



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

TIM MCISAAC
GUTIERREZ CATTLE CO
PO BOX 1076
WEST SACRAMENTO, CA 95691

April 26, 2013

Reference: File G-17607

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 5.33 cubic feet per second (CFS) from Well 5 (CROO 51579), Well 7 (CROO 53345), Well 9, and Well 10 in Watson Creek Basin for irrigation of 425.2 acres April 15 through October 15.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well 5 (CROO 51579), Well 7 (CROO 53345), Well 9, and Well 10 in Watson Creek Basin for irrigation is allowable under the Deschutes 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. The proposed use is located above the Deschutes River Scenic Waterway, as designated under Oregon Revised Statute 390.826.
6. The application indicated irrigation of 425.0, but the map indicated 425.2 acres. Please clarify the total acreage, and provide a revised map if appropriate by Thursday, May 30, 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.

7. A portion of the area proposed to be irrigated under this application is currently covered by an existing ground water right authorized by Permit G-16774. As noted in the application materials, we understand that the portion of Permit G-16774 which overlaps with lands proposed under this application will be cancelled voluntarily upon issuance of a permit under this application.

However, in addition to the overlap of some acreage authorized under Permit G-16774, there also appear to be portions of the area proposed for irrigation located in the SW1/4 NE1/4, Section 23, Township 16 South, Range 22 East, W.M., which is covered by Permit G-12657 and in the NW1/4 NW1/4, Section 31, which is covered by Permit G-16604. Please let us know how you propose to resolve the potential conflicts with those permits, 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, May 30, 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. **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.**

Summary of Initial Determinations

The appropriation of 5.33 CFS from Well 5 (CROO 51579), Well 7 (CROO 53345), Well 9, and Well 10 in Watson Creek Basin for irrigation of 425.2 acres may be allowed during the full period requested, April 15 through October 15, contingent upon the resolution of the conflict(s) with underlying rights.

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 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, May 10, 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. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
3. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
4. 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.

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.

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-17607
WAB 5-no psi
POU 5-no psi
GW

APPLICATION FACT SHEET

Application File Number: G-17607

Applicant: GUTIERREZ CATTLE CO; TIM MCISAAC

County: Crook

Watermaster: 11

Priority Date: December 14, 2012

Source: WELL 5 (CROO 51579), WELL 7 (CROO 53345), WELL 9, AND WELL 10 IN WATSON CREEK BASIN

Use: IRRIGATION OF 425.2 ACRES

Quantity: 5.33 CUBIC FEET PER SECOND

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 2 CROOKED R MISC

Well Locations:

WELL 5 (CROO 51579) - SESE, SECTION 25, T16S, R22E, W.M.; 330 FEET NORTH AND 20 FEET WEST FROM SE CORNER, SECTION 25

WELL 7 (CROO 53345) - SENE, SECTION 35, T16S, R22E, W.M.; 1600 FEET SOUTH AND 10 FEET WEST FROM NE CORNER, SECTION 35

WELL 9 - NWSE, SECTION 23, T16S, R22E, W.M.; 2350 FEET NORTH AND 2470 FEET WEST FROM SE CORNER, SECTION 23

WELL 10 - SESE, SECTION 23, T16S, R22E, W.M.; 10 FEET NORTH AND 1280 FEET WEST FROM SE CORNER, SECTION 23

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 28.1 ACRES

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.7 ACRE

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 20.0 ACRES

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.2 ACRES

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.9 ACRES

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.7 ACRES

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 38.7 ACRES

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 36.2 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.9 ACRES

SECTION 23

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.2 ACRE

SECTION 24

TOWNSHIP 16 SOUTH, RANGE 22 EAST, W.M.

Place of Use (continued):

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 0.2 ACRE
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 3.5 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 33.0 ACRES
SECTION 25

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 31.8 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.6 ACRES
SECTION 26

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 17.5 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 22.4 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 16.3 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 8.2 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.1 ACRES
SECTION 36

TOWNSHIP 16 SOUTH, RANGE 22 EAST, W.M.

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 3.5 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 35.0 ACRES
SECTION 30

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 18.5 ACRES
SECTION 31
TOWNSHIP 16 SOUTH, RANGE 23 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 10, 2013

PUBLIC NOTICE DATE: Tuesday, April 30, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, May 30, 2013

Mailing List for IR Copies

Application #G-17607

IR Date : April 26, 2013

Original mailed to applicant:

TIM MCISAAC
GUTIERREZ CATTLE CO
PO BOX 1076
WEST SACRAMENTO, CA 95691

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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SENT VIA EMAIL:

1. WRD - Watermaster #11

Copies sent to:

1. WRD - File # G-17607
2. WRD - Water Availability: Ken Stahr

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

3. Bruce Estes, 60382 Arnold Market Rd, Bend, OR 97702

Caseworker: Kerry Kavanagh

COPYSHT.IR