

**Oregon Water Resources Department
Water Right Services Division**

Water Right Application R-88318 in the)
name of BLUE MT ANGUS LLC) FINAL ORDER
)

Summary: Order approving Application R-88318. A permit consistent with the attached draft permit shall be issued upon payment of outstanding permit recording fees.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and John Day Basin Program OAR 690-506. These statutes and rules can be viewed on the Oregon Water Resources website:

<http://www.oregon.gov/owrd/pages/law/index.aspx>

The Department's main page is <http://www.oregon.gov/OWRD/pages/index.aspx>.

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190.

FINDINGS OF FACT

The findings of fact in the Proposed Final Order issued January 30, 2018 are incorporated herein.

1. On, November 28, 2016 Blue Mt Angus, LLC submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on January 30, 2018.
3. The protest period closed March 16, 2018, and timely no protest was filed.
4. The proposed use would not impair or be detrimental to the public interest.

CONCLUSIONS OF LAW

1. The conclusions of law in the Proposed Final Order issued January 30, 2018 are incorporated herein.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of the water to be appropriated for the project. The permit is conditioned accordingly.

Appeal Rights

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

ORDER


Application R-88318 is approved. A permit consistent with the attached draft permit shall be issued upon payment of outstanding permit recording fees.

A permit recording fee in the amount of \$520.00 is due no later than 60 days from the date of this Final Order. Failure to pay the required permit recording fees within 60 days from the date of this Final Order may result in the proposed rejection of Application R-88318.

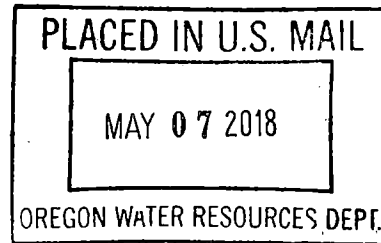
If you need to request additional time to submit fees, the written request should be received in the Salem Office of the Department by the deadline above. The Department will evaluate the request and determine whether or not the request may be granted.

DATED

MAY 4, 2018


Dwight French

Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department



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- If you have any questions about statements contained in this document, please contact Scott Grew at scott.a.grew@oregon.gov or 503-986-0899.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503 986-0900.
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DRAFT This is not a permit. DRAFT

STATE OF OREGON

COUNTY OF GRANT

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

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

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

APPLICATION FILE NUMBER: R-88318

SOURCE OF WATER: INDIAN CREEK AND RUNOFF, TRIBUTARIES TO JOHN DAY RIVER

STORAGE FACILITY: POND 4

PURPOSE OR USE OF THE STORED WATER: LIVESTOCK, FIRE PROTECTION, IRRIGATION,
WILDLIFE, AND AESTHETICS

VOLUME/RATE: 4.0 ACRE-FEET

WATER MAY BE APPROPRIATED FOR STORAGE DURING THE PERIOD: DECEMBER 1
THROUGH APRIL 14

DATE OF PRIORITY: NOVEMBER 28, 2016

DAM MAXIMUM HEIGHT / THE MAXIMUM DAM HEIGHT OF THE DAM SHALL NOT
EXCEED 10 FEET

DAM LOCATION:

POD	Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Area Acres
POND 4	13 S	33 E	WM	28	NE NE	4170 FEET NORTH AND 4890 FEET EAST FROM SW CORNER, SECTION 28	0.7

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

Twp	Rng	Mer	Sec	Q-Q
13 S	33 E	WM	28	NE NE

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 shall 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. The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.
3. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 14048000, and discontinue diversion when the flows specified below are unmet at the gage. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows are subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet at the gage.

John Day Scenic Waterway	
Month	Minimum Flow (cfs)
December	500
January	500
February	1000
March	2000
April	2000

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 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 the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

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.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

Construction of the water system 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 begin construction deadline is missed.

The permitted volume of water shall be stored within ten years of the date of permit issuance. If additional time is needed, 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 storage of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department