

Oregon Water Resources Department
Water Right Services Division

Water Right Application R-88766 in the name)
of BROTHERS RANCH LLC AND ZADOK)
RANCH LLC) FINAL ORDER

Summary: Order approving Application R-88766 and issuing a draft permit.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and the Deschutes Basin Program (OAR 690-505). These statutes and rules can be viewed on following website: <https://www.oregon.gov/OWRD/programs/policylawandrules/Pages.default.aspx>

The Department's main page is <https://www.oregon.gov/OWRD>.

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190.

FINDINGS OF FACT

1. On April 2, 2019, Brothers Ranch LLC and Zadok Ranch LLC submitted an application to the Department for a water use permit.
2. On October 1, 2019, the Department issued a Proposed Final Order recommending approval of the application. The protest period closed November 15, 2019 and no protest was filed.
3. The findings of fact in the Proposed Final Order are incorporated herein.

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order are incorporated herein.
2. The proposed use, as conditioned, would not impair or be detrimental to the public interest.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of the water to be appropriated for the project.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

ORDER

Application R-88766 is approved. A permit consistent with the attached draft permit shall be issued upon payment of remaining permit recording fees and submittal and approval of documentary evidence for mitigation obtained under Application G-18809.

The permit recording fee in the amount of \$520.00 is due no later than 60 days from the date of this Final Order. Failure to submit the required item within 60 days from the date of this Final Order may result in the proposed rejection of Application R-88766.

If documentary evidence of mitigation is not provided within 5 years of the final order issuance under G-18809, this Final Order shall expire.

If you need to request additional time to submit the required item, a written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED FEB 06 2020



Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

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- If you have any questions about statements contained in this document, please contact Kim French at Kim.R.French@oregon.gov or 503-986-0816.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503 986-0900.
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DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

BROTHERS RANCH LLC
ZADOK RANCH LLC
22870 SW ENO PLACE
TUALATIN OR 97062

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-88766

SOURCE OF WATER: WELL 1, TO BE APPROPRIATED UNDER APPLICATION G-18809,
WITHIN WHYCHUS CREEK BASIN

STORAGE FACILITY: A RESERVOIR

THE RESERVOIR IS ENTIRELY BELOW GROUND SURFACE; THERE IS NO DAM

PURPOSE OR USE OF THE STORED WATER: AQUATIC LIFE, WILDLIFE, FIRE PROTECTION,
AND RECREATION

MAXIMUM VOLUME: 19.0 ACRE-FEET

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: JANUARY 1
THROUGH DECEMBER 31

DATE OF PRIORITY: APRIL 2, 2019

POINT OF DIVERSION:

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	14 S	10 E	WM	13	SW NW	1118 FEET NORTH AND 671 FEET EAST FROM W1/4 CORNER, SECTION 13

THE AREA TO BE SUBMERGED BY THE RESERVOIR:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Acres
14 S	10 E	WM	13	SW NW	528 FEET NORTH AND 432 FEET EAST FROM W1/4 CORNER, SECTION 13	1.6

1. Water Use Measurement, Recording, and Reporting Condition:

- 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 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 used each month, and shall submit an annual 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. Mitigation water obtained under Permit G-XXXXXX (Application G-18809) must be legally protected instream in the General Zone of Impact for the life of the permit and subsequent certificate(s). Regulation and/or cancellation of Permit R-XXXXXX (Application R-88766) and Permit G-XXXXXX (Application G-18809), or subsequent certificate(s) will occur if the required mitigation under Application G-18809 is not maintained.

RESERVOIR CONDITIONS

- 1. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
- 2. The permittee shall pass all live flow outside the storage season described above.
- 3. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
- 4. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.

STANDARD CONDITIONS

1. Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
2. This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
3. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.
4. The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.
5. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.
6. The permitted volume of water shall be stored within five years of the date of permit issuance. If additional time is needed, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.
7. Within one year after storage of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT - THIS IS NOT A PERMIT

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department