



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172  
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **137836**

APPLICATION # \_\_\_\_\_  
PERMIT \_\_\_\_\_  
TRANSFER \_\_\_\_\_

RECEIVED FROM: Waterwatch of Oregon Inc  
BY: \_\_\_\_\_

APPLICATION 6-19116  
PERMIT \_\_\_\_\_  
TRANSFER \_\_\_\_\_

CASH:  CHECK: # 1007 OTHER: (IDENTIFY)

TOTAL REC'D \$ 950.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES \$ \_\_\_\_\_  
OTHER: (IDENTIFY) \$ \_\_\_\_\_  
0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS** 47235

0407 COPY & TAPE FEES \$ \_\_\_\_\_  
0410 RESEARCH FEES \$ \_\_\_\_\_  
0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
0240 EXTENSION OF TIME \$ \_\_\_\_\_

**WATER RIGHTS:**

EXAM FEE		
\$	0201 SURFACE WATER	0202
\$	0203 GROUND WATER	0204
\$	0205 TRANSFER	

**RECORD FEE**

\$	
\$	
\$	
\$	
\$	

**WELL CONSTRUCTION**

EXAM FEE		
\$	0218 WELL DRILL CONSTRUCTOR	0219
	LANDOWNER'S PERMIT	0220

**LICENSE FEE**

\$	
\$	
\$	

0223 OTHER (IDENTIFY) Protest Fee's \$950.00  
*Nonapplicant*

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE \$ \_\_\_\_\_ CARD# \_\_\_\_\_  
0210 MONITORING WELLS \$ \_\_\_\_\_ CARD# \_\_\_\_\_  
OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FWWRD) \$ \_\_\_\_\_  
0231 HYDRO LICENSE FEE (FWWRD) \$ \_\_\_\_\_  
HYDRO APPLICATION \$ \_\_\_\_\_

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE **RECEIVED**  
OBJ. CODE \_\_\_\_\_ VENDOR # **OVER THE COUNTER**  
DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **137836**

DATED: 4-5-2022 BY: [Signature]

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172  
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **137836**

INVOICE # \_\_\_\_\_

RECEIVED FROM: Waterwatch of Oregon, Inc.  
BY: \_\_\_\_\_

APPLICATION	5-19116
PERMIT	
TRANSFER	

CASH:  CHECK: # 1007 OTHER: (IDENTIFY)

TOTAL REC'D \$ 950.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES		\$
OTHER: (IDENTIFY)		\$
0243 I/S Lease	0244 Muni Water Mgmt. Plan	0245 Cons. Water

**4270 WRD OPERATING ACCT**

<b>MISCELLANEOUS</b>			
0407 COPY & TAPE FEES		\$	
0410 RESEARCH FEES		\$	
0408 MISC REVENUE: (IDENTIFY)		\$	
TC162 DEPOSIT LIAB. (IDENTIFY)		\$	
0240 EXTENSION OF TIME		\$	
<b>WATER RIGHTS:</b>			
0201 SURFACE WATER	EXAM FEE	\$	0202 RECORD FEE
0203 GROUND WATER		\$	0204
0205 TRANSFER		\$	
<b>WELL CONSTRUCTION</b>			
0218 WELL DRILL CONSTRUCTOR	EXAM FEE	\$	0219 LICENSE FEE
LANDOWNER'S PERMIT		\$	0220
0213 OTHER (IDENTIFY) <u>Protest Fees</u>		\$	

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE	\$	CARD#
0210 MONITORING WELLS	\$	CARD#
OTHER (IDENTIFY)		

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FW/WRD)		\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HYDRO APPLICATION		\$

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE **RECEIVED**  
OBJ. CODE \_\_\_\_\_ **OVER THE COUNTER**  
DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **137836**

DATED: 4-5-2022 BY: [Signature]

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172  
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **135025**

INVOICE # \_\_\_\_\_

RECEIVED FROM: Allah Bakhsh

APPLICATION	6-19116
PERMIT	
TRANSFER	

BY: \_\_\_\_\_

CASH:  CHECK: # 472 OTHER: (IDENTIFY)

TOTAL REC'D \$ 5,010.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES \$ \_\_\_\_\_  
 \_\_\_\_\_ OTHER: (IDENTIFY) \$ \_\_\_\_\_

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

0407 COPY & TAPE FEES \$ \_\_\_\_\_  
 0410 RESEARCH FEES \$ \_\_\_\_\_  
 0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
 TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
 0240 EXTENSION OF TIME \$ \_\_\_\_\_

**WATER RIGHTS:**

0201 SURFACE WATER \$ \_\_\_\_\_ 0202 RECORD FEE \$ \_\_\_\_\_  
 0203 GROUND WATER \$ 4,490.00 0204 \$ 520.00  
 0205 TRANSFER \$ \_\_\_\_\_

**WELL CONSTRUCTION**

0218 WELL DRILL CONSTRUCTOR \$ \_\_\_\_\_ 0219 LICENSE FEE \$ \_\_\_\_\_  
 LANDOWNER'S PERMIT 0220 \$ \_\_\_\_\_

\_\_\_\_\_ OTHER (IDENTIFY) \_\_\_\_\_

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE \$ \_\_\_\_\_ CARD # \_\_\_\_\_  
 0210 MONITORING WELLS \$ \_\_\_\_\_ CARD # \_\_\_\_\_

\_\_\_\_\_ OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FWWRD) \$ \_\_\_\_\_  
 0231 HYDRO LICENSE FEE (FWWRD) \$ \_\_\_\_\_  
 \_\_\_\_\_ HYDRO APPLICATION \$ \_\_\_\_\_

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_  
 OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **135025**

DATED: 4-20-2021 BY: [Signature]

# Groundwater Application Review Summary Form

Application # G- 19116

GW Reviewer Darrick E. Boschmann Date Review Completed: 05/10/2021

## Summary of GW Availability and Injury Review:

Groundwater for the proposed use is either over appropriated, will not likely be available in the amounts requested without injury to prior water rights, OR will not likely be available within the capacity of the groundwater resource per Section B of the attached review form.

## Summary of Potential for Substantial Interference Review:

There is the potential for substantial interference per Section C of the attached review form.

## Summary of Well Construction Assessment:

The well does not appear to meet current well construction standards per Section D of the attached review form. Route through Well Construction and Compliance Section.

*This is only a summary. Documentation is attached and should be read thoroughly to understand the basis for determinations and for conditions that may be necessary for a permit (if one is issued).*

WATER RESOURCES DEPARTMENT

MEMO

05/10/2021

TO: Application G- 19116

FROM: GW: Darrick E. Boschmann  
(Reviewer's Name)

SUBJECT: Scenic Waterway Interference Evaluation

YES The source of appropriation is hydraulically connected to a State Scenic Waterway or its tributaries  
 NO

YES Use the Scenic Waterway Condition (Condition 7J)  
 NO

Per ORS 390.835, the Groundwater Section is **able** to calculate ground water interference with surface water that contributes to a Scenic Waterway. The calculated interference is distributed below

Per ORS 390.835, the Groundwater Section is **unable** to calculate ground water interference with surface water that contributes to a scenic waterway; **therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway**

DISTRIBUTION OF INTERFERENCE

*Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "unable" option above, thus informing Water Rights that the Department is unable to make a Preponderance of Evidence finding.*

Exercise of this permit is calculated to reduce monthly flows in [Enter] Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec

PUBLIC INTEREST REVIEW FOR GROUNDWATER APPLICATIONS

TO: Water Rights Section Date 05/10/2021  
 FROM: Groundwater Section Darrick E. Boschmann  
 Reviewer's Name  
 SUBJECT: Application G- 19116 Supersedes review of NA  
 Date of Review(s)

**PUBLIC INTEREST PRESUMPTION; GROUNDWATER**

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525.* Department staff review groundwater applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. **This review is based upon available information and agency policies in place at the time of evaluation.**

**A. GENERAL INFORMATION:** Applicant's Name: Allah Bakhsh County: Harney

A1. Applicant(s) seek(s) 4.9 cfs from 5 well(s) in the Malheur Lake Basin,  
Catlow Valley subbasin

A2. Proposed use Nursery Seasonality: Year Round

A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well I	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	PROP	1	Volcanic rock	4.9	36.00S-29.00E-7-NW NW	30 FEET SOUTH AND 1280 FEET EAST FROM NW CORNER, SECTION 7
2	PROP	2	Volcanic rock	4.9	36.00S-29.00E-7-NW NW	980 FEET SOUTH AND 60 FEET EAST FROM NW CORNER, SECTION 7
3	PROP	3	Volcanic rock	4.9	36.00S-29.00E-7-SW SW	50 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 7
4	PROP	4	Volcanic rock	4.9	36.00S-29.00E-7-SW SW	50 FEET NORTH AND 790 FEET EAST FROM SW CORNER, SECTION 7
5	PROP	5	Volcanic rock	4.9	36.00S-29.00E-7-SE SW	50 FEET NORTH AND 50 FEET WEST FROM S1/4 CORNER, SECTION 7

\* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	4872	-	-	-	405	0-32	+1.5-32	-	-	-	-	-
2	4877	-	-	-	405	0-32	+1.5-32	-	-	-	-	-
3	4947	-	-	-	405	0-32	+1.5-32	-	-	-	-	-
4	4970	-	-	-	405	0-32	+1.5-32	-	-	-	-	-
5	4973	-	-	-	405	0-32	+1.5-32	-	-	-	-	-

Use data from application for proposed wells.

A4. Comments: \_\_\_\_\_

The proposed wells are located in southwest Harney County, along the border with Lake County on the north flank of Beatys Butte. The area underlying the proposed wells is mapped as Tb (Basalt) by Walker and Repenning, 1965. There are no existing wells in this area.

A5.  Provisions of the \_\_\_\_\_ Basin rules relative to the development, classification and/or management of groundwater hydraulically connected to surface water  are, or  are not, activated by this application. (Not all basin rules contain such provisions.)

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A6.  Well(s) # \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, tap(s) an aquifer limited by an administrative restriction.

Name of administrative area: \_\_\_\_\_  
Comments: Currently no administrative area.  
\_\_\_\_\_  
\_\_\_\_\_

**B. GROUNDWATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070**

B1. Based upon available data, I have determined that groundwater\* for the proposed use:

- a.  is over appropriated,  is not over appropriated, or  cannot be determined to be over appropriated during any period of the proposed use. \* This finding is limited to the groundwater portion of the over-appropriation determination as prescribed in OAR 690-310-130;
- b.  will not or  will likely be available in the amounts requested without injury to prior water rights. \* This finding is limited to the groundwater portion of the injury determination as prescribed in OAR 690-310-130;
- c.  will not or  will likely to be available within the capacity of the groundwater resource; or
- d.  will, if properly conditioned, avoid injury to existing groundwater rights or to the groundwater resource:
  - i.  The permit should contain condition #(s) 7N; Flow meter/reporting;
  - ii.  The permit should be conditioned as indicated in item 2 below.
  - iii.  The permit should contain special condition(s) as indicated in item 3 below;

- B2. a.  Condition to allow groundwater production from no deeper than \_\_\_\_\_ ft. below land surface;
- b.  Condition to allow groundwater production from no shallower than \_\_\_\_\_ ft. below land surface;
- c.  Condition to allow groundwater production only from the \_\_\_\_\_ groundwater reservoir between approximately \_\_\_\_\_ ft. and \_\_\_\_\_ ft. below land surface;
- d.  Well reconstruction is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Groundwater Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B3. Groundwater availability remarks: \_\_\_\_\_

There are no existing wells or groundwater developments anywhere in this immediate area. Over 5 miles to the west LAKE 51567 was completed to a depth of 760 feet in basalt and reportedly encountered no water. Approximately 8 miles to the east HARN 52610 penetrated 193 feet of clay, ash and pumice overlying basalt and broken rock to a depth of 650 feet and was also reported as a dry hole.

Very little information exists for this location and it is not known if sufficient groundwater will be present at the proposed depth for the proposed use.

If a permit is issued, the following conditions are recommended:

7N: Annual Measurement and Decline Condition

Flow meter condition: Use the water rights “large” permit condition requiring a totalizing flow meter and reporting.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C. GROUNDWATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040**

C1. 690-09-040 (1): Evaluation of aquifer confinement:

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1-5	Volcanic rock	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

Basis for aquifer confinement evaluation: \_\_\_\_\_

There is very little information available about groundwater conditions in this area but elsewhere in this basin groundwater exists under unconfined conditions in both volcanic rock and sedimentary deposits.

C2. 690-09-040 (2) (3): Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (mi)	Hydraulically Connected?			Potential for Subst. Interfer. Assumed?	
						YES	NO	ASSUMED	YES	NO
1-5	1	Willow Spring	<5360	5360	2.25-3.25	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1-5	2	North Spring	<4570	4570	2.5-3.5	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1-5	3	DL Spring	<5380	5380	2.25-3.25	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Basis for aquifer hydraulic connection evaluation: \_\_\_\_\_

The only perennial surface water sources in this area are several springs located upgradient on the flanks of Beatys Butte. Although the groundwater elevation at the location of the proposed wells is unknown, it is below the elevation at which these springs discharge from the butte.

Water Availability Basin the well(s) are located within: No WAB data available.

C3a. 690-09-040 (4): Evaluation of stream impacts for each well that has been determined or assumed to be hydraulically connected and less than 1 mile from a surface water (SW) source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that SW source, not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% natural flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked  box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>

C3b. 690-09-040 (4): Evaluation of stream impacts by total appropriation for all wells determined or assumed to be hydraulically connected and less than 1 mile from a surface water source. Complete only if Q is distributed among wells. Otherwise same evaluation and limitations apply as in C3a above.

SW #	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>
	<input type="checkbox"/>			<input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/>

Comments: \_\_\_\_\_

This section does not apply. \_\_\_\_\_

C4a. 690-09-040 (5): Estimated impacts on hydraulically connected surface water sources greater than one mile as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

(A) = total interference as CFS; (B) = WAB calculated natural flow at 80% exceed. as CFS; (C) = 1% of calculated natural flow at 80% exceed. as CFS; (D) = highlight the checkmark for each month where (A) is greater than (C); (E) = total interference divided by 80% flow as percentage.

Basis for impact evaluation: \_\_\_\_\_

This section does not apply. \_\_\_\_\_



**D. WELL CONSTRUCTION, OAR 690-200**

D1. Well #: \_\_\_\_\_ Logid: \_\_\_\_\_

D2. **THE WELL does not appear to meet current well construction standards based upon:**

- a.  review of the well log;
- b.  field inspection by \_\_\_\_\_;
- c.  report of CWRE \_\_\_\_\_;
- d.  other: (specify) \_\_\_\_\_

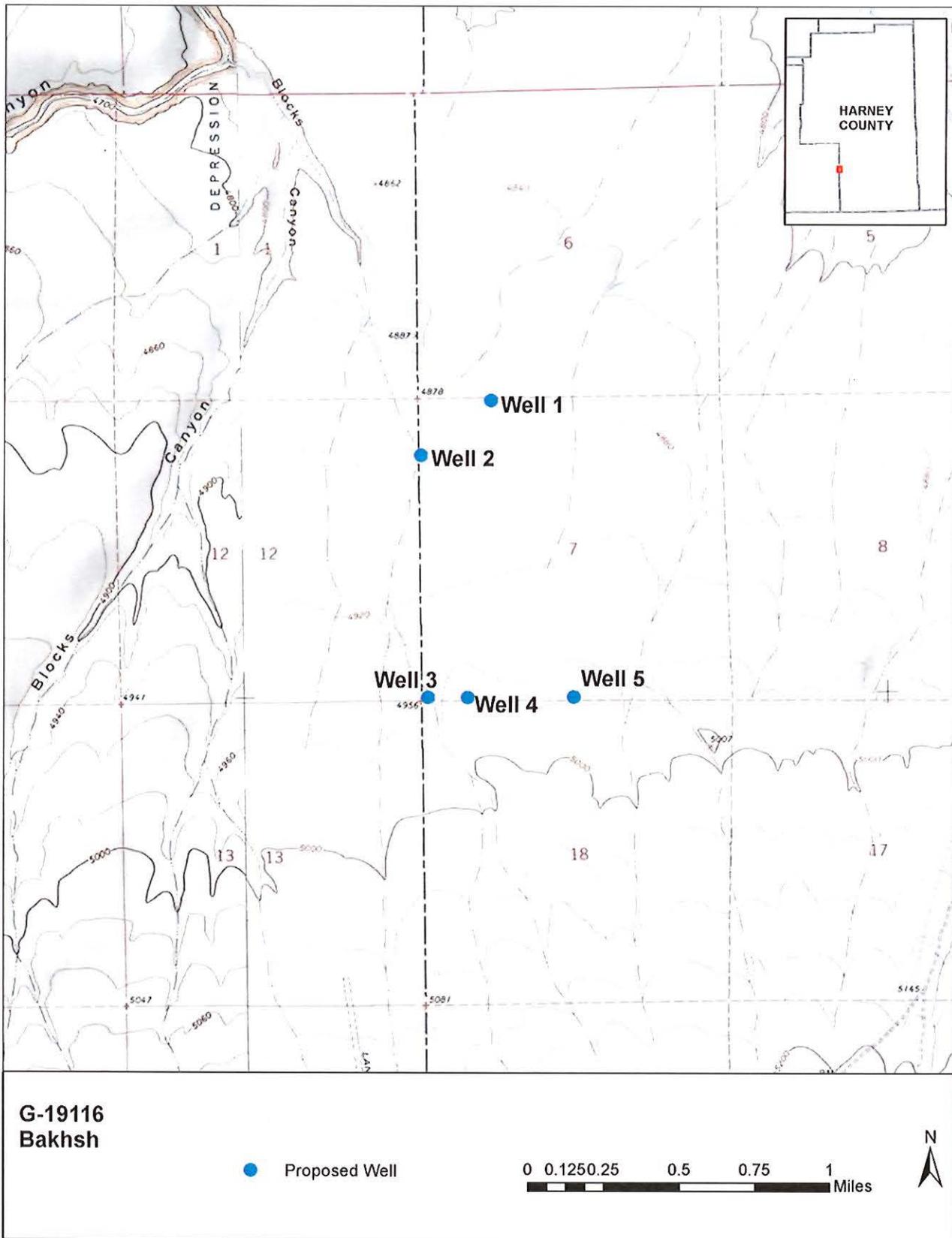
D3. **THE WELL construction deficiency or other comment is described as follows:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D4.  **Route to the Well Construction and Compliance Section for a review of existing well construction.**

---

**Water Availability Tables**  
No WAB data available.

Well Location Map



**Water-Level Measurements in Nearby Wells**  
None available.

**Oregon Water Resources Department  
Water Rights Division**

In the Matter of the Proposed Final Order for Application G-19116 in the Name of Allah Bakhsh		WATERWATCH OF OREGON'S PROTEST TO PROPOSED FINAL ORDER
---	--	--

I. Name, Address and Telephone Number of Protestant

WaterWatch of Oregon  
213 SW Ash Street, Suite 208  
Portland, OR 97204  
Phone: 503.295.4039  
Fax: 503.295.2791  
Contact: Lisa Brown, [lisa@waterwatch.org](mailto:lisa@waterwatch.org)

II. Interests Of Protestant

Protestant WaterWatch of Oregon (“WaterWatch”) is a non-profit river conservation and restoration group that has invested time and money protecting and restoring in-stream flows, aquifers and surface waters in Oregon, including areas that would be affected by the Proposed Final Order (“PFO”). WaterWatch has individual and organizational members across the state, many of whom regularly use and enjoy the Malheur Lake Basin and who would be affected by the proposed use for bird watching and other activities.

WaterWatch has committed extensive resources and time to maintaining and restoring streamflows and instream resources throughout Oregon, where all water is a public owned resource. ORS 537.110. WaterWatch and its members have invested significant time and resources into advocating for sound water policy, including specifically advocating for improved, sustainable allocation and management of Oregon’s groundwater that does not result in depleted aquifers and that maintains groundwater dependent ecosystems such as springs, cold water inputs to streams, groundwater dependent vegetation, wetlands, and playas. WaterWatch

RECEIVED

APR 05 2022

OWRD

has specifically committed extensive time and resources to preventing and addressing groundwater over-allocation in the Malheur Lakes Basin.

WaterWatch also represents the public's interest in protecting Oregon's waterways and groundwater resources for public uses, including maintaining aquatic habitats, including groundwater dependent ecosystems, and waterways and protecting them from exploitation and waste, and in ensuring that Oregon's water laws are properly implemented and Oregon's water resources are allocated fairly and not over-allocated.

WaterWatch does this work through advocacy for legislation, participating on rules advisory committees, working in collaborative and stakeholder processes, and participating in administrative and judicial proceedings, all with the goal of ensuring that Oregon's water is managed sustainably and in a way protects the public's interest and instream values.

For all of these reasons, WaterWatch and its members will be adversely and practically affected by the PFO.

### III. The PFO Would Impair And Be Detrimental To Protestant's Interests

1. Issuance of the permit would impair and be detrimental to WaterWatch's interest and the public's interest in ensuring that the state not issue groundwater water permits where water is not available and that are not within the capacity of the resource, in violation of statutes and rules established to protect the public interest and the public welfare, safety and health.

2. Issuance of the permit consistent with the PFO would impair and be detrimental to WaterWatch's interest and the public's interest in protecting the groundwater resources, groundwater dependent ecosystems and and surface waters in the Malheur Lake Basin.

3. Issuance of the permit would impair and be detrimental to WaterWatch's interest and the public's interest in ensuring Oregon's water laws are properly implemented and Oregon's water resources are allocated fairly and not over-allocated.

IV. How The PFO Is In Error And Deficient And How To Correct The Errors And Deficiencies

A. The PFO is in error and deficient for reasons including, but not limited to, the following:

**1. The PFO's Conclusion of Law that the proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525 is in error because the presumption in ORS 537.621 has not been established and any presumption has been overcome.**

*Background*

In Oregon, "[a]ll water within the state from all sources of water supply belongs to the public." ORS 537.110. Oregon's Ground Water Act of 1955 was forward looking in requiring Oregon's groundwater to be allocated and managed in a manner that will preserve the public welfare, safety and health. ORS 537.525. The Ground Water Act contains several provisions that require Oregon's groundwater to be managed sustainably, including that it only be allocated within the capacity of the resource and in a manner that maintains reasonably stable groundwater levels and protects groundwater supplies for human consumption. ORS 537.525(3), (5) and (7).

ORS 537.621(2) provides a statutory presumption that a proposed use will ensure the preservation of the public welfare, safety, and health as required by ORS 537.525 only if certain factors are met. The department shall make the presumption if:

[T]he proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310 (12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

RECEIVED  
APR 05 2022  
OWRD

ORS 537.621(2). This is a rebuttable presumption that may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest under subsection (7) of this section or in a finding of the department that shows:
  - (A) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected; and
  - (B) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected.

*Id.*

### *Argument*

The application seeks a permit to develop five wells with a combined rate of 4.9 cfs for nursery use in the Catlow Valley areas of the Malheur Lakes Basin. The PFO's Conclusion of Law that the proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525 (PFO, p. 3) is in error because the PFO's determination that the presumption was met (*id.*) is in error, and any presumption has been overcome, for reasons including but not limited to the following.

- a. **The PFO's determination that water is available is erroneous and not supported by the evidence.**
  - i) The PFO's finding that that "[g]roundwater will likely be available within the capacity of the resource" (PFO, p. 2, #5) is not supported by any findings or by the evidence.

First, the PFO cites no facts or evidence in support of its finding that "[g]roundwater will likely be available within the capacity of the resource" (PFO, p. 2, #5). That is defective, including under the Administrative Procedures Act. ORS 183.482(8)(c).

Further, the Groundwater Rereview states that WRD cannot determine whether the groundwater resource is over-appropriated. (Groundwater Review, p. 5). That part of the form

RECEIVED

APR 06 2022

OWRD

specifies that the finding is “limited to the groundwater portion of the over-appropriation determination as prescribed in OAR 690-310-130,” which is WRD’s rule implementing the public welfare, health and safety presumption. Therefore, checking the “cannot be determined” box is a statement by the agency that it cannot establish the presumption.

The review left blank the part of the form that asks if groundwater for the proposed use is “likely to be available within the capacity of the groundwater resource.” (P. 5).

The review reports that “[v]ery little information exists for this location and it is not known if sufficient groundwater will be present at the proposed depth for the proposed use.” (*Id.*, p. 5). The PFO states that the proposed wells are in the “Campbell Lake Basin” within the Malheur Lakes Basin, but WRD’s water availability model (WARS) does not contain any information a Campbell Lake Basin; the Groundwater Review reports: “Water Availability Basin the well(s) are located within: No WAB data available.” (P. 6).

OAR 690-310-0130 contains rules for determining whether the presumption that the proposed groundwater use will ensure the preservation of the public welfare, safety and health, as described in ORS 537.525, is met. Those specify that WRD shall only determine that the presumption has been met if, among other requirements “water is available.” OAR 690-310-0130(1)(a)(b). In pertinent part, “Water is available” is defined in rule as follows ““Water is Available,” when used in OAR 690-310-0080, 690-310-0110 and 690-310-0130, means: (a) The requested source is not over-appropriated under OAR 690-400-0010 and 690-410-0070 during any period of the proposed use. \*\*\*.” OAR 690-300-057.

In turn, OAR 690-400-0010(1)(a)(B) states that ““Over-Appropriated” means a condition of water allocation in which: \*\*\* The appropriation of groundwater resources by all water rights *exceeds the average annual recharge* to a groundwater source over the period of

RECEIVED

APR 05 2022

OWRD

record or results in the further depletion of already over-appropriated surface waters. \*\*\*” (Emphasis added). WRD cites no data supporting any conclusion that, with the new proposed pumping, groundwater appropriation will not exceed the average annual recharge. OAR 690-410-0070 contains WRD’s water allocation policy: “[t]he waters of the state shall be allocated within the capacity of the resource” and that these waters “shall be protected from over-appropriation by new out-of-stream uses of surface water or new uses of groundwater.” OAR 690-410-070(1). The WRD can only allocate groundwater if the allocation “will not” contribute to over appropriation of groundwater. OAR 690-410-070(2)(b).

Additionally, OAR 690-400-0010(4) defines “Capacity of the Resource” to mean “the ability of a \*\*\* groundwater resource to sustain a balance of public and private uses without causing over-appropriation or otherwise significantly impairing the function or character of the resource.” WRD finds that “[g]roundwater will likely be available within the capacity of the resource” (PFO, p. 2, #5), but—in addition to the defects in its water availability finding—the PFO contains no information to support a finding that pumping will not significantly impair the function or character of the resource, including for example by impacting springs, playas or other groundwater dependent ecosystems.

In sum, because WRD cannot determine whether the groundwater is over-appropriated, it also cannot make a determination that water is available within the capacity of the resource, and this means the presumption has not been met. Both the statute and the rules require that WRD make an affirmative finding that water is available. ORS 537.621(2) does not say that WRD must find “if water might be available.” ORS 537.621(2) requires that WRD find that “water is available.” Because the record shows that WRD cannot make this required determination, the it may not issue the permit.

RECEIVED

APR 05 2022

OWRD

This approach, commonly referred as “Default to Yes,” where WRD lacks evidence to support the required determination that water is available, cannot determine if it has already over-appropriated the groundwater, and lacks data for the immediate area *but then proposes to issue the groundwater permit regardless*—mirrors what WRD was doing not very far away in the Harney Basin as late as 2014. There, this faulty approach resulted in WRD over-allocating the groundwater by more than 100,000 acre-feet, creating extremely challenging problems for people and the environment alike. It is very disconcerting to see WRD repeat the pattern in this area and we urge WRD to change course and not create the same problems in this area.

ii) Because the Division 9 rules (OAR 690-009) are not being implemented correctly, the PFO’s finding that water is available is erroneous.

The Groundwater Review reports that “[t]he only perennial surface water sources in this area are several springs located upgradient on the flanks of Beatys Butte. Although the groundwater elevation at the location of the proposed wells is unknown, it is below the elevation at which these springs discharge from the butte.” (P. 6). Beatys Butte, currently managed by BLM’s Lakeview District, provides an important habitat link between Hart and Sheldon National Wildlife Refuges. Springs on this land provide important value to wildlife and it is critical to not adversely impact these springs by allowing unsustainable commercial groundwater development.

Whether the springs identified in the Groundwater Review are at a higher elevation than the groundwater level does not answer the question of whether groundwater pumping will affect spring flow. Additional information and analysis regarding the projected impact of the proposed pumping on these springs would be necessary to determine whether the proposed use would “significantly impair[] the function or character of the resource,” *i.e.* cause spring flow declines. (OAR 690-400-0010(4), defining “Capacity of the Resource”).

RECEIVED

APR 05 2022

OWRD

Further, the Groundwater Review appears to unlawfully limit its Division 9 review to hydraulic connection with the perennial surface water sources. (Groundwater Rereview, p. 6). There is no lawful basis for WRD to limit its evaluation of the impacts of pumping on hydraulically connected surface water to only perennial streams because this likely misses important implications for surface water. It is inconsistent with Division 9 and with the Groundwater Act. To the extent the agency asserts or establishes that Division 9 requires this, WaterWatch challenges that rule provision as inconsistent with the statutory requirement that WRD find that water is available for use. ORS 183.400. There is no lawful basis for WRD to exempt surface water from consideration under Division 9 as it has apparently done here. Moreover, WRD is required to address waters located beyond one mile from the wells and has failed to do so (*see* Groundwater Review, p. 7, C4a). OAR 690-009-0040(5); OAR 690-410-070(2)(b); OAR 690-400-010(11)(a)(B); elsewhere.

Further, as noted above, OAR 690-410-070(2)(b) and OAR 690-400-010(11)(a)(B), read together, require the WRD to make an affirmative finding that the groundwater use is within the capacity of the resource. The rules make clear that in making the determination the allocation of groundwater to a new beneficial use will not cause over-appropriation under this standard, the WRD is to consider “all water rights.” In other words, the WRD must look at the cumulative effects of all permits and certificates issued in the Malheur Lake Basin and has failed to do so here.

**b. The PFO’s determination that the proposed use would not injure other water rights is erroneous and not supported by the evidence.**

Many of the same problems that cause the water availability determination to be erroneous, described in the previous section, demonstrate that the PFO’s determination that the proposed use will not injure other water rights is also erroneous and not supported by the

RECEIVED

APR 06 2022

OWRD

evidence. The PFO makes an unsupported finding that “[t]he proposed use, if authorized, will avoid injury to existing groundwater rights.” (PFO, p. 2, #6). There is no review that supports this conclusion, even though such review is statutorily required. ORS 537.621(d). WRD is also required to assess injury to exempt wells such as domestic wells but there is no evidence it did so here. ORS 537.545(1).

As described further below, WRD may not rely upon permit conditions to issue a permit that may cause injury. Here, WRD appears to be relying on condition 7N, commonly referred to as the decline condition, to address this anticipated injury. That is a condition WRD has apparently never enforced in the Malheur Lakes Basin even where groundwater levels have dropped by more than 100 feet, resulting in widespread injury to well owners including domestic well owners. It is inappropriate to rely on condition 7N which WRD to date appears unwilling or unable to enforce.

To the extent WRD invokes OAR 690-008-0001(8), commonly referred to as the “Race to the Bottom” rule, in defense of this PFO and its finding of no injury, WaterWatch challenges that rule as inconsistent with the Ground Water Act of 1955, including but not limited to ORS 537.525(3), (5) and (7). ORS 183.400.

In sum, the department erred in its injury conclusion and in failing to include adequate injury review of this application. The presumption has not been established.

**c. The proposed use does not comply with the rules of the Water Resources Commission.**

The proposed use does not comply with various other rules of Commission including but not limited to OAR 690-009; OAR 690-310-130; OAR 690-410 (including but not limited to OAR 690-410-070(2)(b)); and OAR 690-400-010(11)(a)(B) as detailed above. Therefore, the presumption is not met.

RECEIVED

APR 05 2022

OWRD

**d. The proposed use does not insure the preservation of the public welfare, safety and health because the factors ORS 537.525(3) and (5) - (8) will be impaired and adversely affected by the proposed use.**

The proposed use will impair and adversely affect the following public welfare, safety and health factors:

(3) Beneficial use without waste, within the capacity of available sources, be the basis, measure and extent of the right to appropriate ground water.

(5) Adequate and safe supplies of ground water for human consumption be assured, while conserving maximum supplies of ground water for agricultural, commercial, industrial, thermal, recreational and other beneficial uses.

(6) The location, extent, capacity, quality and other characteristics of particular sources of ground water be determined.

(7) Reasonably stable ground water levels be determined and maintained.

(8) Depletion of ground water supplies below economic levels, impairment of natural quality of ground water by pollution and wasteful practices in connection with ground water be prevented or controlled within practicable limits.

ORS 537.525. Permit issuance will impair and adversely affect these factors because, as described in detail above, WRD cannot determine whether groundwater for the proposed use is over-appropriated, cannot determine whether the proposed use is within the capacity of the resource or would maintain adequate and safe supplies of groundwater for human consumption or maximum supplies for instream beneficial uses including but not limited to springs, and has violated its own rules and statutes designed to ensure that groundwater is allocated within the capacity of the resource and in a manner that does not impair surface water flows. The agency has not determined what a reasonably stable groundwater level for the area is or how it will be maintained if this permit is issued. WRD lacks adequate information to make a determination as to whether the proposed use would be “within the capacity of available sources.”

The proposed wells are located in the Catlow Valley near Beatys Butte, but the analysis regarding how the pumping would affect the function or character of the groundwater resource,

RECEIVED

APR 06 2022

OWRD

including any groundwater dependent ecosystems such as springs, wetlands, phreatophytes and other groundwater dependent vegetation, playas, or groundwater inputs to streams, is inadequate. See OAR 690-400-0010(4), defining “Capacity of the Resource” to mean “the ability of a \*\*\* groundwater resource to sustain a balance of public and private uses without causing over-appropriation or otherwise significantly impairing the function or character of the resource.” WRD limited its analysis regarding natural groundwater discharge to the perennial surface water sources, but the ecological function of groundwater is much broader than this and has not been addressed as required.

In sum, factors ORS 537.525(3) and (5)-(8) will be impaired and adversely affected by the proposed use.

**e. The department may not rely on the “decline condition,” or any other permit conditions, to find that the presumption has been met.**

The PFO concludes that the proposed use, *as conditioned*, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525 (PFO, p. 3). The Draft Permit includes the condition WRD relies upon to address future groundwater declines (Draft Permit at p. 3 (PFO, Adobe p. 9)), but WRD may not lawfully rely on this condition to circumvent or paper over the fact that it cannot make the required determination that water is available, that the proposed use is within the capacity of the resource, or that the use will not cause injury. Imposition of this permit condition cannot overcome the agency’s inability to meet the standards for issuing a new groundwater permit. The condition does not meet WRD’s statutory and rule requirements for protecting Oregon’s groundwater. WRD is required to *not over-allocate* the groundwater and not issue groundwater permits that may cause injury—it is not permitted to over-allocate the groundwater on the basis that it might enforce this condition in the future after it issues too many permits and causes groundwater levels to plummet.

RECEIVED

APR 05 2022

OWRD

Further, a minimum decline of 15 feet from the first March static water level, and more likely 25 feet given the realities of well level measurement, is required to trigger the condition. At that point, the use is already well out of compliance with the statutory and rule requirements. Moreover, WRD has used this condition to justify issuing new groundwater permits across Oregon, but on information and belief has never enforced this condition in the Malheur Lakes Basin even where groundwater levels have declined by more than 100 feet and the condition has been tripped on multiple permits. WRD's reliance on the decline condition, or any other condition, to issue this permit is unlawful.

Oregon's Groundwater Act of 1955 requires WRD to only issue new groundwater permits where water is available and where pumping would be within the capacity of the resource and reasonably stable groundwater levels will be maintained. avoid over-allocating groundwater in the first instance. Adding the decline condition, or any other condition, cannot support permit issuance where WRD lacks the data to make the statutory determinations required for permit issuance.

**2. The PFO violates OAR 690-009, OAR 690-400, OAR 690-410, and OAR 690-310.**

As detailed above, issuance of the permit violates OAR 690-009, OAR 690-400, OAR 690-410, and OAR 690-310. WRD may not issue a permit in violation of its own rules.

**3. Reservation**

WaterWatch reserves the right to raise any additional issues and arguments not reasonably ascertainable on the currently available record.

B. The errors and deficiencies should be corrected as follows:

The errors and deficiencies should be corrected by denying the permit application.

RECEIVED

APR 05 2022

OWRD

V. Citation Of Legal Authority

Applicable legal authorities, where known, are cited above.

VI. Protest Fee

The required fee of \$950.00 is included with this protest.

VII. Request For Hearing

Protestant requests a contested case hearing.

Dated: April 4, 2022

Respectfully submitted,

/S/Lisa A. Brown

Lisa Brown, OSB #025240

Staff Attorney

WaterWatch of Oregon

213 SW Ash St., STE 208

Portland, OR 97204

Ph: 503.295.4039 x4

[lisa@waterwatch.org](mailto:lisa@waterwatch.org)

RECEIVED

APR 05 2022

OWRD

## Certificate of Service and Filing

I certify that on this date, a copy of the foregoing protest was served on each of the following by the method indicated:

AGENT:

WATER RIGHT SERVICES LLC  
JOHN SHORT  
PO BOX 1830  
BEND, OR 97709

*By placing in the US Postal Mail, first class postage prepaid*

APPLICANT:

ALLAH BAKHSH  
3125 SAMUEL ST  
RIVERSIDE, CA 92504

*By placing in the US Postal Mail, first class postage prepaid*

Water Rights Services Division  
Oregon Water Resources Department  
725 Summer St. NE, STE A  
Salem, OR 97301-1266  
*By depositing with UPS for overnight delivery*

Dated: April 4, 2022

/S/Lisa A. Brown  
Lisa Brown  
WaterWatch of Oregon  
213 SW Ash St., STE 208  
Portland, OR 97204  
Ph: 503.295.4039 x2  
Fax: 503.295.2791  
lisa@waterwatch.org

RECEIVED

APR 06 2022

OWRD

# Mailing List for PFO/Draft Permit Copies

Application G-19116

PFO Date February 22, 2022

Original mailed via CERTIFIED MAIL to applicant:

ALLAH BAKHSH  
3125 SAMUEL ST  
RIVERSIDE CA 92504

**Sent via auto email:**

1. Agent – John Short - johnshort@usa.com
2. WRD – Watermaster District #10, J R. Johnson
3. WRD - Jason Spriet ER
4. WRD – SW Section

**Copies sent to:**

1. WRD - File # G-19116

Application Specialist: Kim French

Copies Mailed
By: <u>SP</u>
(SUPPORT STAFF)
on: <u>2/22/22</u>

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

Water Right Application G-19116 in the )  
name of ALLAH BAKHSH ) PROPOSED FINAL ORDER  
)

**Summary:** The Department proposes to issue an order approving Application G-19116 and a permit consistent with the attached draft permit.

**Authority**

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.615 through 537.628, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 8, 9, 33, 300, 310, 400, 410, and the Malheur Lake Basin Program (OAR 690-512). These statutes and rules can be viewed on the following website: <https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx>.

The Department's main website can be found at: <https://www.oregon.gov/OWRD>.

The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525 if:

- a) The proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12);
- b) Water is available;
- c) The proposed use will not injure other water rights; and
- d) The proposed use complies with the rules of the Commission. ORS 537.621(2); OAR 690-310-0150(2)(b)

All four criteria must be met for a proposed use to be presumed to ensure the preservation of the public welfare, safety and health. When the criteria are met and the presumption is established the Department must further evaluate the proposed use, any comments received, information available in its files or received from other interested agencies, and any other available information to determine whether the presumption is overcome. OAR 690-310-0140

If the Department determines that the presumption is established and not overcome, the Department shall issue a Proposed Final Order recommending issuance of the permit subject to any appropriate modifications or conditions.

## FINDINGS OF FACT

### Application History

1. On April 20, 2021, Allah Bakhsh filed a complete application for the following water use:

**Source:** WELL 1, WELL 2, WELL 3, WELL 4 AND WELL 5 IN CAMPBELL LAKE BASIN  
**Use:** NURSERY USE ON 280.42 ACRES  
**Rate:** 4.9 CUBIC FEET PER SECOND (CFS)  
**Period of Use:** JANUARY 1 THROUGH DECEMBER 31  
**County:** HARNEY COUNTY  
**Place of Use:** SECTION 7, TOWNSHIP 36 SOUTH, RANGE 29 EAST, W.M.

2. On June 25, 2021, the Department mailed the applicant notice of its Initial Review, determining that the appropriation of 4.9 CFS of water from Well 1, Well 2, Well 3, Well 4 and Well 5 in Campbell Lake Basin for nursery use (irrigation and agriculture use) on 280.42 acres is allowable January 1 through December 31 of each year. The applicant did not notify the Department to stop processing the application within 14 days of that date.
3. On June 29, 2021, the Department noticed the application in its weekly public notice, requesting comments, and providing information for interested persons about obtaining future notices and a copy of the Proposed Final Order.

### Presumption Criteria (a) - Consistency with Basin Program

4. Uses included in nursery use are included in irrigation and agriculture uses, both of which are allowed under the Malheur Lake Basin Program (OAR 690-512-0010(1)). The proposed use is not within the Greater Harney Valley Groundwater Area of Concern. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

### Presumption Criteria (b) - Water Availability

5. 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 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. ORS 537.621(3)(c); OAR 690-310-0150(2)(c)

### Presumption Criteria (c) - Injury Determination

6. The proposed use, if authorized, will not injure other water rights. ORS 537.621(3)(d); OAR 690-310-0150(2)(e)

### Presumption Criteria (d) - Whether the use complies with rules of the Commission

7. 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)
8. The Department has determined that the proposed groundwater use will not have the potential for substantial interference with surface water. ORS 537.621(3)(b); OAR 690-009-0040(4)

9. The proposed groundwater use is not located within a designated critical groundwater area. ORS 537.620(4)(a), 537.621(3)(a); OAR 690-310-0150(2)(a)

**Determination of Presumption that a proposed groundwater use will ensure the preservation of the public welfare, safety and health**

Based on the review of the presumption criteria (a)-(d) above, the presumption has been established. ORS 537.621(2); OAR 690-310-0150(2)(g)

**Further evaluation of the proposed use**

10. No comments were received by the close of the comment period. OAR 690-310-0140(3)(a)
11. Information available in Department files, received from other interested agencies, and other available information does not provide a preponderance of evidence that the proposed use would not ensure the preservation of the public welfare, safety and health under ORS 537.525. OAR 690-310-0140(3)

**Other Criteria and Requirements**

12. The proposed use is not located within or above a state scenic waterway, as designated under ORS 390.826. 537.621(3)(a); OAR 690-310-0150(2)(a)
13. The amount requested, 4.9 CFS, is necessary for the proposed use. ORS 537.621(3)(c); OAR 690-310-0150(2)(d)
14. The applicant proposed methods to measure the amount of water appropriated, prevent damage to aquatic life and riparian habitat, prevent discharge of contaminated water to a surface stream, or to prevent damage to public uses of any affected surface waters. These measures are adequate at this time. OAR 690-310-0150(2)(j)
15. The proposed use complies with rules of the Water Resources Commission not otherwise described above.

**CONCLUSIONS OF LAW**

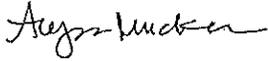
1. The proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

NOTE: When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety and health.

PROPOSED ORDER

The Department recommends approval of Application G-19116 and issuance of a permit consistent with the attached draft permit.

DATED February 22, 2022



Digitally signed by Alyssa Mucken  
Date: 2022.02.04 09:46:36 -08'00'

---

Alyssa Mucken  
Water Rights Section Manager, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

## Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), you can protest this Proposed Final Order. Protests must be received by the Water Resources Department no later than **April 8, 2022**.

**IMPORTANT:** Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Protests must be in writing and include the following:

- Your name, address, and telephone number;
- A description of your interest in the Proposed Final Order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in the Proposed Final Order would impair or be detrimental to your interest;
- A detailed description of how the Proposed Final Order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known;
- To affect the Department's determination that the proposed use in this application will, or will not, ensure the preservation of the public welfare, safety and health as described in ORS 537.525, ORS 537.621(2)(b) requires that a protest demonstrate, by a preponderance of evidence any of the following: (a) One or more of the criteria for establishing the presumption are, or are not, satisfied; or (b) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected, and specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing.

## Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for groundwater), persons other than the applicant who support a Proposed Final Order can request standing for purposes of participating in any contested case proceeding on the Proposed Final Order or for judicial review of a Final Order.

Requests for standing must be received in the Water Resources Department no later than **April 8, 2022**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;



DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF HARNEY

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

ALLAH BAKHSH  
3125 SAMUEL ST  
RIVERSIDE CA 92504

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

APPLICATION FILE NUMBER: G-19116

SOURCE OF WATER: WELL 1, WELL 2, WELL 3, WELL 4 AND WELL 5 IN CAMPBELL LAKE BASIN

PURPOSE OR USE: NURSERY USE (IRRIGATION AND AGRICULTURE USE) ON 280.42 ACRES

MAXIMUM RATE: 4.9 CUBIC FEET PER SECOND

PERIOD OF USE: JANUARY 1 THROUGH DECEMBER 31

DATE OF PRIORITY: APRIL 20, 2021

AUTHORIZED POINT OF APPROPRIATION:

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	36 S	29 E	WM	7	NW NW	30 FEET SOUTH AND 1280 FEET EAST FROM NW CORNER, SECTION 7
WELL 2	36 S	29 E	WM	7	NW NW	980 FEET SOUTH AND 60 FEET EAST FROM NW CORNER, SECTION 7
WELL 3	36 S	29 E	WM	7	SW SW	50 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 7
WELL 4	36 S	29 E	WM	7	SW SW	50 FEET NORTH AND 790 FEET EAST FROM SW CORNER, SECTION 7
WELL 5	36 S	29 E	WM	7	SE SW	50 FEET NORTH AND 50 FEET WEST FROM S1/4 CORNER, SECTION 7

The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-

EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

**AUTHORIZED PLACE OF USE:**

Twtp	Rng	Mer	Sec	Q-Q	Acres
36 S	29 E	WM	7	NW NW	39.88
36 S	29 E	WM	7	SW NW	40.03
36 S	29 E	WM	7	SE NW	40.00
36 S	29 E	WM	7	NE SW	40.00
36 S	29 E	WM	7	NW SW	40.18
36 S	29 E	WM	7	SW SW	40.33
36 S	29 E	WM	7	SE SW	40.00

**PERMIT SPECIFIC CONDITIONS**

1. 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.
2. **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.

**3. Static Water Level Measurement:**

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

#### 4. 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.

#### STANDARD CONDITIONS

1. 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 be subject to cancellation, unless the Department authorizes the change in writing.
2. If substantial interference with surface water or a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
3. The well(s) shall be constructed and maintained in accordance with the General Standards for the Construction and Maintenance of Water Supply Wells in Oregon. The works shall be equipped with a usable access port adequate to determine water-level elevation in the well at all times.
4. Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.
5. 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.
6. 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.

#### DEVELOPMENT AND COMPLETION TIMELINE REQUIREMENTS

1. Prior to receiving a certificate of water right, the permit holder shall submit to the Water Resources Department the results of a pump test meeting the Department's standards for each point of appropriation (well), unless an exemption has been obtained in writing under OAR 690-217. The Director may require water-level or pump-test data every ten years thereafter.
2. 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.

3. Complete application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.
4. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued \_\_\_\_\_

**DRAFT - THIS IS NOT A PERMIT**

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

# Mailing List for IR Copies

---

Application G-19116

IR Date: June 25, 2021

**Original and map mailed to applicant:**

ALLAH BAKHSH  
3125 SAMUEL ST  
RIVERSIDE CA 92504

Copies Mailed

By: TM  
(SUPPORT STAFF)

On: 6/25/2021  
(DATE)

**Sent via auto email:**

1. Agent – John Short - johnshort@usa.com
2. WRD – Watermaster #10, J R. Johnson
3. WRD - Jason Spriet ER

**Copies sent to:**

1. WRD - File G-19116

Application Specialist: Kim French



## Water Right Application Initial Review

June 25, 2021

ALLAH BAKHSH  
3125 SAMUEL ST  
RIVERSIDE CA 92504

Reference: Application G-19116

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-19116 proposes the appropriation of 4.9 cubic feet per second (CFS) of water from Well 1, Well 2, Well 3, Well 4 and Well 5 in Campbell Lake Basin for year-round nursery use on 280.42 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are included in irrigation and agriculture use, both of which are allowed under the Malheur Lake Basin Program (OAR 690-512-0010(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 not located within or above any state or federal scenic waterway.
7. The points of appropriation are 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.

### Summary of Preliminary Determinations

The appropriation of 4.9 CFS of water from Well 1, Well 2, Well 3, Well 4 and Well 5 in Campbell Lake Basin for nursery use (irrigation and agriculture use) on 280.42 acres is allowable January 1 through December 31 of each year.

Because of the favorable determinations described herein, Application G-19116 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 July 9, 2021**. 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. Static Water Level Measurement:

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or

- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

**5. Well Identification Tag:**

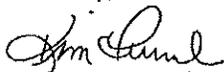
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including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

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> to learn more about the plans and how they may affect the proposed water use.

**For Further Information:**

Feel free to contact me at [Kim.R.French@oregon.gov](mailto:Kim.R.French@oregon.gov) or 503-986-0816 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: Kim French, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kim French  
Water Right Application Specialist  
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form  
WAB: No PSI  
Proposed to Approve

# APPLICATION FACT SHEET

Application File Number: G-19116

Applicant: ALLAH BAKSHH

County: HARNEY

Watermaster: J R. JOHNSON, 10, ER

Priority Date: APRIL 20, 2021

Source: WELL 1, WELL 2, WELL 3, WELL 4 AND WELL 5 IN CAMPBELL LAKE BASIN

Use: NURSERY USE (IRRIGATION AND AGRICULTURE USE) ON 280.42 ACRES

Quantity: 4.9 CUBIC FEET PER SECOND

Basin Name & Number: MALHEUR LAKE, #12

Well Location(s):

POA Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1	36 S	29 E	WM	7	NW NW	30 FEET SOUTH AND 1280 FEET EAST FROM NW CORNER, SECTION 7
WELL 2	36 S	29 E	WM	7	NW NW	980 FEET SOUTH AND 60 FEET EAST FROM NW CORNER, SECTION 7
WELL 3	36 S	29 E	WM	7	SW SW	50 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 7
WELL 4	36 S	29 E	WM	7	SW SW	50 FEET NORTH AND 790 FEET EAST FROM SW CORNER, SECTION 7
WELL 5	36 S	29 E	WM	7	SE SW	50 FEET NORTH AND 50 FEET WEST FROM S1/4 CORNER, SECTION 7

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
36 S	29 E	WM	7	NW NW	39.88
36 S	29 E	WM	7	SW NW	40.03
36 S	29 E	WM	7	SE NW	40.00
36 S	29 E	WM	7	NE SW	40.00
36 S	29 E	WM	7	NW SW	40.18
36 S	29 E	WM	7	SW SW	40.33
36 S	29 E	WM	7	SE SW	40.00

**PUBLIC NOTICE DATE: June 29, 2021**

**14 DAY STOP PROCESSING DEADLINE DATE: July 9, 2021**

**30 DAY COMMENT DEADLINE DATE: July 29, 2021**

## **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](http://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-19116**.

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 thout 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:

**July 9, 2021**

- Return the notice to:

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

---

THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

T.36S. R.29E. W.M.  
HARNEY COUNTY  
1" = 2000'  
SEE MAP 35S 29E

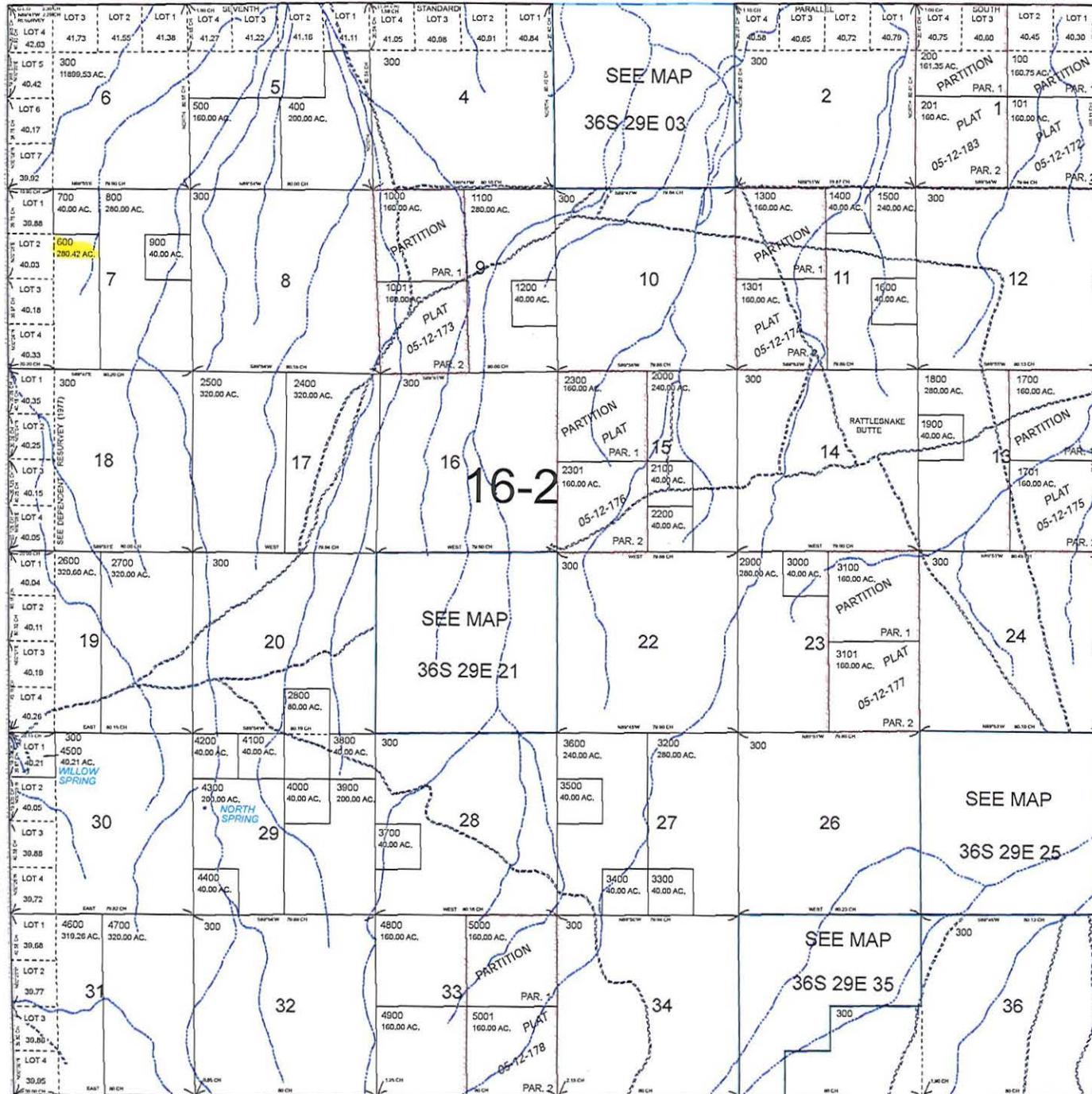
WORK COPY

36S 29E  
& INDEX



COUNTY

LAKE



SEE MAP 36S 30E

SEE MAP 37S 29E

PRINTED ON  
Apr 01, 2008  
36S 29E  
& INDEX

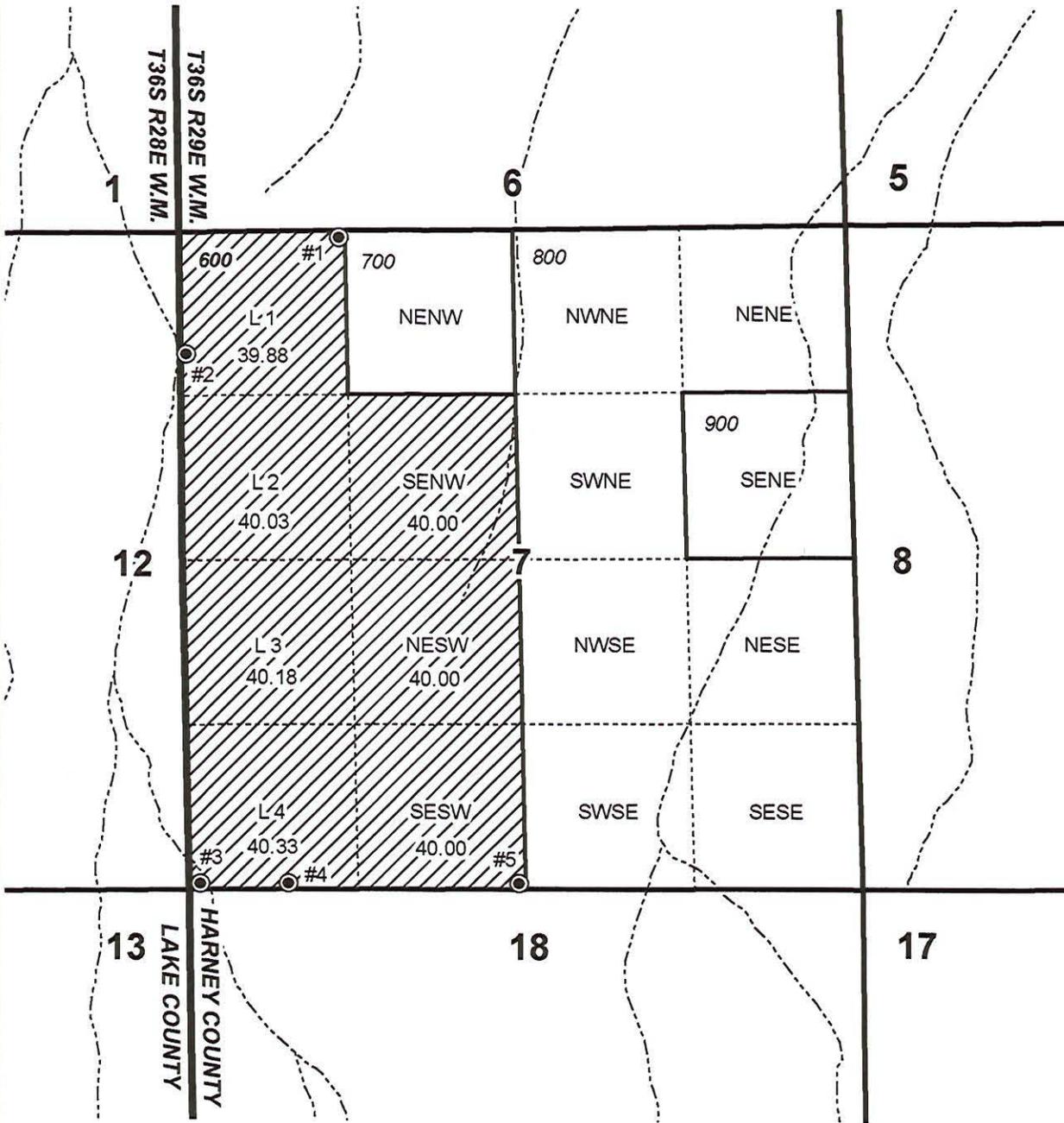
# T36S R29E, WM, HARNEY COUNTY, OR



0 1,320 Feet

1" = 1320'

- Well
- Stream
- POU NU
- Township
- Section
- Quarter Quarter
- Tax Lot



- Well Locations:**
- Well #1:**  
30' S, 1280' E of NW Cor Sec 7
  - Well #2:**  
980' S, 60' E of NW Cor Sec 7
  - Well #3:**  
50' N, 90' E of SW Cor Sec 7
  - Well #4:**  
50' N, 790' E of SW Cor Sec 7
  - Well #5:**  
50' N, 50' W of S 1/4 Cor Sec 7

RECEIVED

APR 20 2021

OWRD



**GROUNDWATER APPLICATION MAP  
BAKSHS**

Date: 4/5/2021

This map is not intended  
to provide legal dimensions  
or locations of property  
ownership lines.

**WATER RIGHT SERVICES, LLC**  
PO BOX 1830, BEND, OR 97709  
[WWW.OREGONWATER.US](http://WWW.OREGONWATER.US) CCB # 197121  
johnshort@usa.com 541-389-2837

RECEIVED

APR 20 2021

OWRD



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
503-986-0900
www.oregon.gov/OWRD

Application for a Permit to Use
Groundwater

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

Form with fields: NAME (ALLAH BAKHSH), PHONE (HM), PHONE (WK), CELL (951-796-5914), FAX, ADDRESS (3125 SAMUEL STREET), CITY (RIVERSIDE), STATE (CA), ZIP (92504), E-MAIL\*

Organization

Form with fields: NAME, PHONE, FAX, ADDRESS, CELL, CITY, STATE, ZIP, E-MAIL\*

Agent - The agent is authorized to represent the applicant in all matters relating to this application.

Form with fields: AGENT / BUSINESS NAME (JOHN A. SHORT / WATER RIGHT SERVICES, LLC), PHONE (541-389-2837), FAX, ADDRESS (PO Box 1830), CELL, CITY (BEND), STATE (OR), ZIP (97709), E-MAIL\* (JOHNSHORT@USA.COM)

Note: Attach multiple copies as needed

\* By providing an e-mail address, consent is given to receive all correspondence from the Department electronically. (Paper copies of the proposed and final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
Evaluation of this application will be based on information provided in the application.
I cannot use water legally until the Water Resources Department issues a permit.
Oregon law requires that a permit be issued before beginning construction of any proposed well, unless the use is exempt. Acceptance of this application does not guarantee a permit will be issued.
If I get a permit, I must not waste water.
If development of the water use is not according to the terms of the permit, the permit can be cancelled.
The water use must be compatible with local comprehensive land-use plans.
Even if the Department issues a permit, I may have to stop using water to allow senior water-right holders to get water to which they are entitled.

I (we) affirm that the information contained in this application is true and accurate.

Applicant Signature

[Handwritten Signature]

Print Name and Title if applicable

ALLAH BAKHSH

Date

04/16/2021

Applicant Signature

Print Name and Title if applicable

Date

**SECTION 2: PROPERTY OWNERSHIP**

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

RECEIVED

APR 20 2021

OWRD

- YES, there are no encumbrances.
- YES, the land is encumbered by easements, rights of way, roads or other encumbrances.
- NO, I have a recorded easement or written authorization permitting access.
- NO, I do not currently have written authorization or easement permitting access.
- NO, written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
- NO, because water is to be diverted, conveyed, and/or used only on federal lands.

**Affected Landowners:** List the names and mailing addresses of all owners of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, even if the applicant has obtained written authorization or an easement from the owner. *(Attach additional sheets if necessary).*

**Legal Description:** You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

**SECTION 3: WELL DEVELOPMENT**

WELL NO.	NAME OF NEAREST SURFACE WATER	IF LESS THAN 1 MILE:	
		DISTANCE TO NEAREST SURFACE WATER	ELEVATION CHANGE BETWEEN NEAREST SURFACE WATER AND WELL HEAD
1	CAMPBELL LAKE		
2	"		
3	"		
4	"		
5	"		

Please provide any information for your existing or proposed well(s) that you believe may be helpful in evaluating your application. For existing wells, describe any previous alteration(s) or repair(s) not documented in the attached well log or other materials *(attach additional sheets if necessary).*

**SECTION 3: WELL DEVELOPMENT, continued**

Total maximum rate requested: 4.9 cfs (each well will be evaluated at the maximum rate unless you indicate well-specific rates and annual volumes in the table below).

The table below must be completed for each source to be evaluated or the application will be returned. If this is an existing well, the information may be found on the applicable well log. (If a well log is available, please submit it in addition to completing the table.) If this is a proposed well, or well-modification, consider consulting with a licensed well driller, geologist, or certified water right examiner to obtain the necessary information.

OWNER'S WELL NAME OR NO.	PROPOSED	EXISTING	WELL ID (WELL TAG) NO.* OR WELL LOG ID**	FLOWING ARTESIAN	CASING DIAMETER	CASING INTERVALS (IN FEET)	PERFORATED OR SCREENED INTERVALS (IN FEET)	SEAL INTERVALS (IN FEET)	MOST RECENT STATIC WATER LEVEL & DATE (IN FEET)	PROPOSED USE			
										SOURCE AQUIFER***	TOTAL WELL DEPTH	WELL-SPECIFIC RATE (GPM)	ANNUAL VOLUME (ACRE-FEET)
1	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	8"	+1.5-32'		0-32'	97'	FRACTURED ROCK	405'		
2	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	8"	+1.5-32'		0-32'	97'	FRACTURED ROCK	405'		
3	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	8"	+1.5-32'		0-32'	97'	FRACTURED ROCK	405'		
4	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	8"	+1.5-32'		0-32'	97'	FRACTURED ROCK	405'		
5	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	8"	+1.5-32'		0-32'	97'	FRACTURED ROCK	405'		
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>									
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>									
	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>									

\* Licensed drillers are required to attach a Department-supplied Well Tag, with a unique Well ID or Well Tag Number to all new or newly altered wells. Landowners can request a Well ID for existing wells that do not have one. The Well ID is intended to serve as a unique identification number for each well.  
 \*\* A well log ID (e.g. MARI 1234) is assigned by the Department to each log in the agency's well log database. A separate well log is required for each subsequent alteration of the well.  
 \*\*\* Source aquifer examples: Troutdale Formation, gravel and sand, alluvium, basalt, bedrock, etc.

RECEIVED

APR 20 2021

OWRD

For Department Use: App. Number: \_\_\_\_\_

**SECTION 4: SENSITIVE, THREATENED OR ENDANGERED FISH SPECIES PUBLIC INTEREST INFORMATION**

This information must be provided for your application to be accepted as complete. The Water Resources Department will determine whether the proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened or endangered fish species if your proposed groundwater use is determined to have the potential for substantial interference with nearby surface waters.

To answer the following questions, use the map provided in [Attachment 3](#) or the link below to determine whether the proposed point of appropriation (POA) is located in an area where the Upper Columbia, the Lower Columbia, and/or the Statewide public interest rules apply.

For more detailed information, click on the following link and enter the TRSQQ or the Lat/Long of a POA and click on "Submit" to retrieve a report that will show which section, if any, of the rules apply:

[https://apps.wrd.state.or.us/apps/misc/lkp\\_trsqq\\_features/](https://apps.wrd.state.or.us/apps/misc/lkp_trsqq_features/)

If you need help to determine in which area the proposed POA is located, please call the customer service desk at (503) 986-0801.

**Upper Columbia - OAR 690-033-0115 thru -0130**

RECEIVED

Is the well or proposed well located in an area where the Upper Columbia Rules apply?

APR 20 2021

Yes  No

OWRD

If yes, you are notified that the Water Resources Department will consult with numerous federal, state, local and tribal governmental entities so it may determine whether the proposed use is consistent with the "Columbia River Basin Fish and Wildlife Program" adopted by the Northwest Power Planning Council in 1994 for the protection and recovery of listed fish species. The application may be denied, heavily conditioned, or if appropriate, mitigation for impacts may be needed to obtain approval for the proposed use.

If yes, and if the Department determines that proposed groundwater use has the potential for substantial interference with nearby surface waters:

- I understand that the permit, if issued, will not allow use during the time period April 15 to September 30, except as provided in OAR 690-033-0140.
- I understand that the Department of Environmental Quality will review my application to determine if the proposed use complies with existing state and federal water quality standards.
- I understand that I will install and maintain water use measurement and recording devices as required by the Water Resources Department, and comply with recording and reporting permit condition requirements.

**Lower Columbia - OAR 690-033-0220 thru -0230**

Is the well or proposed well located in an area where the Lower Columbia rules apply?

Yes  No

If yes, and the proposed groundwater use is determined to have the potential for substantial interference with nearby surface waters you are notified that the Water Resources Department will determine, by reviewing recovery plans, the Columbia River Basin Fish and Wildlife Program, and regional restoration programs applicable to threatened or endangered fish species, in coordination with state and federal agencies, as

appropriate, whether the proposed use is detrimental to the protection or recovery of a threatened or endangered fish species and whether the use can be conditioned or mitigated to avoid the detriment.

If a permit is issued, it will likely contain conditions to ensure the water use complies with existing state and federal water quality standards; and water use measurement, recording and reporting required by the Water Resources Department. The application may be denied, or if appropriate, mitigation for impacts may be needed to obtain approval of the proposed use.

If yes, you will be required to provide the following information, if applicable.

Yes  No The proposed use is for more than one cubic foot per second (448.8 gpm) and is not subject to the requirements of OAR 690, Division 86 (Water Management and Conservation Plans).

If yes, provide a description of the measures to be taken to assure reasonably efficient water use:

\_\_\_\_\_

RECEIVED

APR 20 2021

OWRD

**Statewide - OAR 690-033-0330 thru -0340**

Is the well or proposed well located in an area where the Statewide rules apply?

Yes  No

If yes, and the proposed groundwater use is determined to have the potential for substantial interference with nearby surface waters you are notified that the Water Resources Department will determine whether the proposed use will occur in an area where endangered, threatened or sensitive fish species are located. If so, the Water Resources Department, Department of Fish and Wildlife, Department of Environmental Quality, and the Department of Agriculture will recommend conditions required to achieve “no loss of essential habitat of threatened and endangered (T&E) fish species,” or “no net loss of essential habitat of sensitive (S) fish species.” If conditions cannot be identified that meet the standards of no loss of essential T E fish habitat or no net loss of essential S fish habitat, the agencies will recommend denial of the application unless they conclude that the proposed use would not harm the species.

**SECTION 5: WATER USE**

USE	PERIOD OF USE	ANNUAL VOLUME (ACRE-FEET)
NU	Year-Round	1,400

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated (*must match map*).

Primary: \_\_\_\_\_Acres                      Supplemental: \_\_\_\_\_Acres

If you listed supplemental acres, list the Permit or Certificate number of the underlying primary water right(s):

\_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: \_\_\_\_\_

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: \_\_\_\_\_ (**Exempt Uses:** Please note that 15,000 gallons per day for single or group domestic purposes and 5,000 gallons per day for a single industrial or commercial purpose are exempt from permitting requirements.)

- If the use is **mining**, describe what is being mined and the method(s) of extraction (*attach additional sheets if necessary*): \_\_\_\_\_

**SECTION 6: WATER MANAGEMENT**

RECEIVED

APR 20 2021

OWRD

**A. Diversion and Conveyance**

What equipment will you use to pump water from your well(s)?

- Pump (give horsepower and type): **TBD**
- Other means (describe): \_\_\_\_\_

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water. **Water will be piped from wells to nursery system.**

**B. Application Method**

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler) (*attach additional sheets if necessary*)

**Drip.**

**C. Conservation**

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to aquatic life and riparian habitat; prevent the discharge of contaminated water to a surface stream; prevent adverse impact to public uses of affected surface waters (*attach additional sheets if necessary*).

**Programmed watering using controlled drip and sprinkler system.**

**SECTION 7: PROJECT SCHEDULE**

- a) Date construction will begin: **2021**
- b) Date construction will be completed: **2026**
- c) Date beneficial water use will begin: **2027**

**SECTION 8: RESOURCE PROTECTION**

In granting permission to use water the state encourages, and in some instances requires, careful control of activities that may affect adjacent waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

- Water quality will be protected by preventing erosion and run-off of waste or chemical products.  
Describe: \_\_\_\_\_
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.  
**Note: If disturbed area is greater than one acre, applicant should contact the Oregon Department of Environmental Quality to determine if a 1200C permit is required.**  
Describe planned actions and additional permits required for project implementation: \_\_\_\_\_
- Other state and federal permits or contracts required and to be obtained, if a water right permit is granted:  
List: \_\_\_\_\_

**SECTION 9: WITHIN A DISTRICT**

**OWRD**

Check here if the point of appropriation (POA) or place of use (POU) are located within or served by an irrigation or other water district.

Irrigation District Name n/a	Address	
City	State	Zip

**SECTION 10: REMARKS**

Use this space to clarify any information you have provided in the application (*attach additional sheets if necessary*).

\_\_\_\_\_

## Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.140)

### Include this checklist with the application

Check that each of the following items is included. The application will be returned if all required items are not included. If you have questions, please call the Water Rights Customer Service Group at (503) 986-0900.

Please submit the original application and signatures to the Water Resources Department. Applicants are encouraged to keep a copy of the completed application.

- SECTION 1: Applicant Information and Signature
- SECTION 2: Property Ownership
- SECTION 3: Well Development
- SECTION 4: Sensitive, Threatened or Endangered Fish Species Public Interest Information
- SECTION 5: Water Use
- SECTION 6: Water Management
- SECTION 7: Project Schedule
- SECTION 8: Resource Protection
- SECTION 9: Within a District
- SECTION 10: Remarks

RECEIVED

APR 20 2021

OWRD

#### Include the following additional items:

- Land Use Information Form with approval and signature of local planning department (*must be an original*) or signed receipt.
- Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
- Fees - Amount enclosed: **\$ 5,010**  
See the Department's Fee Schedule at [www.oregon.gov/owrd](http://www.oregon.gov/owrd) or call (503) 986-0900.
- Map that includes the following items:
  - Permanent quality and drawn in ink
  - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
  - North Directional Symbol
  - Township, Range, Section, Quarter/Quarter, Tax Lots
  - Reference corner on map
  - Location of each diversion, by reference to a recognized public land survey corner (distances north/south and east/west)
  - Indicate the area of use by Quarter/Quarter and tax lot identified clearly.
  - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
- n/a Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)

Oregon Water Resources Department  
Groundwater Application

[Main](#)    [Help](#)  
[Return](#)    [Contact Us](#)

Today's Date: Friday, April 2, 2021

Base Application Fee.		\$1,340.00
Number of proposed cubic feet per second (cfs) to be appropriated. (1 cfs = 448.83 gallons per minute)	4.9	\$1,750.00
Number of proposed Use's for the appropriated water. (i.e. Irrigation, Supplemental Irrigation, Pond Maintenance, Industrial, Commercial, etc) *	1	
Number of proposed groundwater points of appropriation. (i.e. number of wells) (include all injection wells, if applicable) **	5	\$1,400.00
Subtotal:		\$4,490.00
Permit Recording Fee. ***		\$520.00
* the 1st Water Use is included in the base cost. ** the 1st groundwater point of appropriation is included in the base cost. *** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<input type="button" value="Recalculate"/>	
Estimated cost of Permit Application		\$5,010.00

RECEIVED

APR 20 2021

OWRD

# Land Use Information Form



Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

RECEIVED

APR 20 2021

OWRD

Applicant(s): Allah Bakhsh

Mailing Address: 3125 Samuel Street

City: Riverside

State: CA

Zip Code: 92504

Daytime Phone: \_\_\_\_\_

## A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>36 S</u>	<u>29 E</u>	<u>7</u>	_____	<u>600</u>	<u>EFRU-1</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>NU</u>
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Harney County.

## B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water   
  Water Right Transfer   
  Permit Amendment or Ground Water Registration Modification  
 Limited Water Use License   
  Allocation of Conserved Water   
  Exchange of Water

Source of water:  Reservoir/Pond     Ground Water     Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 4.9     cubic feet per second     gallons per minute     acre-feet

Intended use of water:  Irrigation     Commercial     Industrial     Domestic for \_\_\_\_\_ household(s)  
 Municipal     Quasi-Municipal     Instream     Other Nursery Use (NU)

Briefly describe:

Groundwater application for water to be piped from wells for Nursery Use.

**Note to applicant:** If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

# For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Hc20 3.010 / EPLV-1
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Subject parcel is extremely remote. Applicant is advised that any agricultural structures proposed will need to be reviewed for compliance with local zoning standards prior to construction or development. Applicant provided "Nursery" as the proposed use. Agriculture is allowed outright in this zone, however staff encourages the applicant to contact the ODA prior to development to collect information on crop production information in the area and/or special considerations (e.g., Hemp production is allowable in Harney County, however other forms of cannabis production may not be).

Name: Brandon McMillen Title: Planning Director  
 Signature: [Signature] Phone: (911) 573-6655 Date: 4/8/2021  
 Government Entity: Harney County

**Note to local government representative:** Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

**Harney County  
Real Legal Descriptions**

4/2/2021 4:15:19 PM

**Account #** [REDACTED]  
**Map** 36S29E0000-00600  
**Effective Date** 01-Aug-2010 12:00 AM  
**Disclaimer** This information is maintained for assessment and taxation purposes only. The county is not responsible for possible errors, omissions, misuse, or misinterpretation. The legal description shown will not show any changes and/or modifications thereto subsequent to the EFFECTIVE DATE.

<u>Subdivision</u>	<u>Block</u>	<u>Lot</u>	<u>Direction</u>	<u>Part</u>	<u>Part Type</u>
--------------------	--------------	------------	------------------	-------------	------------------

**Metes and Bounds**

T 36 S., R 29 E., W.M. TL 600  
LAND IN HARNEY COUNTY, OREGON, AS FOLLOWS:  
IN TOWNSHIP 36 S., RANGE 29 E., W.M.  
SECTION 7: LOTS 1 THRU 4; SE1/4NW1/4; E1/2SW1/4

**RECEIVED**  
**APR 20 2021**  
**OWRD**

**E-2 App**  
 Yes  
 No

**Standard Application Completeness Checklist**  
**Groundwater and Surface Water Applications Only**  
 Minimum Application Requirements (OAR 690-310-0040 &-0050)

For use by WRD staff only 5(PDA)

Application #:	G-19116	Receipt #:	132025
Applicant Name:	Allah BakHsh	Amount Requested:	4.9 cfs
Priority Date:	4.20.2021	Proposed Use:	NU
County:	Harney	POD's TRS &TL:	36s, 29E, 7 TL 600
WM #:	10	Caseworker:	<input checked="" type="checkbox"/> KF <input type="checkbox"/> LG
Reviewed by:	cm	Reviewed Date:	4/27/2021

- Applicant/Organization Name and Mailing Address
- Signature of **all** applicants (include title or authority of representative if applicant is an organization or corporation). Note: Applicant's agent may NOT sign the application on behalf of the applicant.
- Property Ownership: Does the applicant own all the land for the proposed project?  Yes  No

If No:

- The affected landowner's name(s) and mailing address(s) must be listed.
- A signed statement declaring the existence of either written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work must be submitted.

**For a SW Application:** Source of water must be indicated.

- If the source is stored water, is the stored water component filled out and does the applicant own the reservoir or include a non-expired agreement for stored water? (ORS 537.400)
- If for stored water, is the source authorized under a permit, certificate, or decree?

Permit or Certificate issued:  Y  N      Permit or Certificate #: \_\_\_\_\_

**NOTE:** An expedited secondary (E2) application and a reservoir application cannot be filed at the same time. The reservoir must be legally authorized first, under an existing water right, in order to accept and process an E2 application.

**For a GW Application:** Well development table completed and a well log report included (if existing)

- Division 33 (Sensitive, Threatened, Endangered, Fish Species)
- Proposed Water Use:
  - Amount of water from *each* source in GPM, CFS, or AF
  - Period of use indicated
  - If for supplemental irrigation, primary acreage or underlying permit or certificate number listed.  
(Note: Primary and Supplemental Irrigation counts as 2 uses)

- Water Management Section
- Resource Protection Section

Project schedule. (Note: If system is already completed, indicates "existing.", (Note: Estimates are okay if the water system has not been designed))

Supplemental data sheets enclosed (if needed)

Form M (Municipal or Quasi-Municipal)

A completed **Land-Use Form** or receipt signed and dated by the appropriate planning department. Please be certain that the Land-Use form lists all lands involved and all uses proposed. Date of signature must be within the past 12 months.

A **Legal Description** of all the properties involved where water is diverted, conveyed, and used. The legal description includes a metes and bounds or other government survey description. A copy of the deed, land sales contract or title insurance policy can provide this information, or applicant may submit a lot book report prepared by a title company. Copies of tax bills are not acceptable

The proposed source  IS  IS NOT restricted or withdrawn from further appropriation. **NOTE:** If it is withdrawn under ORS 538, reject/return application and fees.

The **map** must meet all the minimum requirements of OAR 690-310-0050.

Township, Range, Section

Location of main canals, ditches, pipelines or flumes (if POA/POD is outside of POU)

Place of use, 1/4-1/4's and tax lot clearly identified

Even map scale not less than 4" = 1 mile (1" = 1320 ft.); examples: 1" = 100 ft., 1" = 200 ft.

Location of **each** diversion point or well by reference to a recognized public land survey corner.

Multiple wells shall be uniquely labeled, and identified on well logs, if existing.

Reference corner on map

North directional symbol

Number of acres per 1/4 1/4 if for irrigation, nursery, or agriculture

**Fees:** Amount of Water Requested: 4.9 cfs Name on Check: Allah Bukhsh.

Exam Fee Due:	\$ 4490. <sup>00</sup>	
Exam Fee Submitted:	\$ 4490. <sup>00</sup>	
Difference:	\$ 0	
Recording Fee Paid?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No \$	520. <sup>00</sup>
Total:	\$ 5010. <sup>00</sup>	



Oregon  
Kate Brown, Governor

work copy

Water Resources Department  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

April 27, 2021

Allah Bakhsh  
3125 Samuel Street  
Riverside, CA 92504

Dear Applicant:

The Oregon Water Resources Department has received your groundwater application for a water use permit. Your application has been assigned file number **G -19116**. Please refer to this number when contacting the Department. Should you have any questions about your application, please contact the following Water Rights Specialist assigned to your application:

Kim French, Water Rights Specialist	Phone: 503-986-0816
	Email: <a href="mailto:kim.r.french@oregon.gov">kim.r.french@oregon.gov</a>

A description of the steps that are used for processing a water right application are shown on the reverse side of this letter.

The first step in the water rights process is the completion of a groundwater review by the Department. This review can take approximately 6-9 months to complete, sometimes longer. Once the groundwater review is completed, you will receive a copy of an Initial Review that summarizes the Department's preliminary determinations. Copies of the Proposed Final Order and Final Order will also be mailed to you.

Please note that your application is subject to review and comment from other state agencies and interested parties.

Sincerely,

Cory Middleton  
Customer Service Representative  
Oregon Water Resources Department

cc: File  
John Short, Agent.

## **Water-Use Permit Application Processing Steps**

### **Oregon Water Resources Department**

#### **1. Initial Review**

The Department reviews the application to determine whether water is available during the period requested, whether the proposed use is restricted or limited by rule or statute, and whether other issues may preclude approval of or restrict the proposed use. An Initial Review (IR) containing preliminary determinations is mailed to the applicant. The applicant has 14 days from the mailing date to withdraw the application from further processing and receive a refund of all fees paid minus \$260. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

#### **2. Public Notice**

Within 7 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department at [www.oregon.gov/owrd](http://www.oregon.gov/owrd). The public comment period is 30 days from publication in the weekly notice.

#### **3. Proposed Final Order Issued**

The Department reviews any comments received, including comments from other state agencies related to the protection of sensitive, threatened or endangered fish species. Within 60 days of completion of the Initial Review, the Department issues a Proposed Final Order (PFO) explaining the proposed decision to deny or approve the application. A PFO proposing approval of an application will include a draft permit, and may request additional information or outstanding fees required prior to permit issuance.

#### **4. Public Notice**

Within 7 days of issuing the PFO, the Department gives public notice in the weekly notice. Notice includes information about the application and the PFO. Protest must be received by the Department within 45 days after publication of the PFO in the weekly notice. Anyone may file a protest. The protest filing fee is \$410.00 for the applicant and \$810.00 for non-applicants. Protests are filed on approximately 10 percent of Proposed Final Orders. If a protest is filed the Department will attempt to settle the protest but will schedule a contested case hearing if necessary.

#### **5. Final Order Issued**

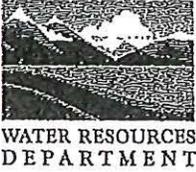
If no protests are filed, the Department can issue a Final Order within 60 days of the close of the period for receiving protest. If the application is approved, a permit is issued. The permit will specify the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate.

**Oregon Water Resources Department**  
**Groundwater Application**

- [Main](#)
- [Help](#)
- [Return](#)
- [Contact Us](#)

Today's Date: Tuesday, April 27, 2021

Base Application Fee.		\$1,340.00
Number of proposed cubic feet per second (cfs) to be appropriated. (1 cfs = 448.83 gallons per minute)	4.9	\$1,750.00
Number of proposed Use's for the appropriated water. (i.e. Irrigation, Supplemental Irrigation, Pond Maintenance, Industrial, Commercial, etc) *	1	
Number of proposed groundwater points of appropriation. (i.e. number of wells) (include all injection wells, if applicable) **	5	\$1,400.00
<b>Subtotal:</b>		<b>\$4,490.00</b>
Permit Recording Fee. ***		\$520.00
* the 1st Water Use is included in the base cost. ** the 1st groundwater point of appropriation is included in the base cost. *** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$5,010.00



Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Water Watch of Oregon Inc  
213 SW Ash Suite 208 Portland OR 97214

Transaction Type: Protest 6-19116

Fees Received: \$ 950<sup>00</sup>

Cash  Check: Check No. 1007

Name(s) on Check: Waterwatch of Oregon Inc

Address on Check: 213 SW Ash Suite 208  
Portland OR 97204

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,  
OWRD Customer Service Staff

Submission received by: Judy Ferrell  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt, and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet.
- Place the Submission Receipt with check/cash in the small top drawer (i.e., "Fiscal Pick Up Drawer"). Place the Submission Receipt with submission (application/other document) in the large bottom drawer.