



# 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

NF LAND LLC  
2885 SANFORD AVE SW 21711  
GRANDVILLE, MI 49418

September 6, 2013

Reference: File G-17604

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 6.47 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, Well 13, Well 14, and Well 15 (UMAT 57199) in North Fork Walla Walla River Basin for irrigation of 517.9 acres March 1 through November 30.

In addition, the application proposed the appropriation of 27.0 acre feet (AF) of ground water for year-round storage in four reservoirs, being 5.0 AF in Reservoir 1, 6.0 AF in Reservoir 2, 7.0 AF in Reservoir 3, and 9.0 AF in Reservoir 4, in order to maintain the integrity of the reservoir liners. The application also proposed the use of the four reservoirs as bulges in the system during the irrigation season.

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, Well 13, Well 14, and Well 15 (UMAT 57199) in North Fork Walla Walla River Basin for irrigation and storage of ground water is allowable under the Umatilla Basin Program.
4. Ground water will not likely be available at the requested rate and duty within the capacity of the resource and/or without injury to existing ground water rights.

However, by providing additional information and amending your application, you may be able to pursue a limited permit for the proposed use at a reduced annual volume of water. Please refer to the **Additional Information Opportunity** section below for details.

5. 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 standard irrigation season for the appropriation of ground water is limited to March 1 through October 31. The period of allowed use will therefore be limited to the period during which the proposed season (March 1 through November 30) coincides with the standard irrigation season.
7. The Department has determined that Well 15 (UMAT 57199) does not meet current minimum well construction standards. The annular seal is not adequate. In order to meet current minimum well construction standards, Well 15 (UMAT 57199) must be re-sealed to a minimum depth of 225 feet below land surface. Prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well(s), you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Kris Byrd of the Department's Well Construction and Compliance Section at 503-986-0851 to determine how to proceed.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's ground water supply (OAR 690-200).

8. Well 8, Well 9, Well 10, Well 11, Well 12, Well 13, Well 14, and Well 15 (UMAT 57199) are located within a five-mile radius of the City of Milton-Freewater's municipal wells. Under OAR 690-507-0030(3)(a)(B), the appropriation of groundwater from the basalt reservoir within a five-mile radius of the cities of Athena, Helix, Milton-Freewater, and Weston could be limited to only municipal uses, group domestic uses, or statutorily exempt groundwater uses if the City has an approved water management and conservation plan in effect. Other uses may be permitted if it is documented that a barrier to groundwater movement separates a proposed well from municipal wells and there will be no interference with municipal wells.

However, the Department has determined that there is a documented barrier to groundwater movement and there will be no interference between Well 8, Well 9, Well 10, Well 11, Well 12, Well 13, Well 14, and Well 15 (UMAT 57199) and the municipal wells of City of Milton-Freewater; therefore OAR 690-507-0030(3)(a)(B) will not affect this application.

### Summary of Allowable Water Use

**Because not all items above are favorable, the appropriation of 6.47 CFS and 27.0 AF 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, Well 13, Well 14, and Well 15 (UMAT 57199) in North Fork Walla Walla River Basin for irrigation of 517.9 acres and storage of groundwater 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. In addition, prior to the issuance of a permit, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department for Well 15 (UMAT 57199). At this time, you must decide whether to proceed or to withdraw your application as described below.**

### **Additional Information Opportunity**

The Department determined, based upon OAR 690-09, that ground water at the requested rate and duty will not likely be available within the capacity of the resource and/or without injury to existing ground water rights. However, if you amend the application to appropriate no more than 210 AF of water per year, and modify the proposed well construction so that the wells will have no more than 100 feet of open borehole (unless documentation is submitted to demonstrate that only a single aquifer will be developed), the Department may find that ground water will, if properly conditioned, be available within the capacity of the resource and/or without injury to existing ground water rights. You may wish to contact Marc Norton, Hydrogeologist at 503-986-0841 to discuss the opportunity in detail.

If you would like to pursue a limited permit to appropriate no more than 210 AF of water per year, you must amend your application as described above. The annual volume requested in the application materials is 1553 AF based on a standard duty of 3.0 AF/ac. Please keep in mind that 210 AF is significantly less than the annual volume requested, and it is unlikely that you will be able to use it beneficially on the 517.9 acres proposed in the application. If that is the case, you may also want to reduce the proposed acreage. If you choose to reduce the number of acres you're proposing, please submit a map indicating the revised acreage per quarter-quarter and its location by hatchuring. However, if you choose not to reduce the number of acres, please provide information documenting how beneficial use can be made with the greatly reduced volume of water.

If you wish to amend your application so that the annual volume does not exceed 210 AF per year and modify the well construction as described above, please respond in writing by October 10, 2013 or request an administrative hold. **Please submit this information no later than Thursday, October 10, 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 items requested above 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.

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

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 \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, September 20, 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 / stored each month, and shall submit a report which includes the recorded water-use / water-storage 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. 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](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-17604  
WAB 7- no psi  
POU 7- no psi  
GW

# APPLICATION FACT SHEET

Application File Number: G-17604

Applicant: NF LAND LLC

County: Umatilla

Watermaster: 5

Priority Date: December 11, 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, WELL 13, WELL 14, AND WELL 15 (UMAT 57199) IN NORTH FORK WALLA WALLA RIVER BASIN

Use: IRRIGATION OF 517.9 ACRES AND STORAGE OF GROUND WATER

Quantity: 6.47 CUBIC FEET PER SECOND AND 27.0 ACRE FEET (AF), BEING 5.0 AF IN RESERVOIR 1, 6.0 AF IN RESERVOIR 2, 7.0 AF IN RESERVOIR 3, AND 9.0 AF IN RESERVOIR 4

Basin Name & Number: Umatilla, #7

Stream Index Reference: Volume 1 N FK WALLA WALLA R

Reservoir Locations:

RESERVOIR 1 - SESE, SECTION 14, T5N, R36E, W.M.; 1150 FEET NORTH AND 175 FEET WEST FROM SE CORNER, SECTION 14

RESERVOIR 2 - SESW, SECTION 13, T5N, R36E, W.M.; 1175 FEET NORTH AND 1025 FEET WEST FROM S1/4 CORNER, SECTION 13

RESERVOIR 3 - SESW, SECTION 13, T5N, R36E, W.M.; 1180 FEET NORTH AND 100 FEET WEST FROM S1/4 CORNER, SECTION 13

RESERVOIR 4 - NWN, SECTION 24, T5N, R36E, W.M.; 650 FEET SOUTH AND 1300 FEET EAST FROM N1/4 CORNER, SECTION 24

Well Locations:

WELL 1 - SENW, SECTION 24, T5N, R36E, W.M.; 1060 FEET NORTH AND 885 FEET WEST FROM C1/4 CORNER, SECTION 24

WELL 2 - NENW, SECTION 24, T5N, R36E, W.M.; 620 FEET SOUTH AND 60 FEET WEST FROM N1/4 CORNER, SECTION 24

WELL 3 - SWSW, SECTION 13, T5N, R36E, W.M.; 45 FEET NORTH AND 1200 FEET EAST FROM SW CORNER, SECTION 13

WELL 4 - SWSE, SECTION 13, T5N, R36E, W.M.; 1200 FEET NORTH AND 900 FEET EAST FROM S1/4 CORNER, SECTION 13

WELL 5 - SESW, SECTION 13, T5N, R36E, W.M.; 470 FEET NORTH AND 250 FEET WEST FROM S1/4 CORNER, SECTION 13

WELL 6 - NWNE, SECTION 24, T5N, R36E, W.M.; 360 FEET SOUTH AND 1270 FEET EAST FROM N1/4 CORNER, SECTION 24

WELL 7 - SESW, SECTION 13, T5N, R36E, W.M.; 1240 FEET NORTH AND 300 FEET WEST FROM S1/4 CORNER, SECTION 13

WELL 8 - NWNE, SECTION 23, T5N, R36E, W.M.; 695 FEET SOUTH AND 125 FEET EAST FROM N1/4 CORNER, SECTION 23

WELL 9 - NWNW, SECTION 24, T5N, R36E, W.M.; 1250 FEET SOUTH AND 260 FEET EAST FROM NW CORNER, SECTION 24

WELL 10 - NWNW, SECTION 23, T5N, R36E, W.M.; 720 FEET SOUTH AND 215 FEET EAST FROM NW CORNER, SECTION 23

WELL 11 - NWNW, SECTION 24, T5N, R36E, W.M.; 375 FEET SOUTH AND 825 FEET EAST FROM NW CORNER, SECTION 24

WELL 12 - NWNE, SECTION 23, T5N, R36E, W.M.; 725 FEET SOUTH AND 1190 FEET EAST FROM N1/4 CORNER, SECTION 23

WELL 13 - SWSE, SECTION 14, T5N, R36E, W.M.; 585 FEET NORTH AND 580 FEET EAST FROM S1/4 CORNER, SECTION 14

WELL 14 - NENE, SECTION 23, T5N, R36E, W.M.; 895 FEET SOUTH AND 370 FEET WEST FROM NE CORNER, SECTION 23

WELL 15 (UMAT 57199) - SWSE, SECTION 14, T5N, R36E, W.M.; 245 FEET NORTH AND 340 FEET EAST FROM S1/4 CORNER, SECTION 14

The area to be submerged by the reservoirs is located as follows:

SE  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SW  $\frac{1}{4}$  SE  $\frac{1}{4}$   
SECTION 13

SE  $\frac{1}{4}$  SE  $\frac{1}{4}$   
SECTION 14

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$   
SECTION 24

TOWNSHIP 5 NORTH, RANGE 36 EAST, W.M.

Place of Use:

SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  40.0 ACRES  
SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  40.0 ACRES  
SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
SECTION 13

SE  $\frac{1}{4}$  SW  $\frac{1}{4}$  18.5 ACRES  
SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
SE  $\frac{1}{4}$  SE  $\frac{1}{4}$  40.0 ACRES  
SECTION 14

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  25.4 ACRES  
NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  9.8 ACRES  
SECTION 22

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  33.4 ACRES  
NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  28.0 ACRES  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  24.7 ACRES  
SECTION 23

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  40.1 ACRES  
SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  33.5 ACRES  
NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  40.0 ACRES  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  40.0 ACRES  
SW  $\frac{1}{4}$  NW  $\frac{1}{4}$  6.5 ACRES  
SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  18.0 ACRES  
SECTION 24

TOWNSHIP 5 NORTH, RANGE 36 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 20, 2013**

**PUBLIC NOTICE DATE: Tuesday, September 10, 2013**

**30 DAY COMMENT DEADLINE DATE: Thursday, October 10, 2013**



# Mailing List for IR Copies

Application #G-17604

IR Date: September 6, 2013

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Original **emailed** to applicant:

NFLAND LLC  
2885 SANFORD AVE SW 21711  
GRANDVILLE, MI 49418

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

**SENT VIA EMAIL:**

1. WRD - Watermaster #5
2. Applicant - nflandllc@gmail.com
3. Agent - john@geospatial.solutions.com

Copies sent to:

1. WRD - File # G-17604
2. WRD - Water Availability: Shawn Turner

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: EASTERN
4. WRD - Marc Norton

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](http://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

**4. Proposed Final Order (PFO)**

- caseworker evaluates application against required criteria and develops draft permit, if appropriate
- PFO includes instructions for filing of protests
- caseworker considers public comments and mails PFO to applicant
- the PFO is included in Department's weekly Public Notice
- public protests to the PFO must be submitted within 45 days after the Public Notice

**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 \$225

**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 \$225 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 \$225 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

## 5. *Final Order (FO)*

- if no protest is filed, Final Order is issued

### *The protest process*

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order issued

### *Permit holder responsibilities*

- comply with all water use conditions of the permit
- advise Department of address change or assignment to new permit holder
- if need arises, request extension of time or authorize cancellation of permit
- submit timely claim of beneficial use (COBU) to Department
- most permits require COBU to be prepared by a Certified Water Right Examiner
- permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions