



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

CERTIFIED MAIL
Return Receipt Requested

JOE AND JOYCE MCKAY
ARRIEN LAND AND LIVESTOCK CORP.
PO BOX 178
JUNTURA, OR 97911

August 26, 2011

Reference: File G-17401

Dear Applicants:

**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 a water use permit 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 storage of 590.0 acre-feet (AF) of water from Well 1 (MALH 53484) and Well 2 in Granite Creek Basin, in Shumway Reservoir (constructed under Permit R-425) November 1 through February 28.

The application also proposed the appropriation of 3.0 cubic feet per second (CFS), being 1.34 CFS from Well 1 (MALH 53484) and 1.66 CFS from Well 2, for supplemental irrigation of 379.0 acres, March 1 through October 31 of each year.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 (MALH 53484) and Well 2 in Granite Creek Basin for storage and supplemental irrigation is allowable under the Malheur Basin Program.
4. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

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.

5. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

The Storage of 590.0 AF water from Well 1 (MALH 53484) and Well 2 in Granite Creek Basin, in Shumway Reservoir (constructed under Permit R-425) for supplemental irrigation is allowable during the full period requested, November 1 through February 28.

The use of 3.0 CFS of water, being 1.34 CFS from Well 1 (MALH 53484) and 1.66 CFS from Well 2 in Granite Creek Basin for supplemental irrigation of 379.0 acres is allowable during the full period requested, March 1 through October 31.

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

- The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that shows the location of Shumway Reservoir and the location of the point of diversion from Shumway Reservoir by reference to a recognized public land survey corner. The location may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).
- Section 2 of the Application Form for a permit to use Ground Water requires the applicant to indicate if they own all the lands associated with the project from which the water is to be diverted, conveyed, and used. Please complete the enclosed copy of this page of the application, by checking the appropriate box. If you do not own all of the lands where water is to be diverted, conveyed and used then you must provide the names and addresses of all affected landowners.
- Outstanding exam fees in the amount of \$1,070, which is based on:

Category		Fee
Base		\$1000
Number of proposed CFS to be appropriated	3	\$750
Number of proposed Ground Water points of appropriation	2	\$250
Number of Acre Feet to be stored in reservoir (GW)	590	\$1070
Number of Acre Feet to be appropriated from reservoir	590	\$1070
Permit Recording Fee		\$400
TOTAL EXAM AND RECORDING FEES:		\$4540
PAID:		\$3470
BALANCE (INCLUDING RECORDING FEE):		\$1070
<i>* BALANCE NOT INCLUDING RECORDING FEE:</i>		\$670

Please submit this information no later than September 25, 2011. 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 may proceed with a Proposed Final Order recommending denial of the application.

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 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.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, September 9, 2011**. 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, 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 diversion and 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 and stored each month, and shall submit a report which includes the recorded report water-use and 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.

3. Dedicated Measuring Tube: Wells with pumps shall be equipped with an unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200.
4. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Reference Water Level Determination

Following the first year of water use, the user shall report one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The Director may require the user to obtain and report additional water levels after the reference level has been determined. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well 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 non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until 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 senior water rights. The water user shall in no instance 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.

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 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 503-986-0853 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: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17401
WAB 10- n/a, no psi
POU 10- n/a, no psi
GW

APPLICATION FACT SHEET

Application File Number: G-17401

Applicant: JOE AND JOYCE MCKAY, ARRIEN LAND & LIVESTOCK CORP.

County: MALHEUR

Watermaster: 9

Priority Date: JUNE 21, 2010

Source: WELL 1 (MALH 53484) AND WELL 2 IN GRANITE CREEK BASIN

Use: STORAGE OF GROUND WATER FOR IRRIGATION AND SUPPLEMENTAL IRRIGATION OF 379.0 ACRES

Quantity: 3.0 CUBIC FEET PER SECOND (CFS), AND 590.0 ACRE FEET (AF), BEING 1.34 CFS FROM WELL 1 (MALH 53484) AND 1.66 CFS FROM WELL 2

Basin Name & Number: Malheur, #10

Stream Index Reference: Volume 1 GRANITE CR & MISC

Well Locations:

WELL 1 (MALH 53484): SESW, SECTION 20, T23S, R39E, W.M.; 650 FEET NORTH AND 1650 FEET EAST FROM SW CORNER, SECTION 20

WELL 2 (PROPOSED): NENE, SECTION 20, T23S, R39E, W.M.; 800 FEET NORTH AND 4020 FEET EAST FROM SW CORNER, SECTION 20

RESERVOIR LOCATION/SHUMWAY RESERVOIR: SESE, SECTION 20, T23S, R39E

POD FROM SHUMWAY RESERVOIR: NONE GIVEN

Place of Use:

STORAGE :

SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 20

NE $\frac{1}{4}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 21

TOWNSHIP 23 SOUTH, RANGE 39 EAST, W.M.

SUPPLEMENTAL IRRIGATION:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 34.0 ACRES
SECTION 19

Place of Use, continued:
(SUPPLEMENTAL IRRIGATION)

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 20.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 32.5 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 37.5 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 13.0 ACRES
SECTION 20

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 14.0 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 28.0 ACRES
SECTION 29

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES
SECTION 30

TOWNSHIP 23 SOUTH, RANGE 39 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 9, 2011

PUBLIC NOTICE DATE: Tuesday, August 30, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, September 29, 2011

Mailing List for IR Copies

Application #G-17401

IR Date: August 26, 2011

Original mailed to applicant:

JOE & JOYCE MCKAY , ARRIEN LAND & LIVESTOCK CORP., PO BOX 178, JUNTURA,
OR 97911

Copies sent to:

1. WRD - File # G-17401
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD -Watermaster # 9

IR, Map, and Fact Sheet Copies sent to:

4. WRD - Regional Manager: ER

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

5. Northwest Farm Credit Services, 378 W Idaho Avenue, Ontario, OR 97914

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

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Caseworker: Michele McAleer

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