



Water Right Application Initial Review

November 1, 2024

SEIJI ESTATE, LLC
10020 SW 141 AVE
BEAVERTON OR 97008

Reference: Application G-19227

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 Water Resources Department (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 Department has made the following preliminary determinations:

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

1. Application G-19227 proposes the appropriation of 0.045 cubic foot per second (CFS) of water, further limited to 20.0 acre-feet (AF) annually, being 0.022 CFS from Well 1 (WASH 13286), 0.016 CFS from Well 2 (WASH 78965), and 0.045 CFS from Well 3 (WASH 77267), in Chicken Creek Basin for irrigation of 20.0 acres from 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 690-502-0160(2)). However, the well is located within the Chehalem Mountain Groundwater Limited Area, therefore is subject to the rules under OAR 690-502-0200 as follows:
 - A. Permits may be issued for a period not to exceed five years.
 - B. The amount of water used for irrigation is limited to an appropriation of 1.0 AF for each acre irrigated during the irrigation season of each year.

Please note: Applications are evaluated using the rules in effect at the time the application is accepted as complete. To view the rules relevant for this application, please visit: <https://secure.sos.state.or.us/oard/displayCompilations> and navigate to Chapter 690 (Water Resources Department).

- C. Irrigation allowed under a permit shall be by drip irrigation or by an equally efficient method.
4. An assessment of groundwater availability has been completed by the Department. A copy of this assessment is in the file and can be viewed on the Department's website. Groundwater for the proposed use is not over-appropriated. OAR 690-310-0080(1)(b); OAR 690-300-0010(57).
 5. The Department has determined that the proposed groundwater use will have the potential for substantial interference (PSI) with Baker Creek and the central unnamed tributary to Chicken Creek. OAR 690-009-0040. Therefore, in accordance with OAR 690-300-0010(57)(a) and OAR 690-400-0010(11)(a)(B), surface water availability must be considered. During the period of use requested, surface water is available (at an 80% exceedance probability) from March 1 through May 31 of each year. Therefore, **water is not available for the proposed use**. OAR 690-310-0080(1)(b); OAR 690-300-0010(57); OAR 690-410-0070. See the **Additional Information Opportunity** section below for more information.
 6. If properly conditioned (and if authorized), the proposed use of groundwater will not injure other water rights.
 7. The proposed use is not located within or above any state or federal scenic waterway.
 8. Because this application will have an impact on surface water flows where sensitive, threatened, or endangered (STE) fish species may be present, this application will be reviewed by the Oregon Department of Fish and Wildlife and the Oregon Department of Environmental Quality. This review may cause your application to be limited, conditioned, or denied. Depending on the proposed use, you may be required to mitigate for potential impacts identified in the review. See the **Division 33 Review** section below for more information.
 9. The Department has determined that Well 1 (WASH 13286) and Well 2 (WASH 78965) do not meet current minimum well construction standards. Well 1 is not sealed to the proper depth. To meet minimum well construction standards, Well 1 must be recased and resealed with an approved grout to a minimum depth of 18 feet below ground surface. For Well 2, the Water Supply Well Report is an alteration and no original report documenting construction was found. In order to meet minimum construction standards, the well must be recased and resealed with an approved grout to minimum standards. See the **Minimum Well Construction Standards – Repair Required** section below for more information.
 10. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.
 11. See the **Additional Information Required** section below for deficiencies with the application.

Summary of Preliminary Determinations

The appropriation of 0.045 CFS of water, further limited to 20.0 AF annually, being 0.022 CFS from Well 1 (WASH 13286), 0.016 CFS from Well 2 (WASH 78965), and 0.045 CFS from Well 3 (WASH 77267), in Chicken Creek Basin for irrigation of 20.0 acres from March 1 through October 31 of each year is not allowable.

Additional Information Opportunity:

The proposed groundwater use was determined to have potential for substantial interference (PSI) with surface water, and surface water is not available for the full period of time requested (Preliminary Determination #5). Pursuant to OAR 690-300-0010(57)(b), a water right permit applicant has the opportunity to provide the following information for the Department to consider:

- A. Information that demonstrates the proposed use only requires water (and can make beneficial use of water) during the period of time when water is available for further appropriation, being March 1 through May 31 of each year; or
- B. Information that demonstrates the applicant can obtain water from an alternate source during the period when water is not available, being June 1 through October 31.

If you are interested in pursuing the opportunity described above, please submit the requested information no later than **December 5, 2024**. If you need more time, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time is needed and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

Minimum Well Construction Standards – Repair Required:

Prior to the issuance of any Proposed Final Order that may recommend approval, evidence demonstrating compliance with well construction standards must be submitted and approved by the Department. In repairing the well(s), you should work closely with the Department and/or a licensed well constructor to ensure that repairs are carried out in a manner that will not violate well construction or other rules. You are encouraged to contact Tommy Laird of the Department's Well Construction and Compliance Section at 503-302-8618 to determine how to proceed.

Please submit this information no later than December 5, 2024. If you are unable to submit the information listed above by this date, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time is needed and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

Please also note that regardless of the outcome of this application, you will need to work with the Department to either repair or abandon the well(s) to comply with the minimum standards for the construction, conversion, alteration, maintenance, and abandonment of water supply wells in order to protect the state's groundwater supply (OAR 690-200).

Additional Information Required:

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

- A. The map submitted does not meet the requirements of OAR 690-310-0050(4)(a), (b) and (c).
 - a. The measured distances for each well are referenced to the SW corner of Section 27; however, the reference corner identified on the map is the SW corner of Section 35.
 - b. The map does not show the location of all main canals, ditches, pipelines, or flumes.
 - c. The township identified on the map does not appear to be correct.

Please provide a map that correctly identifies which recognized public land survey corner was used to determine the measured distances of the wells, shows the location of all main canals, ditches, pipelines, or flumes, and identifies the correct township.

Please submit this information no later than December 5, 2024. If you are unable to submit the information listed above by this date, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time is needed and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the information requested above or a request for an administrative hold by the above date, the Department may reject the application.

Public Comment:

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.

Division 33 Review:

The Department's Division 33 administrative rules (OAR 690-033) establish additional procedures and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to STE fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

You may be required to mitigate for potential impacts identified in the Division 33 review process. Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water within the impacted reach through purchasing or transferring an existing water right. Following the Initial Review, you will be notified if mitigation is required due to impacts to STE fish species.

If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options. There will be an additional fee of \$790 required with any mitigation proposal submitted.

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 \$310 processing fee). You must notify the Department **in writing** by **November 15, 2024**. 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:**
 - 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 Level Measurement, Reporting, and Shut-Off Condition:**

For each well on this authorization, beginning on the permit signature date for existing wells or in the year well construction is completed for new wells, and each year thereafter, the permit holder must report a static water-level measurement ("measurement") taken in March. The measurement is required whether the well is used or not. If pumping is to commence following completion of the well and prior to the next March, then a measurement must be made at least one week following well completion and before pumping commences.

Measurements must be properly reported within 30 days of measurement using forms specified by the Department. A measurement will be properly reported if the submission includes all required information as listed in the document attached. Measurements must be made with equipment that is accurate to the standards specified in Oregon Administrative Rule (OAR) 690-217-0045.

Measurements must be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed land surveyor, licensed well constructor, pump installer licensed by the Construction Contractors Board, or Department staff. The Department is not responsible for regular measurement of the static water level, but Department staff may measure the well during the normal course of groundwater level monitoring or to confirm the submitted measurement(s).

For each well on this permit, the Department will establish a reference groundwater level using the best available data. The reference level is intended to represent the highest elevation (shallowest depth) static water level that has been measured or can be reasonably estimated to have existed within each well at any time before its reference level is set. If Annual High Water Levels have been increased measurably by human activity, then the Department may set a different reference level using best available information. If the permit holder fails to measure and report the static water level within 12 months of permit issuance, or of completion of the well(s), then Department staff will estimate the static water level using available data, including measurements in surrounding wells. In case the permit is amended or the subsequent certificate is transferred, the Department may establish a new reference level for any new or additional wells under new permits or certificates issued under this right. The reference level for a new or additional well should reflect the highest static water level in that well or, if that measurement occurred after the time represented by the original reference level, then the water level that would have been measured in that well, if the well existed and was measured at the time represented by the original reference level.

All water use authorized under this permit must immediately stop if any of the following occur:

- A. Any annual high elevation static groundwater level in any well on this permit declines 15 or more feet below the reference level for that well, or
- B. Groundwater levels are not measured and properly reported as specified above for any completed well that is authorized on the permit for two consecutive years, or
- C. Hydraulic interference contributes to a decline of 15 or more feet in any neighboring well with senior priority, at any time during the year.

The Department will determine when any of the above conditions have occurred and may order the permit holder to stop all water use under this permit. The permit holder is also responsible for stopping all water use if they become aware that any of the conditions have occurred, even without notice from the Department. Following such a stop, water use under this permit will not be allowed and may only resume once the permit holder receives notice from the Department. If the permit holder fails to stop use, then the Department may take control of the controlling works of any wells authorized under this permit and may reduce the amount of groundwater pumped until the unlawful use is eliminated.

The permit holder acknowledges that that one or more of the conditions requiring stoppage of use may occur prior to any use of any well on this permit.

The Department may allow the permit holder to pause annual water level measurement and reporting requirements from some of the permitted wells if measurements from those wells are redundant with other data being collected by the Department. The permit holder must receive written notification of such an allowance before stopping measurements. If this happens, the Department may reinstate the measurement requirements at any time.

5. **Groundwater production shall be allowed from no deeper than approximately elevation 550 feet above mean sea level.**
6. **Groundwater production shall be only from a single aquifer in the Columbia River Basalt Group groundwater reservoir.**
7. **Well Identification Tag:**

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.

8. **Special Conditions:**

- A. Groundwater production in the permitted wells shall be limited to a single aquifer in the Columbia River Basalt Group.
 - i. To limit exposure to only a single CRBG aquifer, any new or deepened wells associated with this permit should be limited to a bottom completion elevation of approximately 550 feet mean sea level.
 - ii. The well shall be continuously cased and continuously sealed to within 100 feet of the bottom of the open borehole. A larger open interval may be approved by the Department if the permittee can demonstrate to the Departments' satisfaction, using packer tests or other suitable methods, that the hydraulic heads of waterbearing zones in the proposed open interval are equivalent or that the open interval is part of a continuous zone of interconnected porous materials.

- iii. Following well completion, the well shall be thoroughly developed to remove cuttings and drilling fluids. A video log of the well shall be collected to demonstrate to the satisfaction of the Department that the well is only open to a single aquifer.
 - B. The well shall be equipped with a dedicated ¾-inch diameter (minimum) water-level measurement tube, separate from other methods of measuring the water levels such as airlines or transducers. The annual water-level measurement required in the permit shall be measured through the measuring tube. When requested, access to the well shall be provided to Department staff in order to make water-level measurements.
 - C. All hydrologic, geologic, geochemical and video data collected shall be provided to OWRD in report and in electronic form specified by the Department.
9. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.
10. The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second and 1.0 acre-foot for each acre irrigated during the irrigation season of each year.
11. This permit shall expire five years from permit issuance. This permit may be renewed for additional periods of time, not to exceed five years, if the Director finds the groundwater resource can likely support the continued use. The following conditions shall have been met by the permittee in order for the Department to consider renewal:
- A. Within two years of permit issuance, the permittee shall prepare a plan for the Director which shall indicate the steps for obtaining a long-term water supply.
 - B. Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

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 www.oregon.gov/ODA to learn more about the plans and how they may affect the proposed water use.

For Further Information:

Feel free to contact me at Lucinda.R.Vranizan@water.oregon.gov or 971-375-2256 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: Lucinda Vranizan, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Lucinda Vranizan

Lucinda Vranizan
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description
 Stop Processing Request Form

G-19227
WAB: 30201006, 30201001
Proposed to Deny

APPLICATION FACT SHEET

Application File Number: G-19227

Applicant: SEIJI ESTATE, LLC

County: WASHINGTON

Watermaster: JACOB W. CONSTANS, #18, NWR

Priority Date: DECEMBER 2, 2021

Sources: WELL 1 (WASH 13286), WELL 2 (WASH 78965), AND WELL 3 (WASH 77267) IN CHICKEN CREEK BASIN

Use: IRRIGATION OF 20.0 ACRES

Quantity: 0.045 CUBIC FOOT PER SECOND (CFS), FURTHER LIMITED TO 20.0 ACRE-FEET ANNUALLY, BEING 0.022 CFS FROM WELL 1 (WASH 13286), 0.016 CFS FROM WELL 2 (WASH 78965), AND 0.045 CFS FROM WELL 3 (WASH 77267)

Period of Use: MARCH 1 THROUGH OCTOBER 31

Basin Name & Number: WILLAMETTE, #2

WABS: TUALATIN R > WILLAMETTE R - AT GAGE 14207500; MCFEE CR > TUALATIN R - AT MOUTH

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (WASH 13286)	2 N	2 W	WM	35	SW SW	220 FEET NORTH AND 750 FEET EAST FROM SW CORNER, SECTION 27
WELL 2 (WASH 78965)	2 N	2 W	WM	35	SW SW	300 FEET NORTH AND 870 FEET EAST FROM SW CORNER, SECTION 27
WELL 3 (WASH 77267)	2 N	2 W	WM	35	SW SW	1270 FEET NORTH AND 650 FEET EAST FROM SW CORNER, SECTION 27

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	2 W	WM	35	SW SW	20.0

PUBLIC NOTICE DATE: November 5, 2024

14 DAY STOP PROCESSING DEADLINE DATE: November 15, 2024

30 DAY COMMENT DEADLINE DATE: December 5, 2024

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 website 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.
- 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.

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-19227**.

After reviewing the Initial Review for my application, I request that processing be stopped, and fees be refunded (minus a \$310 processing 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 \$310 processing fee) be returned.

- This notice must be received by the Water Resources Department no later than:

November 15, 2024

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A
Salem, OR 97301-1266
