Approved: 

MEMO

To:	Kristopher Byrd, Well Construction Section Manager
From:	Tommy Laird, Well Construction Program Coordinator
Subject:	Review of Water Right Application G-19100
Date:	January 2, 2024

The attached application was forwarded to the Well Construction Section by the Groundwater Section. Phillip Marcy reviewed the application. Please see Phillip's Groundwater Review.

Applicant's Well #1 (Proposed Well): Well #1 is a proposed well, therefore it cannot be reviewed for construction. Construction of this proposed well shall be completed in a manner that protects ground water resources as required under Oregon Administrative Rules 690-200 through 690-240. During construction of this well, specific attention should be paid to ensure sealing requirements are met and that the well does not commingle aquifers.

The construction of proposed Well #1 may not satisfy hydraulic connection issues.

Groundwater Application Review Summary Form

Application # G- 19100

GW Reviewer Phillip Marcy Date Review Completed: 02/28/2023

Summary of GW Availability and Injury Review:

☐ Groundwater for the proposed use is either over appropriated, will not likely be available in the amounts requested without injury to prior water rights, OR will not likely be available within the capacity of the groundwater resource per Section B of the attached review form.

Summary of Potential for Substantial Interference Review:

☒ There is the potential for substantial interference per Section C of the attached review form.

Summary of Well Construction Assessment:

☐ The well does not appear to meet current well construction standards per Section D of the attached review form. Route through Well Construction and Compliance Section.

This is only a summary. Documentation is attached and should be read thoroughly to understand the basis for determinations and for conditions that may be necessary for a permit (if one is issued).

WATER RESOURCES DEPARTMENT

MEMO **_February 28, 2023_**

TO: **Application** G-**_19100_**

FROM: **GW: _Phillip Marcy_**
(Reviewer's Name)

SUBJECT: Scenic Waterway Interference Evaluation

☒ **YES**
☐ **NO**

The source of appropriation is hydraulically connected to a State Scenic Waterway or its tributaries

☒ **YES**
☐ **NO**

Use the Scenic Waterway Condition (Condition 7J)

☒ Per ORS 390.835, the Groundwater Section is **able** to calculate ground water interference with surface water that contributes to a Scenic Waterway. The calculated interference is distributed below

☐ Per ORS 390.835, the Groundwater Section is **unable** to calculate ground water interference with surface water that contributes to a scenic waterway; **therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway**

DISTRIBUTION OF INTERFERENCE

Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "unable" option above, thus informing Water Rights that the Department is *unable to make a Preponderance of Evidence finding.*

Exercise of this permit is calculated to reduce monthly flows in Owyhee Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
.087	**.084**	**.084**	**.083**	**.083**	**.083**	**.083**	**.083**	**.083**	**.083**	**.083**	**.083**

PUBLIC INTEREST REVIEW FOR GROUNDWATER APPLICATIONS

TO: Water Rights Section Date 02/28/2023
FROM: Groundwater Section Phillip I. Marcy
Reviewer's Name
SUBJECT: Application G- **19100** Supersedes review of 08/12/2021
Date of Review(s)

PUBLIC INTEREST PRESUMPTION; GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525.* Department staff review groundwater applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. **This review is based upon available information and agency policies in place at the time of evaluation**.

A. GENERAL INFORMATION: Applicant's Name: **Warm Springs Ranch LLC** County: **Malheur**

A1. Applicant(s) seek(s) 3.59 cfs from 1 well(s) in the Owyhee Basin, _____ subbasin

A2. Proposed use Irrigation (102.0 acres); Supplemental Irrigation (263.2 acres)
Seasonality: April 1st – October 15th (198 days)

A3. Well and aquifer data **(attach and number logs for existing wells; mark proposed wells as such under logid)**:

Well	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	Proposed	1	Bedrock	3.59	30S/46E-3 NW-SE	1900'N, 2000'W fr SE cor S 3
2						
3						
4						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	4369	NA	NA	NA	400	0-75	0-200	Unk.	200-400	NA	NA	NA

Use data from application for proposed wells.

A4. **Comments:** The POA well is proposed to produce from sandstone from 200-400' BLS.

This re-review is being conducted to reevaluate the determination of over-appropriation in Section B1(a) of this review form considering the updated guidance in the Iverson memo of 02/06/2023.

A5. ☒ **Provisions of the** Owyhee (690-511) Basin rules relative to the development, classification and/or management of groundwater hydraulically connected to surface water ☐ **are**, *or* ☒ **are not**, activated by this application. (Not all basin rules contain such provisions.)
Comments: _____

A6. ☐ **Well(s) #** _____ , _____ , _____ , _____ , _____ , tap(s) an aquifer limited by an administrative restriction.
Name of administrative area: _____
Comments: _____

B. GROUNDWATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070

B1. **Based upon available data**, I have determined that groundwater* for the proposed use:

a. ☐ **is** over appropriated, ☒ **is not** over appropriated, *or* ☐ **cannot be determined to be** over appropriated during any period of the proposed use. * This finding is limited to the groundwater portion of the over-appropriation determination as prescribed in OAR 690-310-130;

b. ☐ **will not** *or* ☐ **will** likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the groundwater portion of the injury determination as prescribed in OAR 690-310-130;

c. ☐ **will not** *or* ☐ **will** likely to be available within the capacity of the groundwater resource; or

d. ☒ **will, if properly conditioned**, avoid injury to existing groundwater rights or to the groundwater resource:

i. ☒ The permit should contain condition #(s) **7N: "Large Water Use Reporting"**;

ii. ☐ The permit should be conditioned as indicated in item 2 below.

iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;

B2. a. ☐ **Condition** to allow groundwater production from no deeper than _____ ft. below land surface;

b. ☐ **Condition** to allow groundwater production from no shallower than _____ ft. below land surface;

c. ☐ **Condition** to allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;

d. ☐ **Well reconstruction** is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Groundwater Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

B3. **Groundwater availability remarks:** There are no data that suggest water level declines within nearby wells in the target aquifer.

C. GROUNDWATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040

C1. **690-09-040 (1):** Evaluation of aquifer confinement:

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1	**Sandstone**	☒	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: Nearby wells completed to depths greater than 100' report static water levels well above the elevation of the productive water-bearing zone.

C2. **690-09-040 (2) (3):** Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected? YES	NO	ASSUMED	Potential for Subst. Interfer. Assumed? YES	NO
1	**1**	**Jordan Creek**	**~4360**	**4353-4376**	**1590**	☒	☐	☐	☐	☒
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: Water level data from nearby wells, regardless of depth, report groundwater elevations coincident with nearby surface water in Jordan Creek. Local confinement is suggested in some nearby wells, but there is no evidence of a laterally continuous confining bed that would preclude vertical movement of groundwater.

Water Availability Basin the well(s) are located within: OWYHEE R > SNAKE R - AT MOUTH

C3a. **690-09-040 (4):** Evaluation of stream impacts for each well that has been determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water (SW) source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that SW source, not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% *natural* flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked ☒ box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
1	**1**	☐	☐			☐	**156.0**	☒	**<<25%**	☒
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐

C3b. **690-09-040 (4):** Evaluation of stream impacts by total appropriation for all wells determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. **Complete only if Q is distributed among wells**. Otherwise same evaluation and limitations apply as in C3a above.

	SW #		Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
			☐			☐		☐		☐
			☐			☐		☐		☐

Comments: PSI has been triggered under Division 9 rules, due to the proposed pumping rate being greater than 1% of the minimum 80% exceedance flow for the month of October (see attached water availability table). The interference at 30 days is expected to be much less than 25% of the pumping rate due to the proposed well construction which targets deeper portions of the alluvial sequence.

C4a. **690-09-040 (5):** Estimated impacts on **hydraulically connected surface water sources greater than one mile** as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells

Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													

Distributed Wells

Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

(A) = total interference as CFS; (B) = WAB calculated natural flow at 80% exceed. as CFS; (C) = 1% of calculated natural flow at 80% exceed. as CFS; (D) = highlight the checkmark for each month where (A) is greater than (C); (E) = total interference divided by 80% flow as percentage.

Basis for impact evaluation: This section does not apply.

C4b. **690-09-040 (5) (b) The potential to impair or detrimentally affect the public interest is to be determined by the Water Rights Section.**

C5. ☐ **If properly conditioned**, the surface water source(s) can be adequately protected from interference, and/or groundwater use under this permit can be regulated if it is found to substantially interfere with surface water:

i. ☐ The permit should contain condition #(s)_____;

ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. **SW / GW Remarks and Conditions:** Potential to Substantially Interfere (PSI) with nearby surface water has been triggered for the proposed use. Based upon the minimum perennial streamflow of 156 cfs, the proposed rate would have to be lower than 1.56 cfs considering the proposed location and well construction in order to avoid a PSI finding. This does not preclude considerations involving depletion of the Scenic Waterway designated for the Owyhee River and its tributaries, including Jordan Creek.

References Used:

Nearby well logs, GWIS water level database.

Walker, G.W., Repenning, C.A. , 1966, Reconnaissance geologic map of the west half of the Jordan Valley quadrangle, Malheur County, Oregon, Interpretive Map 457, U.S. Geological Survey, Washington, DC., map scale 1:250,000.

Iverson, J.I. 2023, Clarification of current policy for determining over-appropriation in section B1a of the PUBLIC INTEREST REVIEW FOR GROUNDWATER APPLICATIONS.

D. WELL CONSTRUCTION, OAR 690-200

D1. **Well #**: _____ **Logid:** _____

D2. **THE WELL does not appear to meet current well construction standards based upon:**

a. ☐ review of the well log;

b. ☐ field inspection by _____;

c. ☐ report of CWRE _____;

d. ☐ other: (specify) _____

D3. **THE WELL construction deficiency or other comment is described as follows:** _____

D4. ☐ **Route to the Well Construction and Compliance Section for a review of existing well construction.**

Water Availability Tables

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

OWYHEE R > SNAKE R - AT MOUTH

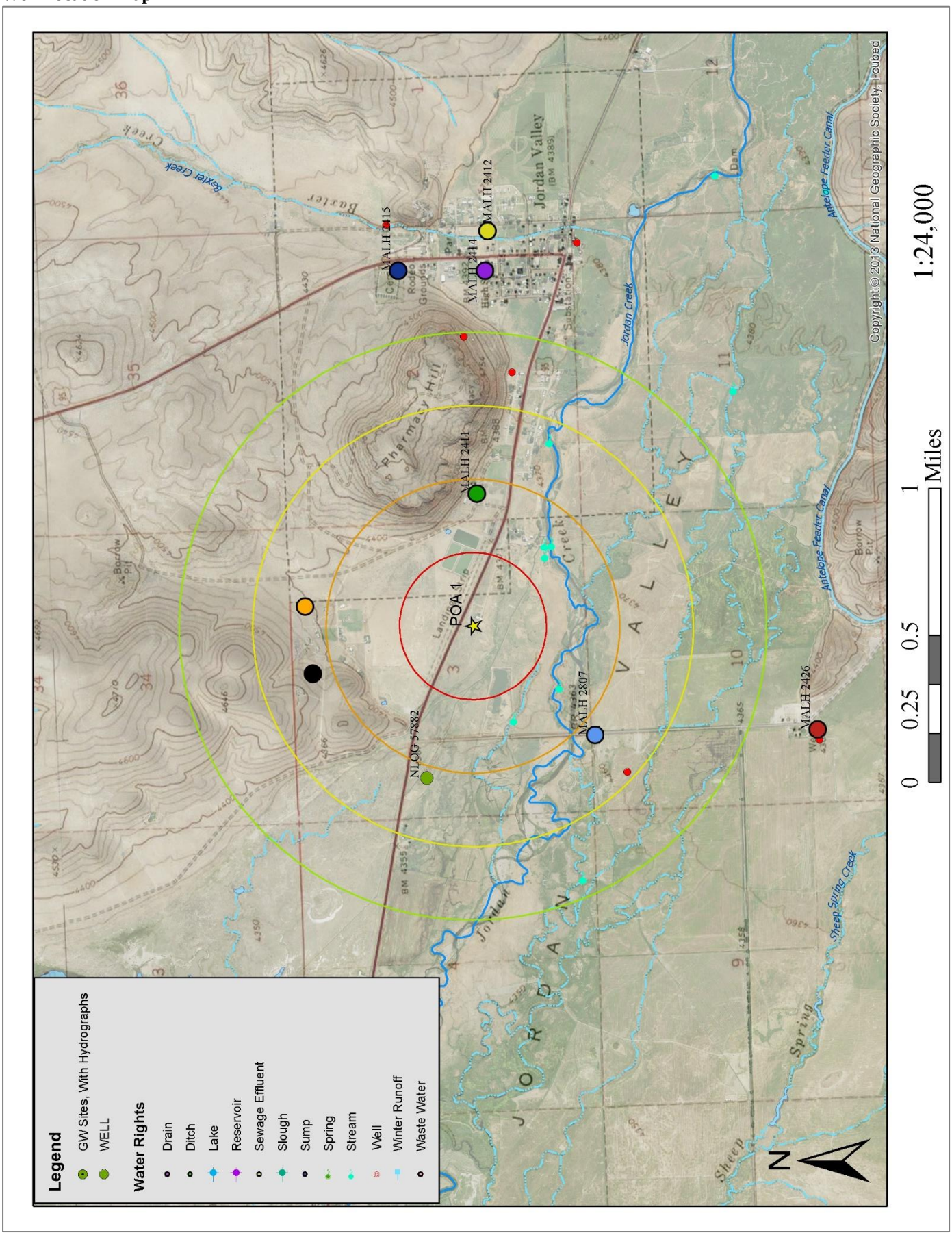
Watershed ID #: 31111001 Basin: OWYHEE Exceedance Level: 80

Time: 3:03 PM Date: 08/12/2021

Monthly values are in cfs.
Storage is the annual amount at 50% exceedance in ac-ft.

Month	Natural Stream Flow	Consumptive Use and Storage	Expected Stream Flow	Reserved Stream Flow	Instream Requirements	Net Water Available
JAN	264.00	714.00	-450.00	0.00	0.00	-450.00
FEB	636.00	1,090.00	-453.00	79.40	0.00	-533.00
MAR	736.00	1,440.00	-709.00	380.00	0.00	-1,090.00
APR	1,360.00	1,750.00	-392.00	459.00	0.00	-851.00
MAY	1,190.00	2,210.00	-1,020.00	79.20	0.00	-1,100.00
JUN	518.00	1,890.00	-1,370.00	0.00	0.00	-1,370.00
JUL	298.00	1,500.00	-1,200.00	0.00	0.00	-1,200.00
AUG	230.00	1,310.00	-1,080.00	0.00	0.00	-1,080.00
SEP	170.00	875.00	-705.00	0.00	0.00	-705.00
OCT	156.00	460.00	-304.00	0.00	0.00	-304.00
NOV	232.00	396.00	-164.00	0.00	0.00	-164.00
DEC	303.00	569.00	-266.00	0.00	0.00	-266.00
ANN	694,000	857,000	106,000	60,000	0	45,600

Well Location Map



Water-Level Measurements in Nearby Wells