



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301-1271
 (503) 986-0900
 www.wrd.state.or.us

Application for a Permit to Use Ground Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

A. Individuals

Applicant: Don Nienke
First Last

Mailing address: 21765 SW 78th Ave
Tualatin OR. 97062
City State Zip

Phone: 503-638-7227 503-702-2094
Home Work Other

*Fax: 503-638-7717 *E-Mail address: DNienke AT AOL.COM

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: _____

Name and title of person applying: _____

Mailing address of organization: _____

City State Zip

Phone: _____
Day Evening

*Fax: _____ *E-Mail address: _____

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 SALEM, OREGON

* Optional information

For Department Use		
App. No. <u>6-17061</u>	Permit No. _____	Date _____

2. PROPERTY OWNERSHIP

Do you own all the land where you propose to divert, transport, and use water?

Yes (Please check appropriate box below then skip to section 3 ("Ground water Development"))

There are no encumbrances

This land is encumbered by easements, rights of way, roads or other encumbrances (please provide a copy of the recorded deed(s))

No (Please check the appropriate box below.)

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

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 irrigated and/or domestic use only (ORS 274.040).

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.

List the names and mailing addresses of all affected landowners.

3. GROUND WATER DEVELOPMENT

A. Well Information

Number of well(s): two

Name of nearest surface water body: MALITVEN LAKE

Distance from well(s) to nearest stream or lake: 1) 12 miles

2) twelve miles 3) _____ 4) _____

If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1) _____

2) _____ 3) _____ 4) _____

B. Well Characteristics

Wells must be constructed according to standards set by the Department for the construction and maintenance of water wells. If the well is already constructed, please enclose a copy of the well constructor's log and the well ID number, if available, for each well with this application. Identify each well with a number corresponding to the wells designated on the map and proceed to section 4 of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

Well(s) will be constructed by: Western Drilling Co.

Address: P.O. Box 751 Burns Or. 97720

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Completion date: After Permit is Issued

Please provide a description of your well development. (Attach additional sheets if needed.)

Well No.	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
1	12"	Steel 12"	100	NONE	20'	30'	100'	1" steel	300
2	12"	Steel 12"	100	NONE	20'	30'	100'	1" steel	300
			<u>Proposed</u>						

Note: Well numbers in this listing must correspond to well locations(s) shown on accompanying map.

If well log is not available, or well is not yet constructed, you must provide: proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals.

C. Artesian Flows

If your water well is flowing artesian, describe your water control and conservation works:

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4. WATER USE

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: _____
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

B. Amount of Water

Provide the production rate in gallons per minute (gpm) and the total annual amount of water you need from each well, from each source or aquifer, for each use. You do not need to provide source information if you are submitting a well log with your application.

Well No.	Source or aquifer	Type of use	Total rate of water requested (in gpm)	Total annual quantity (in gallons)	Production rate of well (in gpm)
1	HARNEY BASIN	IRRIGATION	800	122,780,656.8	800
2	HARNEY BASIN	IRRIGATION	800	122,780,656.8	800

C. Maximum Rate of Use Requested

What is the maximum, instantaneous rate of water that will be used? 3.57 CFS
(The fees for your application will be based on this amount.)

D. Period of Use

Indicate the time of year you propose to use the water: MARCH 1 — OCTOBER 31
(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1–October 31.)

E. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used: 251.2
(This number should be consistent with your application map.)

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5. WATER MANAGEMENT

A. Diversion

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

Pump (give horsepower and pump type): (1) 40 HP Turbine (2) 40 HP Turbine

Other means (describe): _____

B. Transport

How will you transport water to your place of use?

Ditch or canal (give average width and depth):

Width _____ Depth _____

Is the ditch or canal to be lined? Yes No

Pipe (give diameter and total length):

Diameter (1) 8" (2) 8" Length (1) 20' (2) 20'

Other (describe) _____

C. Application/Distribution Method

What equipment will you use to apply water to your place of use? center pivot systems

Irrigation or land application method (check all that apply):

- Flood
- High-pressure sprinkler
- Low pressure sprinkler
- Drip
- Water cannons
- Center pivot system
- Hand lines
- Wheel lines
- Siphon tubes or gated pipe with furrows
- Other, describe _____

Distribution method

- Direct pipe from source
- In-line storage (tank or pond)
- Open canal

D. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

To Date center Pivots ARE the Best conservation methods available For this size Acreage THE SPRINKLER Package I Install will Be the Best available technology at that time

6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: AFTER Permit is Issued

Proposed date construction will be completed: 2 months AFTER Permit is Issued

Proposed date beneficial water use will begin: MAY (month) AFTER Permit is Issued

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

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8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed well location and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

9. SIGNATURE

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 packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- 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 canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:



Signature of Applicant (If more than one applicant, all must sign.)

5-16-08

Date

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Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at www.wrd.state.or.us or call (503) 986-0900.



111 WEST WASHINGTON
BURNS, OR 97720

Bus (541) 573-2039
Fax (541) 573-5844

BUYER'S FINAL CLOSING STATEMENT

RE: YOUR ESCROW NO: BU0018674

DATE: 04/04/2008
CLOSE OF ESCROW: 04/04/2008

DON NIENKE (the "Buyer") is/are buying the subject property described herein from: JELD-WEN 1031 (the "Seller").

SUBJECT PROPERTY: BARE LAND IN HARNEY COUNTY, HARNEY COUNTY

TITLE ORDER NO.: 0018674

PRORATE DATE: 04/04/2008	CHARGE	CREDIT
PURCHASE PRICE	\$160,000.00	
BUYER DEPOSITS:		
DON NIENKE		60,408.67
PRORATIONS AS OF Close of Escrow :		
Real Prop. Tax @ 35.31 paid to 06/30/2008	8.42	
Real Prop. Tax @ 8.83 paid to 06/30/2008	2.10	
Real Prop. Tax @ 25.82 paid to 06/30/2008	6.15	
NEW ENCUMBRANCE JELD-WEN 1031	RECEIVED MAY 27 2008 WATER RESOURCES DEPT. SALEM, OREGON	100,000.00
ESCROW FEES:		
AMERITITLE		
ESCROW CLOSING FEE	270.00	
TITLE CHARGES:		
AMERITITLE		
RECORDING SERVICES	62.00	
ADDITIONAL CHARGES & CREDITS:		
AMERITITLE		
Long Term Escrow Setup	60.00	
BALANCE NEEDED TO CLOSE		
TOTALS	\$160,408.67	\$160,408.67

This statement delivered to buyer/borrower is certified to be a true and actual copy of the original


ESCROW OFFICER: CORI WRIGHT

500
1200
1800
6AE
23358
1234

THIS SPACE RESERVED FOR RECORDER'S USE

20080567



After recording return to:
DON NIENKE
21765 SW 78TH AVE.
TUALITIN, OR 97062

Until a change is requested all tax statements shall be sent to the following address:

DON NIENKE
21765 SW 78TH AVE.
TUALITIN, OR 97062

Escrow No. BU0018674
Title No. 0018674
SWD

STATE OF OREGON
County of Harney

I certify that the instrument identified herein was recorded on the 3 day of April, 2008 at 9:45 o'clock, A.M. in the County Clerk's Records of Harney County, Oregon.

Notary Public, County Clerk
By: April F. Hensley

STATUTORY WARRANTY DEED

RATTLESNAKE CREEK LAND & CATTLE COMPANY, LLC., Grantor(s) hereby convey and warrant to Don Nienke, Grantee(s) the following described real property in the County of HARNEY and State of Oregon free of encumbrances except as specifically set forth herein:

Land in Harney County, Oregon, as follows:

In Twp. 23 S., R. 33 E., W.M.:

Sec. 18: Government Lots 3 and 4, SE1/4SW1/4, SE1/4, NE1/4SW1/4.

CODE # 4-2 ACCT. # 10108 MAP# 23S 33E 18 TL1200
CODE # 4-2 ACCT. # 10070 MAP# 23S 33E 18 TL1300
CODE # 4-2 ACCT. # 10241 MAP# 23S 33E 18 TL 1400

The above-described property is free of encumbrances except all those items of record, if any, as of the date of this deed and those shown below, if any:

The true and actual consideration for this conveyance is PURSUANT TO AN IRC 1031 TAX DEFERRED EXCHANGE ON BEHALF OF GRANTOR/GRANTEE.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

Dated this 3 day of April, 2008

RATTLESNAKE CREEK LAND & CATTLE COMPANY, LLC.

BY: Andy J. Root
Andy J. Root, Manager and Sole Member

State of Oregon
County of HARNEY



This instrument was acknowledged before me on April 3, 2008 by Andy J. Root.

April F. Hensley
(Notary Public for Oregon)

My commission expires 9-5-2010

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Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Don Nienke
Mailing Address: 21765 SW 78th Ave
City: TUALATIN State: OR. Zip: 97062 Day Phone: 503-702-2094

This application is related to a Measure 37 claim. Yes No

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. 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>J35</u>	<u>33E</u>	<u>18</u>	SW	<u>1200</u>	<u>EFRU-2</u>	Diverted	Conveyed	<input checked="" type="checkbox"/> Used	
			SE	<u>1300</u>		Diverted	Conveyed	Used	
			NE	<u>1400</u>		Diverted	Conveyed	Used	
						Diverted	Conveyed	Used	

SE ¼ SW ¼ SE ¼ NE ¼ SW ¼

List all counties and cities where water is proposed to be diverted, conveyed, or used. Harney County

B. Description of Proposed Use

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

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

Exchange of Water

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

Estimated quantity of water needed: 1600 cubic feet per second 1 gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
Municipal Quasi-municipal Instream Other _____

Briefly describe: 2 center pivots on 320 Acres

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

Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

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 proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): EF2V-2.

Land uses to be served by 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:	
		Obtained Denied	Being pursued Not being pursued
		Obtained Denied	Being pursued Not being pursued
		Obtained Denied	Being pursued Not being pursued
		Obtained Denied	Being pursued Not being pursued
		Obtained Denied	Being pursued Not being pursued
		Obtained Denied	Being pursued 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.

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Name: Brian Mollen Title: Planning Director
 Signature: [Signature] Phone: 541-573-6655 Date: 5/19/08
 Government Entity: Harney County Planning

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: _____