



Water Right Application Initial Review

September 27, 2019

DALE BERRETT
TONY BERRET
BERRETT RANCHES INC.
3540 HWY 95
JORDAN VALLEY OR 97910

Reference: Application G-18802

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:

Preliminary Determinations under Oregon Administrative Rule (OAR) 690-310-0080:

1. Application G-18802 proposes the appropriation of 4.0 cubic feet per second (CFS) of water from Well 1 (MALH 54279/ L114885) in Jordan Creek Basin for supplemental irrigation of 263.7 acres March 1 through November 1 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 Owyhee Basin Program. (OAR 690-511-0010(1))
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 not have the potential for substantial interference with any surface water source.
6. The proposed use is located above the Owyhee Scenic Waterway, as designated under Oregon Revised Statute 390.826. The Department has determined, based upon OAR 690-310-0260, that there is not a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.
7. The point of appropriation is not located within a critical, limited, or withdrawn groundwater area.

8. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
9. The application proposed supplemental irrigation 263.7, however, the Department's records show only 246.9 primary acres on these lands. Therefore, the supplemental portion will be limited to 246.9 acres. See table below.

Twp	Rng	Mer	Sec	Q-Q	Proposed Supplemental Irrigation Acres	Allowable Supplemental Irrigation Acres	Available Primary Irrigation Acres
30 S	44 E	WM	27	SE NE	35.5	35.1	0.4
30 S	44 E	WM	27	NE NW	40.2	38.8	1.4
30 S	44 E	WM	27	NW NW	38.9	33.5	5.4
30 S	44 E	WM	27	SW NW	26.2	21.3	4.9
30 S	44 E	WM	27	SE NW	26.5	21.8	4.7
TOTALS					263.7	246.9	16.8

If you would like the remaining land, 16.8 acres, to be considered primary irrigation, please provide \$350 to cover the additional use and a revised map differentiating the primary and supplemental irrigation by **October 31, 2019**. If the Department does not receive the fee and revised map by this deadline, the 16.8 acres will be excluded from the application.

Summary of Preliminary Determinations
The appropriation of 4.0 CFS of water from Well 1 (MALH 54279/ L114885) in Jordan Creek Basin for supplemental irrigation of 263.7 acres is allowable March 1 through November 1 of each year.

Because of the favorable determinations described herein, Application G-18802 can move to the next phase of the water-rights application review process, which includes a public interest review.

Public Comment & Further Review:

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

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

- To 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.
- To Withdraw - You may withdraw the application and receive a refund (minus a \$260 examination fee per application). You must notify the Department **in writing** by **October 11, 2019**. 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. **Water Use Measurement, Recording, and Reporting Condition:**
 - 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. Groundwater Condition:

The permittee shall allow Department staff access to Well 1 (MALH 54279/ L114885) to conduct routine water level measurements to assess potential changes to groundwater elevation with increased use.

5. 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 website at <https://www.oregon.gov/ODA/programs/NaturalResources/AgWQ/Pages/AgWQPlans.aspx> to learn more about the plans and how they may affect the proposed water use.

For Further Information:

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 503-986-0900. 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,



Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18802
WAB: No PSI

APPLICATION FACT SHEET

Application File Number: G-18802

Applicant: DALE BERRETT, TONY BERRET AND BERRETT RANCHES INC.

County: MALHEUR

Watermaster: RON JACOBS, 9, ER

Priority Date: MARCH 11, 2019

Source: WELL 1 (MALH 54279/ L114885) IN JORDAN CREEK BASIN

Use: SUPPLEMENTAL IRRIGATION OF 263.7 ACRES

Quantity: 4.0 CUBIC FEET PER SECOND

Basin Name & Number: OWYHEE, #11

WAB: OWYHEE R > SNAKE R - AT MOUTH

Well Location:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
30 S	44 E	WM	27	SE NW	2302 FEET SOUTH AND 2569 FEET EAST FROM NW CORNER, SECTION 27

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
30 S	44 E	WM	27	NE NE	20.0
30 S	44 E	WM	27	NW NE	39.5
30 S	44 E	WM	27	SW NE	36.9
30 S	44 E	WM	27	SE NE	35.5
30 S	44 E	WM	27	NE NW	40.2
30 S	44 E	WM	27	NW NW	38.9
30 S	44 E	WM	27	SW NW	26.2
30 S	44 E	WM	27	SE NW	26.5

PUBLIC NOTICE DATE: October 1, 2019

14 DAY STOP PROCESSING DEADLINE DATE: October 11, 2019

30 DAY COMMENT DEADLINE DATE: October 31, 2019

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.oregon.gov/OWRD

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) 986-0900.

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-18802**.

After reviewing the Initial Review for my application, I request that processing be stopped and 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 by the Water Resources Department no later than:

October 11, 2019

- Return the notice to:

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

Mailing List for IR Copies

Application G-18802

IR Date: September 27, 2019

Original and map mailed to applicant:

DALE BERRETT
TONY BERRET
BERRETT RANCHES INC.
3540 HWY 95
JORDAN VALLEY OR 97910

Sent via auto email:

1. Applicant - berrettcattle@yahoo.com & oneberrett@yahoo.com
2. WRD – Watermaster Ron Jacobs # 9

Copies sent to:

1. WRD - File G-18802
2. WRD – SW Section (INCLUDE COPY OF YELLOW SHEET)
3. District - Jordan Valley Irrigation District

Application Specialist: Lisa Graham

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)