

For question contact IVAN GALL or Ron Franks

Application for a Permit to Use Surface Water



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

RECEIVED

MAY 10 2010

WATER RESOURCES DEPT
SALEM, OREGON

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

NAME DENNIS WERNER		PHONE (HM) 208-286-078	
PHONE (WK) 208-286-0789	CELL 208-850-1175	FAX 208-286-0792	
ADDRESS 463 S. MOON BEAM WAY			
CITY EAGLE	STATE ID	ZIP 83616	E-MAIL KAREN@DKWINVESTMENTS.COM

Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

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

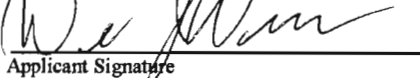
AGENT / BUSINESS NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

Note: Attach multiple copies as needed

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.
- Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- 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

Dennis J Werner
Print Name and title if applicable owner

5-7-10
Date

Applicant Signature

Print Name and title if applicable

Date

App. No. <u>S-87605</u>	For Department Use Permit No. _____	Date _____
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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.

SECTION 4: WATER USE

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	USE	PERIOD OF USE	AMOUNT
N. Alkali Creek	non-consumptive & wet land establishment	Nov 1 – Feb 28	af 3 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/>
N. Alkali Creek	Non-consumptive & wet land establishment	March 1 – Oct 31	af 11 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/>
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

For irrigation use only:

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: _____ Acres 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: _____
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

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This page to be completed by the local Watermaster.

WATER AVAILABILITY STATEMENT

Name of Applicant: Dennis Werner Limited License Number: _____

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights? Yes No

If yes, please explain:

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application? Yes No

3. Do you observe this stream system during regular fieldwork? Yes No

If yes, what are your observations for the stream?

Alkali Creek runs water year round. During the irrigation season it collects runoff water from farm ground within the drainage and discharges into the Snake River. The volume increases dramatically and it is apparent that the sediment levels are extremely high during the irrigation season. Through water sampling, SWCD has determined that the phosphate levels are elevated as well during the irrigation season.

4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights? Yes No N/A

What would you recommend for conditions on a limited license that may be issued approving this application?

5. Any other recommendations you would like to make?

Signature Ronald K. Jacobs WM District #: 9 Date: 5/7/2010

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.

Yes

There are no encumbrances.

This land is encumbered by easements, rights of way, roads or other encumbrances.

No

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

Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

SECTION 3: SOURCE OF WATER

A. 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: N. Alkali Creek

Tributary to: Snake River

Source 2: _____

Tributary to: _____

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

Do you, or will you, own the reservoir(s) described in item 3A 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 3A are stored water, the Department will review your application using the expedited

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SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

Pump (give horsepower and type): _____

Other means (describe): Gravity flow _____

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

Concrete Diversion structure 10'x4'

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

n/a

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 adverse impact to public uses of affected surface waters.

Run water through ponds for sediment abatement. Concrete structure 5' x 4' check with boards to control flow.

SECTION 6: RESOURCE PROTECTION

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: n/a

Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: Acquired 1200C permit thru DEQ. Issue has been addressed.

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

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

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SECTION 7: PROJECT SCHEDULE

Date construction will begin: April 1 2010

Date construction will be completed: Sept 30 2010

Date beneficial water use will begin: ASAP

SECTION 8: REMARKS

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

Through sampling by SWCD water technician it has been determined that phosphate & turbidity levels have exceeded 303 d listing for the Snake River. By diverting water from Alkali Creek, running it through the wet land ponds the water quality will be brought into compliance with the 303 d listing.

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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: DENNIS WEGNER
Mailing Address: 463 S. MOON BEAM WAY
City: Eagle State: ID Zip: 83616 Day Phone: 208-286-0788

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	1/4	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:			Proposed Land Use:
225	46E	14	NESW	300		<input checked="" type="checkbox"/> Diverted	<input checked="" 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	
						<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, or used. Malheur

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

Source of water: Reservoir/Pond Ground Water Surface Water (name) N. Alkali Creek

Estimated quantity of water needed: 11 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 _____

Briefly describe: Run water through three ponds to establish wet lands & clean water up prior to discharging into Snake River

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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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): 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
		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: 541-473-5185 Date: 5-6-10
 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

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

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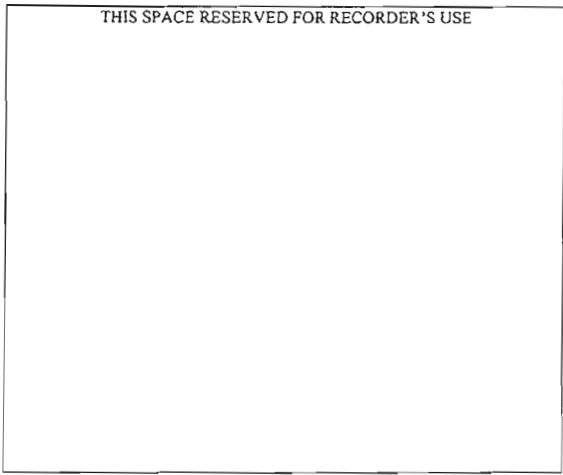
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After recording return to:
First American Title Co.
81 South Oregon Street
Ontario, OR 97914

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

File No.: 26082
Date: March 20, 2008



STATUTORY BARGAIN and SALE DEED

DENNIS JON WERNER, Grantor, grants, bargains, sells unto DENNIS J. WERNER and KAREN WERNER, husband and wife, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

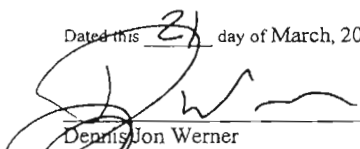
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Account No.: 10926	Code No.: 36	Map No.: 224614	Tax Lot No.: 200
Account No.: 10929	Code No.: 36	Map No.: 224614	Tax Lot No.: 700
Account No.: 10911	Code No.: 36	Map No.: 2246	Tax Lot No.: 1800
Account No.: 10932	Code No.: 36	Map No.: 224614	Tax Lot No.: 300

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (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 SECTIONS 2, 3 AND 5 TO 22 OF CHAPTER 424, OREGON LAWS 2007 (MEASURE 49 (2007)).

The true consideration for this conveyance is \$0.00. (Here comply with requirements of ORS 93.030)

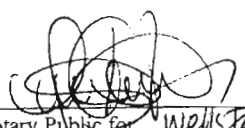
Dated this 21 day of March, 2008.



 Dennis Jon Werner
 State of Idaho)
)ss.
 County of Ada)

This instrument was acknowledged before me on this 21 day of March, 2008 by Dennis Jon Werner, and he acknowledged said instrument to be his voluntary act and deed.





 Notary Public for Wells Fargo
 My commission expires: July 21, 2013

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