

Daniel J. Hutchison
102 Jantoni Dr.
Boise, Idaho 83712
(208)830-7429

July 27, 2009

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503)986-0900

Dear Sir/Madam:

Enclosed is an Oregon Water Rights Application for the storage and irrigation use of water from Black Bull Spring located in Malheur County, Oregon. Black Bull Spring is located on my property in Township 28 South, Range 37 East, E ½ NE ¼ Section 34, and W ½ NW ¼ Section 35. This property is also described as Malheur County Tax Lot 1900 on map 28S37.

As noted in the enclosed water right application the spring surfaces and sinks below ground within my property. The past use of the water has been primarily as livestock water however, my management plan for the property has identified the need to irrigate two acres for the production of Christmas trees and black berries as well as garden crops and riparian area improvement.

Please find for your review and approval the enclosed:

1. Application for a Permit to Use Surface Water;
2. Water Rights Application Map;
3. Application for a Permit to Store Water in a Reservoir (Alternate Review);
4. Form I for Irrigation Water Use;
5. Spring Description Sheet; and,
6. Land Use Information Form. (Please note that the Malheur County Planning Director has reviewed and signed the Land Use Information Form).

Mr. Ron Jacobs the Malheur County Water Master has been very helpful in my development of this water rights application, however, any errors in the application are strictly my own. If you have any questions concerning this application please contact me.

I have enclosed the appropriate fees to include:

- | | |
|---|------------------|
| 1. Surface Water Base: | \$ 700.00 |
| 2. 1 st cubic foot per second (cfs) or fraction thereof: | \$ 250.00 |
| 3. Each additional use, point of diversion: | \$ 250.00 |
| 4. Alternate Permit Application for Qualifying Reservoirs: | |
| a. Base: | \$ 300.00 |
| b. Each af or fraction thereof: (2 af @ \$25 Each): | \$ 50.00 |
| 5. Standard permit recording fee: | <u>\$ 400.00</u> |
| 6. Total enclosed: | \$1,950.00 |

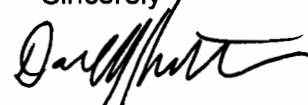
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WATER RESOURCES DEPT
SALEM, OREGON

Thank you for your review and consideration of this water right application.

Sincerely



Daniel J. Hutchison



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

Application for a Permit to Use Surface 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. Applicants

Applicant: Daniel Hutchison
First Last

Mailing Address: 102 Jantoni Dr.
Boise Idaho 83712
City State Zip

Phone: (208)830-7428 N/A (208)830-7429
Home Work Other

*Fax: N/A *Email Address: daniel.j.hutchison@us.army.mil

B. Organizations

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

Name of Organization: N/A

Name and Title of Person Applying: N/A

Mailing Address or Organization: N/A
N/A N/A N/A
City State Zip

Phone : N/A N/A
Day Evening

*Fax: N/A *Email Address: N/A

*Optional

For Department Use

App. No. _____ Permit No. _____ Date _____

Last Updated: 3/31/2009

Surface Water/1

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2. SOURCE AND PROPERTY OWNERSHIP

A. The Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: <u>Black Bull Spring</u>	Tributary to: <u>Duck Pond Reservoir</u>
Source 2: <u>Duck Pond Reservoir</u>	Tributary to: <u>None</u>
Source 3: _____	Tributary to: _____
Source 4: _____	Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water

Complete this section if any source listed in item 2A above is stored water.

Do you, or will you, own the reservoir(s) described in item 2A above?

☒ Yes

☐ No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

If *all* sources listed in item 2A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

☒ By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

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Surface Water/2

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C. 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 'Water Use')

☒ 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.

Daniel J. and Linda J. Hutchison
102 Jantoni Dr.
Boise, Idaho 83712

3. 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: 0
- 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**

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B. Amount of Water

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
Black Bull Spr.	Irrigation / Multipurpose	6 ☐ cfs ☒ gpm ☐ af
Duck Pond Res.	Irrigation / Multipurpose	2 ☐ cfs ☐ gpm ☒ af
	Total Irrigation/Mult.	15 ☐ cfs ☒ gpm ☐ af
		☐ cfs ☒ gpm ☐ af

DA
8/5/2009

C. 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.)

If you will be applying water to land, indicate the total number of acres where water will be applied or used: 2 acres

(This number should be consistent with your application map.)

4. WATER MANAGEMENT**A. Diversion**

What method will you use to divert water from the source?

☐ Pump (give horsepower and pump type): _____

☒ Head-gate (give dimensions): 4 inch

☒ other means (describe): Gravity feed from Black Bull Spring to Duck Pond Reservoir

B. Monitoring

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

☐ Weir

☐ Meter

☒ Periodic Sampling

☐ other means (describe): _____

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B. Amount of Water

General

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

Source	Type of use	Amount
Black Bull Spr.	Irrigation / Multipurpose	6 cfs ☒ gpm ☐ af
Duck Pond Res.	Irrigation / Multipurpose	☐ cfs ☒ gpm ☐ af
	Total Irrigation/Mult.	15 cfs ☒ gpm ☐ af
		☐ cfs ☒ gpm ☐ af

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- ☐ Weir ☐ Meter ☒ Periodic Sampling
- ☐ other means (describe): _____

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C. 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 4 inch Length 500 feet

☒ other, describe: Open overland flow from spring to reservoir.

D. Application/Distribution Method

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

Pipe will be used to spread the water across two acres below duck Pond reservoir. Piped drip irrigation will be used to supplement water for specific trees and plants as needed.

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

E. Conservation

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

Overland flow from the spring to the reservoir is use to maintain and improve the natural wetland and riparian area between the spring and reservoir. Water will be held in the reservoir for stock and wildlife use as well as wetland enhancement and recreation. Water will be conveyed from the reservoir by pipe to the location of intended use which includes drip irrigation. Flood irrigation is used to maintain and improve the natural wetland and riparian area below the reservoir as well as crop production.

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5. RESOURCE PROTECTION

A. Protection Practices

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the 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.

- ☒ Diversion will be screened to prevent uptake of fish and other aquatic life. Describe planned actions:

No fish are present in Duck Pond Reservoir. The outlet from the reservoir will be screened to prevent uptake of other aquatic life and wildlife.

- ☒ Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions:

No excavation or clearing of banks is needed and the water use will include re-establish and maintaining the riparian area. Duck Pond Reservoir has been in place for over 35 years. Foliage on the reservoir dike will be kept to a minimum consisting mostly of grass. There are no trees on the reservoir dike.

- ☒ Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe:

There will be no operation equipment in a water body to prevent damage to aquatic life.

- ☒ Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe:

Water will be used only on tax lot 1900 and no water will leave the property. The water presently sinks into the ground within tax lot 1900 and this project will only increase the area of riparian area associated with Black Bull Spring and Duck Pond Reservoir.

- ☐ Other:

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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: September of 2009

Proposed date construction will be completed: November 2009

Proposed date beneficial water use will begin: March 1, 2010

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars) ☐ Yes ☒ No

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.

Item #2: Legal description: E1/2 of the NE 1/4 Section 35, Township 28 South, Range 37 East.
Item #2: Duck Pond Reservoir has been in place as a stock watering pond for over 35 years.
Item #6: Construction will consist of maintaining the outlet of the small 75' X 150' reservoir and placement of the irrigation pipe.

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 points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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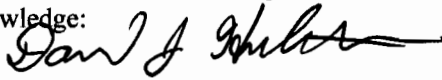
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9. SIGNATURE

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, I may have to stop using water to allow senior water right holders to get water to which they are entitled.

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



July 27, 2009

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

Date

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.

WRD on the web:
www.wrd.state.or.us

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**WATER RESOURCES DEPT
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Legal Description
File No. 0005481

EXHIBIT "A"

Land in Malheur County, Oregon, as follows:
In Twp. 28 S., R. 37 E., W.M.:
Sec. 34: E $\frac{1}{2}$ NE $\frac{1}{4}$.
Sec. 35: W $\frac{1}{2}$ NW $\frac{1}{4}$.

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Oregon Water Resources Department

FORM I FOR IRRIGATION WATER USE

1. Please indicate whether you are requesting a primary or supplemental irrigation water right.

☒ **Primary** ☐ **Supplemental**

If Supplemental, please indicate the number of acres that will be irrigated for each type of use

Primary: 2 Acres

Supplemental: _____ Acres

List the permit or certificate number of the primary water right: No. _____

2. Please list the anticipated crops you will grow and whether you will be irrigating them for a full or partial season:

1. Christmas trees ☒ **Full Season** ☐ **Partial Season** (from: March to October)

2. Black Berry/raspberry ☒ **Full Season** ☐ **Partial Season** (from: March to October)

3. Garden crops ☒ **Full Season** ☐ **Partial Season** (from: March to October)

4. _____ ☐ **Full Season** ☐ **Partial Season** (from: _____ to _____)

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

6 acre-feet

(1 acre-foot equals 12 inches of water spread over 1 acre, or 43,560 cubic feet, or 325,851 gallons.)

4. How will you schedule your applications of water? Will you be applying water in the evenings, twice a week, daily?

☒ Daily during daytime hours

☒ Daily during nighttime hours

☐ Two or three times weekly during daytime

☐ Two or three times weekly during nighttime

☐ Weekly, during daytime hours

☐ Weekly, during nighttime hours

☐ Other, explain: _____

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SALEM, OREGON



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

REV. 11/20/03

SPRING DESCRIPTION SHEET

1. Is the spring on the property owned by the applicant? YES ☒ NO ☐
2. If not, give name and address of legal owner: N/A
3. Have you secured consent of the legal owner of the spring to appropriate water and for construction of your delivery system? YES ☒ NO ☐
4. If you do not have such consent, do you expect to secure right-of-way through condemnation? YES ☐ NO ☒
5. What is the maximum flow from the spring in gallons per minute or cubic feet of water per second?
What is the maximum flow? 6 gallons per minute
Is flow measured or estimated? MEASURED ☐ ESTIMATED ☒
6. Does the stream flowing from the spring form a well defined natural channel?
YES ☐ NO ☒
7. Does the water flow off the lands on which it first arises? YES ☐ NO ☒
8. Give the name of the stream or other body of water into which the water from the spring flows: Duck Pond Reservoir (small stock watering pond)
9. If the water from the spring sinks or evaporates before reaching other water, give the distance water flows from spring before vanishing: 150 feet to pond and then 200 feet.
10. Remarks: The spring is named Black Bull Spring as noted on the 1974 USGS Topographic map. The current spring development has been in place for over 35 years. The 75' X 150' Duck Pond reservoir has also been in place for over 35 years. Overflow from the pond sinks before reaching other water.

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SALEM, OREGON

I certify that the information I have provided on this form is accurate, true and correct to the best of my knowledge:

Applicant *Don Miller* Signature July 27, 2009 Date

Signature *Don Miller* Date July 27, 2009



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: Daniel Hutchison
First Last
Mailing Address: 102 Janoni Dr.
Boise Idaho 83712 Daytime Phone: (208)830-7428
City State Zip

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:
28 South	37 East	34	NE NE	1900	C-A2	☒ Diverted ☒ Conveyed ☐ Used	Wetland
28 South	37 East	34	SE NE	1900	C-A2	☐ Diverted ☒ Conveyed ☒ Used	Multipurpose
28 South	37 East	34	SE NE	1900	C-A2	☐ Diverted ☒ Conveyed ☒ Used	Irrigation
						☐ Diverted ☐ Conveyed ☐ Used	

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

Malheur 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 ☐ Exchange of Water
☐ Allocation of Conserved Water ☐ Limited Water Use License
☐ Permit Amendment of Ground Water Registration Modification

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

Estimated quantity of water needed: 15 _____ ☐ 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 Stock water

Briefly describe:

75' X 150' pond with 4 inch head gate to control outflow. Water will be used for irrigation, wetland enhancement, and stock water.

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

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SALEM, OREGON

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): MCC Title 6
- ☐ 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

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.

--

Name: Jon D Beal Title: Planning Director
Signature: Jon D Beal Phone: 473-5185 Date: 7.27.09
Government Entity: Malheur Co

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

RECEIVED

Applicant Name: Daniel J. Hutchison

AUG 03 2009

City or County: Malheur County

Staff Contact: _____

WATER RESOURCES DEPT
SALEM, OREGON

Signature: _____

Phone: _____

Date: _____