

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

Water Right Application G-19086 in the name of TERRY BENGARD PROPERTIES and BENGARD LOST RIVER RANCH	FINAL ORDER
--	-------------

**Authority**

Oregon Revised Statutes (ORS) 536.700 - 536.780 and Oregon Administrative Rules (OAR) 690-019 establish the process by which the Department can allow temporary emergency-use permits.

**Findings of Fact**

1. On April 8, 2021, Terry Bengard Properties and Bengard Lost River Ranch submitted an application to the Department for an emergency-use permit, requesting 9.0 cubic feet per second of groundwater for supplemental irrigation of 734.25 acres from a single well.
2. The Department has not received adverse comments related to the possible issuance of the attached permit.
3. The Department completed a review of the application in accordance with OAR 690-019-0040.
4. Drought conditions have created an inability on the part of the applicant to obtain water under existing Claim KA-1000.
5. The use is proposed in a designated drought area according to the Governor's March 31, 2021 Executive Order 21-07.
6. The required examination and recording fees were paid.
7. The Department considered the factors described in OAR 690-310-0130 and finds that:
  - (a) Under ORS 536.340(1)(a), the Water Resources Commission may establish a basin program to classify sources of water supply as to the highest and best use and quantities of use, and that classification of sources of water supply has the effect of restricting the use and quantities of use thereof to the uses and quantities of uses specified in the classification. The Commission has not established a basin program for the Klamath River Basin. Therefore, neither the proposed use nor the quantity of water is restricted as a result of this consideration;

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

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.

- (b) Groundwater is not available in the amount requested for this emergency, temporary use. However, the Department has also considered the need for water because of the drought emergency and the short-term nature of the proposed emergency use and has determined that the use would not impair or be detrimental to the public interest;
  - (c) The proposed use will not injure other water rights; and
  - (d) The proposed use complies with other rules of the Commission.
8. The application proposed supplemental irrigation of 734.25 acres; however, the underlying Claim KA-1000 only authorizes primary irrigation of 730.6 acres. Therefore, supplemental irrigation has been limited to 730.6 acres, as described in the attached permit.

**Conclusions of Law**

The application will not cause injury to existing water rights and will not impair or be detrimental to the public interest (OAR 690-019-0040(3)).

**Order**

Now therefore, it is ordered, Application G-19086 is hereby approved and Permit G-18620 is issued as limited by the conditions contained therein.

DATED **MAY 06 2021** \_\_\_\_\_



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

*This document was prepared by Lisa Graham. If you have any questions about any of the statements contained in this document I can be reached at [elisabeth.a.graham@oregon.gov](mailto:elisabeth.a.graham@oregon.gov) or 503-986-0808.*

*If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.*

*Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.*