

STATE OF OREGON

COUNTY OF MALHEUR

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BERRETT RANCHES INC.  
DALE BERRETT  
3540 HWY 95  
JORDAN VALLEY, OR 97910

**This superseding permit is issued to describe an amendment to change the points of appropriation and place of use proposed under Permit Amendment Application T-13659 and approved by Special Order Vol. 122, Page 32, entered November 10, 2021, and to describe an extension of time for complete application of water approved August 30, 2019. This permit supersedes Permit G-17297.**

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

APPLICATION FILE NUMBER: G-17832

SOURCE OF WATER: WELLS 1, 4, AND 5 IN PALOMINO CREEK BASIN

PURPOSE OR USE: IRRIGATION OF 625.6 ACRES

MAXIMUM RATE: 7.82 CUBIC FEET PER SECOND

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: MARCH 31, 2014

WELL LOCATIONS:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
32 S	40 E	WM	11	SW SE	WELL 1 - 214 FEET NORTH AND 2815 FEET EAST FROM THE SW CORNER OF SECTION 11
32 S	40 E	WM	15	NE NE	WELL 4 - 1010 FEET SOUTH AND 265 FEET WEST FROM THE NE CORNER OF SECTION 15
32 S	40 E	WM	15	NE NW	WELL 5 - 150 FEET SOUTH AND 2675 FEET WEST FROM THE NE CORNER OF SECTION 15

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

IRRIGATION					
Twp	Range	Mer	Sec	Q-Q	Acres
32 S	40 E	WM	10	NW NE	0.9
32 S	40 E	WM	10	SW NE	38.3
32 S	40 E	WM	10	SE NE	14.6
32 S	40 E	WM	10	SE NW	13.2
32 S	40 E	WM	10	NE SW	33.6
32 S	40 E	WM	10	NW SW	0.6
32 S	40 E	WM	10	SW SW	5.7
32 S	40 E	WM	10	SE SW	30.3
32 S	40 E	WM	10	NE SE	14.7
32 S	40 E	WM	10	NW SE	33.9
32 S	40 E	WM	10	SW SE	37.8
32 S	40 E	WM	10	SE SE	5.8
32 S	40 E	WM	11	NE NE	2.5
32 S	40 E	WM	11	NW NE	24.6
32 S	40 E	WM	11	SW NE	40.4
32 S	40 E	WM	11	SE NE	9.5
32 S	40 E	WM	11	NE NW	10.0
32 S	40 E	WM	11	SW NW	37.4
32 S	40 E	WM	11	SE NW	34.5
32 S	40 E	WM	11	NE SW	22.8
32 S	40 E	WM	11	NW SW	38.0
32 S	40 E	WM	11	SE SW	35.7
32 S	40 E	WM	11	NE SE	6.2
32 S	40 E	WM	11	NW SE	19.1
32 S	40 E	WM	11	SW SE	26.1
32 S	40 E	WM	11	SE SE	12.5
32 S	40 E	WM	15	NE NE	5.8
32 S	40 E	WM	15	NW NE	36.7
32 S	40 E	WM	15	SW NE	21.3
32 S	40 E	WM	15	SE NE	2.1
32 S	40 E	WM	15	NE NW	7.9
32 S	40 E	WM	15	SE NW	3.1
Total					625.6

**Permit Amendment T-13659 Conditions:**

The quantity of water diverted at the new points of appropriation (Well 4 and 5), shall not exceed the quantity of water lawfully available at the original points of appropriation (Well 2 and 3).

Water use measurement conditions:

- a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation (new and existing).
- b. The water user shall maintain the meters or measuring devices in good working order.
- c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

Water shall be acquired from the same aquifer as the original points of appropriation.

The former place of use shall no longer be irrigated as part of this permit.

**Extension of Time Conditions:**

**Permit Amendment Condition**

No water may be used from MALH 54192 (Well 2), MALH 54278 (Well 3), or MALH 54280 (Well 4) unless authorized by approval of a Permit Amendment to change the location of Well 2, and Well 3, and to add Well 4 as an additional point of appropriation.

**Checkpoint Condition**

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2024, and 2028. A form will be enclosed with your Final Order.**

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

**Existing Permit Conditions:**

**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, 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 allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring 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.

#### Static Water Level Conditions

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.

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.

Well 1 shall be continuously cased and continuously sealed to a minimum depth of 145 feet below land surface. Well 1 may not be completed in such a manner as to allow ground water to be developed from the shallower, water-bearing zones. If during well construction, it becomes apparent that the Well 1 can be constructed to eliminate interference with nearby shallow wells or hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval of such construction. The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If Well 1 is constructed first and then the request made, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.

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.

**STANDARD CONDITIONS**

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.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.

If substantial interference with surface water or 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.

The well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.

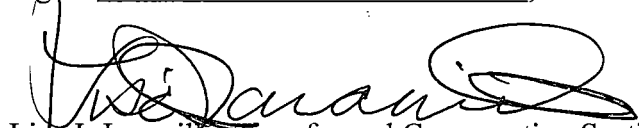
This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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.

Completion of construction and application of the water to the use was to be made on or before September 11, 2019. By Extension of Time Final Order dated August 30, 2019, complete application of the water to the use is to be made on or before October 1, 2029. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Signed NOV 03 2021 ;



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
THOMAS M. BYLER, DIRECTOR  
Oregon Water Resources Department

