



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

January 13, 2017

BLUE MT ANGUS LLC
64444 INDIAN CREEK RD
PRAIRIE CITY, OR 97869

Reference: File R-88318

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 17.5 acre feet (AF) of water from Indian Creek, runoff, and a spring, tributaries of John Day River for storage in four ponds for livestock, fire protection, irrigation, wildlife, and aesthetics.

Res #	Res Name	Dam Height	Storage Capacity (acre-feet)	Source
1	Pond 1	9.9 feet	4.0	Indian Creek, runoff, snowmelt, waste water
2	Pond 2	9.9 feet	2.5	Indian Creek, runoff, snowmelt, waste water
3	Pond 3	9.9 feet	7.0	Indian Creek, runoff, snowmelt, waste water, springs
4	Pond 4	9.9 feet	4.0	Indian Creek, runoff, snowmelt, waste water

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Indian Creek, runoff, and a spring, tributaries of John Day River, for storage for livestock, fire protection, irrigation and wildlife is allowable under the John Day Basin Program (OAR 690-506-0040).

4. Surface water is available during June only for the proposed Pond 1, Pond 2, and Pond 3 points of diversion. Surface water is available during the period July 1 through November 30 for the proposed Pond 4 point of diversion.
5. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
6. The application is subject to Section 4(d) of the Endangered Species Act and as such subject to review under OAR 690-033 by ODFW.
7. The proposed use is located above the John Day Scenic Waterway (includes N Fk, Middle Fk, & S Fk John Day R), as designated under Oregon Revised Statute 390.826.
8. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
9. The proposed reservoir site may be subject to a wetland determination by the Department of State Lands.

Summary of Initial Determination

Because not all items above are favorable, the diversion of 17.5 AF of water from Indian Creek, runoff, and a spring, tributaries of John Day River for storage in four ponds for livestock, fire protection, irrigation, wildlife and aesthetics, is not allowable for Pond 1, Pond 2, and Pond 3, and it appears unlikely that a permit for all four ponds will be issued, unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order. At this time, you must decide whether to proceed or to withdraw the application as described below.

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.

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, January 27, 2017**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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.

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

1. Measurement devices, and recording/reporting of annual water storage conditions:

- A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage must be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. 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 Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and 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.

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,

A handwritten signature in black ink, appearing to read "Scott Grew".

Scott Grew
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-88318
WAB 6-69952 and 6-213
POU 6-69952 and 6-213
SW

APPLICATION FACT SHEET

Application File Number: R-88318

Applicant: BLUE MT ANGUS LLC

County: Grant

Watermaster: 4

Priority Date: November 28, 2016

Source: INDIAN CREEK, RUNOFF, AND A SPRING, TRIBUTARIES OF JOHN DAY RIVER

Use: STORAGE FOR LIVESTOCK, FIRE PROTECTION, IRRIGATION, WILDLIFE AND AESTHETICS

Quantity: 17.5 ACRE FEET

Basin Name & Number: John Day, #6

Stream Index Reference: Volume 1 JOHN DAY AB KIMBERLY MISC

Pond Locations:

- Pond 1: SWSE SECTION 4, T14S, R33E, W.M.; 250 FEET NORTH AND 1140 FEET EAST FROM S1/4 CORNER, SECTION 4
- Pond 2: SWSE SECTION 4, T14S, R33E, W.M.; 110 FEET NORTH AND 1060 FEET EAST FROM S1/4 CORNER, SECTION 4
- Pond 3: SENE SECTION 32, T13S, R33E, W.M.; 2260 FEET SOUTH AND 200 FEET WEST FROM NE CORNER, SECTION 32
- Pond 4: NENE SECTION 28, T13S, R33E, W.M.; 4170 FEET NORTH AND 4890 FEET EAST FROM SW CORNER, SECTION 28

Place of Use:

NE ¼ NE ¼
SECTION 28

SE ¼ NE ¼
SECTION 32
TOWNSHIP 13 SOUTH, RANGE 33 EAST, W.M.

SW ¼ SE ¼
SECTION 4
TOWNSHIP 14 SOUTH, RANGE 33 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 27, 2017

PUBLIC NOTICE DATE: Tuesday, January 17, 2017

30 DAY COMMENT DEADLINE DATE: Thursday, February 16, 2017

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 Customer Service Group 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
- four 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