



Water Right Application Initial Review

April 13, 2018

BEYER FARMS
C/O EUGENE BEYER AND ANDREA BEYER
10750 EDMUNSON DR SE
SALEM, OR 97317

Reference: Application G-18542

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your 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 Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)

1. Application G-18542 proposes the appropriation of 0.81 cubic foot per second (CFS) of water from Well 1 (MARI 9193) in an unnamed stream basin for irrigation of 65.1 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. Irrigation is allowed under the Willamette Basin Program (OAR 690-502).
4. Groundwater will likely be available within the capacity of the resource, and if properly conditioned (and if authorized), the proposed use of groundwater will avoid injury to existing groundwater rights.
5. The Department has determined, based upon OAR 690-009, that the proposed groundwater use will have the potential for substantial interference with an unnamed stream. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.
6. Surface water is **not** available June 1 through October 31 of each year.
7. Because surface water is not available for the entire period requested, the appropriation of 0.81 CFS of water from Well 1 (MARI 9193) for irrigation on 65.1 acres is not allowable. However, by providing additional information you may be able to pursue a limited permit. Please refer to the **Additional Information Opportunity** section below for details.

8. The proposed use is not located within or above any state or federal scenic waterway.
9. The point of appropriation is not located within a critical, limited or withdrawn groundwater area.
10. Because this application will have an impact on surface water flows where the Oregon Department of Fish and Wildlife (ODFW) has identified that sensitive, threatened or endangered fish are present, this application will be reviewed by at least ODFW and the Department of Environmental Quality in accordance with OAR 690-033 rules. This review could have an impact on the eventual outcome of your application. This review could cause your application to be proposed for denial, the season of use to be shortened, or impacted in some other way when the Department issues a proposed final order at the next stage of processing.
11. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)
12. See **Additional Information Required/Oppportunity** section below for deficiencies with the application.

Summary

Because not all items above are favorable, the appropriation of 0.81 CFS of water from Well 1 (MARI 9193) in an unnamed stream basin for irrigation of 65.1 acres is not allowable, and it appears unlikely that you will be issued a permit. However, by providing additional information you may be able to pursue a limited permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

This initial review does not address various public interest issues or public comments. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

Additional Information Required /Oppportunity

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

1. If you would like to use water for irrigation on 65.1 acres, you may amend your application to reduce the proposed rate to 0.23 CFS. By reducing the rate the Department has determined, based upon OAR 690-009, that the proposed groundwater use will not have the potential for substantial interference with any surface water source. Please be aware that the reduced rate may be insufficient to meet your needs; if so, you may wish to either withdraw the application or submit an amended map with depicting less acreage as the place-of-use.
2. Prior to the issuance of a permit, the Department must receive evidence demonstrating compliance with well construction standards for Well 1 (MARI 9193), which must be approved by the Department's Well Construction and Compliance Section.

Please submit the requested information listed above no later than **Thursday, May 17, 2018**. If the Department does not receive the items listed above by **Thursday, May 17, 2018**, the Department may reject the application and may refund fees.

At this time, you must decide whether to proceed or to withdraw the application.

Proceed

If you choose to proceed with the application you do not have to notify the Department. The application will 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.

Withdraw

You may withdraw the application and receive a refund (minus a \$260 processing charge per application). You must notify the Department **in writing** by **Friday, April 27, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If a Permit is Issued it will Likely Include the Following Conditions:

1. Construction of the well 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 construction deadline to begin is missed.
2. 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 not be valid, unless the Department authorizes the change in writing.
3. **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 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.

4. **Static Water Level Conditions:**

Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:

- A. An average water-level decline of 3 or more feet per year for five consecutive years; or
- B. A total water-level decline of 15 or more feet; or
- C. A hydraulic interference decline of 15 or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.

The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).

- A. Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
- B. In addition to the measurement required in the subsection above, a water-level measurement shall be made each year during the period March 1 through March 31.
- C. All water-level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
- D. Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment is available from the Department.

The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited herein are evidenced by the well measurement required in the static water level condition.

5. **Drip Condition:**

Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.

6. **Well Identification Tag Condition:**

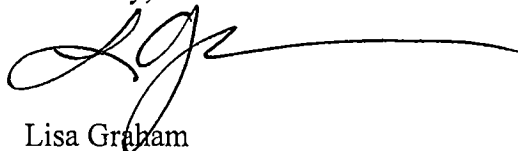
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

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 contact me at Elisabeth.A.Graham@oregon.gov or 503-986-0808 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. 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: Lisa Graham, 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 'L. Graham', with a long horizontal flourish extending to the right.

Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18542
WAB: 151

APPLICATION FACT SHEET

Application File Number: G-18542

Applicant: BYER FARMS; C/O EUGENE BEYER AND ANDREA BEYER

County: MARION

Watermaster: JOEL PLAHN, 16, NWR

Priority Date: AUGUST 9, 2017

Source: WELL 1 (MARI 9193) IN AN UNNAMED STREAM BASIN

Use: IRRIGATION OF 65.1 ACRES

Quantity: 0.81 CUBIC FOOT PER SECOND

Basin Name & Number: WILLAMETTE, #2

WAB: PUDDING R > MOLALLA R - AB MILL CR

Well Location:

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (MARI 9193)	8 S	2 W	WM	1	NW SE	300 FEET SOUTH AND 1130 FEET WEST FROM SE CORNER, DLC 55

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
8 S	1 W	WM	6	SW NW	1.9
8 S	1 W	WM	6	NW SW	5.1
8 S	1 W	WM	6	SW SW	3.1
8 S	2 W	WM	1	SE NE	1.3
8 S	2 W	WM	1	NE SE	32.1
8 S	2 W	WM	1	SE SE	21.6

PUBLIC NOTICE DATE: Tuesday, April 17, 2018

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 27, 2018

30 DAY COMMENT DEADLINE DATE: Thursday, May 17, 2018

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information 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.
- An 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.
- **An 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.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is 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 the 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.

STOP PROCESSING REQUEST FORM
FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR
APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.
- Applicant notification to withdraw Water Right Application **G-18542**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 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 \$260 examination fee) be returned.
- This notice must be received at Water Resources Department by:

Friday, April 27, 2018

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A,
Salem OR, 97301-1271
