼ 40.0 ACRES SE ¼ SE ¼ 40.0 ACRES SECTION 23 NE ¼ NE ¼ 40.0 ACRES NW 1/4 NE 1/4 40.0 ACRES SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ SW ¼ 40.0 ACRES NW 1/4 SW 1/4 40.0 ACRES SW ¼ SW ¼ 40.0 ACRES SECTION 24 NE ¼ NE ¼ 40.0 ACRES NW ¼ NE ¼ 40.0 ACRES SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ SW ¼ 40.0 ACRES NW ¼ SW ¼ 40.0 ACRES SW ¼ SW ¼ 40.0 ACRES SE ¼ SW ¼ 40.0 ACRES SECTION 26 NE ¼ NE ¼ 40.0 ACRES NW ¼ NE ¼ 40.0 ACRES SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ SE ¼ 40.0 ACRES NW ¼ SE ¼ 40.0 ACRES SW ¼ SE ¼ 39.36 ACRES SE ¼ SE ¼ 39.35 ACRES SECTION 34 NW ¼ SW ¼ 40.0 ACRES SW ¼ SW ¼ 39.09 ACRES SECTION 35 TOWNSHIP 26 SOUTH, RANGE 32 EAST, W.M.

NE ¼ NE ¼ 40.18 ACRES NW ¼ NE ¼ 40.53 ACRES SW ¼ NE ¼ 38.18 ACRES SECTION 1 TOWNSHIP 27 SOUTH, RANGE 31 EAST, W.M. SW ¼ NW ¼ 40.0 ACRES NE ¼ SW ¼ 40.0 ACRES NW 1/4 SW 1/4 40.0 ACRES SW ¼ SW ¼ 40.0 ACRES NW ¼ SE ¼ 40.0 ACRES SECTION 2 NE ¼ NE ¼ 39.39 ACRES NW ¼ NE ¼ 39.37 ACRES SW ¼ NE ¼ 37.83 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ NW ¼ 39.35 ACRES NE ¼ SE ¼ 40.0 ACRES NW ¼ SE ¼ 37.9 ACRES SW ¼ SE ¼ 40.0 ACRES SE ¼ SE ¼ 40.0 ACRES SECTION 3 SW ¼ SE ¼ 40.0 ACRES SE ¼ SE ¼ 40.0 ACRES SECTION 5 NE ¼ NW ¼ 40.52 ACRES NW ¼ NW ¼ 29.55 ACRES SW ¼ NW ¼ 29.64 ACRES SE ¼ NW ¼ 40.0 ACRES SECTION 6 NE ¼ NE ¼ 40.0 ACRES SECTION 8 NW ¼ NW ¼ 40.0 ACRES SECTION 9 NE ¼ NE ¼ 40.0 ACRES NW ¼ NE ¼ 40.0 ACRES SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ SE ¼ 40.0 ACRES NW 1/4 SE 1/4 40.0 ACRES SECTION 10 NW ¼ NW ¼ 40.0 ACRES SW ¼ NW ¼ 40.0 ACRES NW ¼ SW ¼ 40.0 ACRES SECTION 11 TOWNSHIP 27 SOUTH, RANGE 32 EAST, W.M. NE ¼ NE ¼ 40.61 ACRES NW ¼ NE ¼ 40.44 ACRES SW ¼ NE ¼ 39.12 ACRES SE ¼ NE ¼ 39.12 ACRES NE ¼ SW ¼ 39.13 ACRES NW ¼ SW ¼ 32.4 ACRES SW ¼ SW ¼ 32.25 ACRES SE ¼ SW ¼ 39.13 ACRES NE ¼ SE ¼ 39.13 ACRES NE ¼ SE ¼ 39.13 ACRES NW ¼ SE ¼ 39.13 ACRES SECTION 6

NE ¼ SE ¼ 20.0 ACRES SECTION 7

SW ¼ NE ¼ 18.7 ACRES SW ¼ NW ¼ 17.06 ACRES SE ¼ NW ¼ 36.92 ACRES NE ¼ SW ¼ 40.0 ACRES NW ¼ SW ¼ 35.0 ACRES NW ¼ SE ¼ 25.14 ACRES SW ¼ SE ¼ 31.7 ACRES SECTION 8

NE ¼ NE ¼ 4.48 ACRES NW ¼ NE ¼ 40.0 ACRES SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 18.0 ACRES SW ¼ NW ¼ 40.0 ACRES NW ¼ SW ¼ 40.0 ACRES SW ¼ SW ¼ 40.0 ACRES SW ¼ SW ¼ 40.0 ACRES NE ¼ SE ¼ 31.01 ACRES SECTION 17

SE ¼ NE ¼ 40.0 ACRES NE ¼ SE ¼ 40.0 ACRES NW ¼ SE ¼ 40.0 ACRES SW ¼ SE ¼ 40.0 ACRES SE ¼ SE ¼ 40.0 ACRES SE ¼ SE ¼ 40.0 ACRES SECTION 18

NE ¼ NE ¼ 40.0 ACRES NW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ NW ¼ 40.0 ACRES SW ¼ NW ¼ 32.26 ACRES SE ¼ NW ¼ 40.0 ACRES SE TION 19 SW ¼ NE ¼ 40.0 ACRES SE ¼ NE ¼ 40.0 ACRES NE ¼ NW ¼ 40.0 ACRES NW ¼ NW ¼ 40.0 ACRES SW ¼ NW ¼ 40.0 ACRES SE ¼ NW ¼ 40.0 ACRES SE ¼ NW ¼ 40.0 ACRES NE ¼ SE ¼ 40.0 ACRES NE ¼ SE ¼ 40.0 ACRES SE 14 SE ½ 40.0 ACRES

14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 22, 2013

PUBLIC NOTICE DATE: Tuesday, March 12, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, April 11, 2013

Mailing List for IR Copies Application #G-17592

IR Date: March 8, 2013

Original mailed to applicant:

GOLDEN RULE FARMS INC, PO BOX 255, CHRISTMAS VALLEY, OR 97641

SENT VIA EMAIL:

1. Applicant - goldenrulefarms@gmail.com

2. WRD - Watermaster # 10

3. ODFW

4. DEQ

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

<u>Copies sent to:</u> 1.WRD - File # G-17592 2. WRD - Water Availability: <u>Ken Stahr</u>

IR, Map, and Fact Sheet Copies sent to:

- 1. WRD Regional Manager (not SCR): E
- 2. Department of Agriculture
- 3. Columbia River Intertribal Fish Commission, Julie Carter, 729 NE Oregon St, Ste 200, Portland OR 97232
- 4. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
- 5. NW Power Planning Council, Fish & Wildlife Division, Karl Weist 851 SW Sixth Ave, Ste 1020, Portland OR 97204
- 6. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson Nixyaawii Governance Center, 46411 Timine Way, Pendleton OR 97801
- 7. National Marine Fisheries Service, Spencer Hovekamp 3502 Hwy 30, La Grande, OR 97850

Caseworker: Jeana Eastman

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