



June 30, 2017

RUPP RANCHES
176 KRANICHWOOD ST
RICHLAND, WA 99352

Reference: File S-88299

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 the water-use permit application and to describe the 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 supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the diversion of 31.4 cubic feet per second (CFS) of water from the Columbia River, a tributary of Pacific Ocean, for irrigation of 5021.2 acres, October 1 to April 14 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Columbia River, a tributary of Pacific Ocean, for irrigation is allowable under the Columbia River Basin Program (OAR 690-519).
4. Surface water is available in the amount and for the full period requested.
5. The application is subject to Section 4(d) of the Endangered Species Act and as such subject to review under OAR 690-033 by the Oregon Department of Fish and Wildlife (ODFW) and the Oregon Department of Environmental Quality (DEQ).
6. A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Permit G-17272, which conflicts with the application. The conflict occurs during the periods March 1 through April 14 and October 1 through October 31. Please see the **Conflict Resolution Information** section below for more information.
7. Normally, no irrigation is permitted outside the established irrigation season since it cannot usually be demonstrated that such irrigation would be of any benefit, and beneficial use is a criterion which must be met under Oregon water law.

There is, however, provision for granting permits for the use of water outside the normal irrigation season if such use of water can be justified. Applications for specialty uses that require non-standard rates, duty of water, or season may be accepted by the Department. A permit thus granted would contain any special conditions or restrictions deemed proper by the Water Resources Director. Please see the **Additional Information Required** section below for more information.

Summary of Initial Determinations

The diversion of 31.4 CFS of water from Columbia River, a tributary of Pacific Ocean, for irrigation of 5021.2 acres, may be allowable during the full period requested, October 1 through April 15 of each year, contingent upon the submittal of conflict resolution and upon additional information.

Conflict Resolution Information:

A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Permit G-17272, which conflicts with the application. The conflict occurs during the periods March 1 through April 14 and October 1 through October 31.

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

- A completed form authorizing cancellation of the conflicting portions of the existing right, 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.

If you would like this application to be supplemental to the existing certificate during the conflicting periods, the Department must receive a revised map showing the place of use of both the primary and supplemental lands. Please note the supplemental lands will be limited and/or jeopardized as follows:

- If the existing right is found to have been forfeited, the use which is supplemental to such certificate may also be subject to cancellation.
- You may only use the supplemental right after the primary right becomes unavailable. Water from the primary source must be exhausted first.
- The season of use for the supplemental irrigation will be limited to that of the primary right.

Additional Information Required:

Please submit justification and explanation of how water outside of the normal irrigation season will be of benefit.

Please submit this information no later than Friday, August 3, 2017. 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.

To Proceed With the Application:

If you choose to proceed with the application, you do not have to notify the Department. The 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.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw the application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, July 14, 2017**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement devices, and recording/reporting of annual water use conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of diversion. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. The use of water for out-of-season irrigation allowed herein shall not establish priority of right against future appropriations for beneficial uses or storage for such beneficial uses, other than rights for irrigation during the allowed period of use.

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. Be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of the application.

The water source identified in the 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/programs/NaturalResources/Pages/AgWaterQuality.aspx> to learn more about the plans and how they may affect the proposed water use.

If you have any questions:

Feel free to call me at 503-986-0899 if you have any questions regarding the contents of this letter or the application. Please have the 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: Scott Grew, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Scott Grew
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-88299
WAB 7-Columbia River
POU 7-Columbia River
GW

APPLICATION FACT SHEET

Application File Number: S-88299

Applicant: RUPP RANCHES

County: UMATILLA

Watermaster: 5

Priority Date: OCTOBER 12, 2016

Source: COLUMBIA RIVER, A TRIBUTARY OF PACIFIC OCEAN

Use: IRRIGATION OF 5021.2 ACRES

Quantity: 31.4 CUBIC FEET PER SECOND

Basin Name & Number: Umatilla, #7

Stream Index Reference: Volume 3A COLUMBIA R & MISC

Point of Diversion or Well Location(s): SWNW SECTION 8, T5N, R30E, W.M.; 2920 FEET NORTH AND 150 FEET EAST FROM SW CORNER, SECTION 8

Place of Use:

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

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

SECTION 15

TOWNSHIP 5 NORTH, RANGE 30 EAST, W.M.

SW ¼ NW ¼ 35.0 ACRES
SE ¼ NW ¼ 35.0 ACRES
NE ¼ SW ¼ 36.8 ACRES
NW ¼ SW ¼ 36.8 ACRES
SW ¼ SW ¼ 38.8 ACRES
SE ¼ SW ¼ 38.8 ACRES

SECTION 5

NE ¼ NE ¼ 40.0 ACRES
SW ¼ NE ¼ 40.0 ACRES
SE ¼ NE ¼ 40.0 ACRES
NE ¼ NW ¼ 40.0 ACRES
SW ¼ NW ¼ 40.0 ACRES
SE ¼ NW 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
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

SECTION 7

NW ¼ NE ¼ 40.0 ACRES
SW ¼ NE 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
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
NW ¼ SE ¼ 40.0 ACRES

SECTION 8

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

SECTION 17

NE ¼ NE ¼ 40.0 ACRES
NW ¼ NE ¼ 40.0 ACRES
SW ¼ NE ¼ 40.0 ACRES

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

SECTION 18

TOWNSHIP 5 NORTH, RANGE 31 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 14, 2017

PUBLIC NOTICE DATE: Tuesday, July 4, 2017

30 DAY COMMENT DEADLINE DATE: Thursday, August 3, 2017

Mailing List for IR Copies

Application #S-88299

IR Date: June 30, 2017

Original and map mailed to applicant:

RUPP RANCHES, 176 KRANICHWOOD ST, RICHLAND, WA 99352

SENT VIA EMAIL:

1. WRD -Watermaster # 5
2. ODFW
3. DEQ

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

Copies sent to:

1. WRD - Hydrographics

IR, Map, and Fact Sheet Copies sent to:

2. WRD - File # S-88299
3. WRD - Regional Manager: NCR
4. Department of Agriculture
5. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
6. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
7. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
8. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
Nixyaawii Governance Center, 46411 Timine Way, Pendleton OR 97801
9. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

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

10. Carl St. Hilaire, JSH Farms Inc, 84186 Hwy 37, Hermiston, OR 97838

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

11. Said Amali/Akana, 6400 SE Lake Rd, Suite 270, Portland, OR 97222

Caseworker: Scott Grew

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

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