

Application for a Permit to Use Ground Water



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

RECEIVED BY OWRD

Water-Use Permit Application Processing

DEC 14 2012

SALEM, OR

1. Completeness Determination

The Department evaluates whether the application and accompanying map contain all of the information required under OAR 690-310-0040 and OAR 690-310-0050 (www.oregon.gov/owrd/law). The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

2. 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 \$200. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

3. 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. The public comment period is 30 days from publication in the weekly notice.

4. 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 IR, 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.

5. 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 \$300.00 for the applicant and \$600.00 for non-applicants. Protests are filed on approximately 10% 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.

6. Final Order Issued

If no protests are filed, the Department issues a Final Order consistent with the PFO. If the application is approved, a permit is issued that specifies the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate.

Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.615)

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.

- SECTION 1: applicant information and signature
- SECTION 2: property ownership
- SECTION 3: well development
- SECTION 4: water use
- SECTION 5: water management
- SECTION 6: storage of groundwater in a reservoir
- SECTION 7: use of stored groundwater from the reservoir
- SECTION 8: project schedule
- SECTION 9: within a district
- SECTION 10: remarks

Attachments:

- Land Use Information Form with approval and signature (*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. Example: A copy of the deed, land sales contract or title insurance policy.
- Fees - Amount enclosed: \$4000 (GW base = \$1000; add cfs = \$2500; add POAs = \$500)
See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.

Provide a map and check that each of the following items is included:

- 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 well, and/or dam if applicable, by reference to a recognized public land survey corner (distances north/south and east/west). Each well must be identified by a unique name and/or number.
- Indicate the area of use by Quarter/Quarter and tax lot clearly identified
- Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery **N/A – this is an application for Quasi-Municipal use**
- Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)
- Other _____

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SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

SALEM, OR

NAME		PHONE (HM)	
PHONE (WK)	CELL	FAX	
ADDRESS			
CITY	STATE	ZIP	E-MAIL*

Organization Information

NAME AVION WATER COMPANY, INC. - ATTN: JASON WICK, PRESIDENT		PHONE 541-382-5342	FAX
ADDRESS 60813 PARRELL RD.			CELL
CITY BEND	STATE OR	ZIP 97702	E-MAIL* AVION@AVIONWATER.COM

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

AGENT / BUSINESS NAME GSI WATER SOLUTIONS, INC. - ATTN: ADAM SUSSMAN		PHONE 541-753-0745	FAX
ADDRESS 1600 WESTERN BLVD.			CELL
CITY CORVALLIS	STATE OR	ZIP 97333	E-MAIL* ASUSSMAN@GSIWS.COM

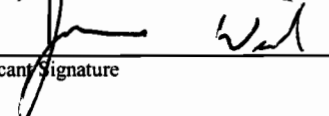
Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the 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

Jason Wick, President
Print Name and title if applicable

12/5/12
Date

Applicant Signature

Print Name and title if applicable

Date

For Department Use		
App. No. <u>G-13606</u>	Permit No. _____	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.

- 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*).

The proposed use of water is for quasi-municipal use. Avion Water Company has easements (see attached documents) for both the Brown and Dyer properties where the proposed POAs will be located and pipelines are located within easements or in public rights of way. Water is delivered to residential and commercial customers.

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
Brown #1	Deschutes River	N/A	N/A
Brown #2	Deschutes River	N/A	N/A
Dyer #2	Deschutes River	N/A	N/A

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*).

All three proposed POAs are more than 2 miles from the Deschutes River.

SECTION 3: WELL DEVELOPMENT, CONTINUED

Source (aquifer), if known: **Deschutes Basin**

Total maximum rate requested: **10 cfs** (each well will be evaluated at the maximum rate unless you indicate well-specific rates and annual volumes in the table below). **Avion is requesting a total annual volume of up to 1287 acre-feet from any combination of the proposed wells.**

Complete the table below. If this is an existing well, the following 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.

G-17665

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)
Brown #1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	n/a	<input type="checkbox"/>	~20-24" ~16-20"	~0-50' ~0-700'	~700-1000'	~0-700'	n/a	basalt	~1000'	~1500	1287
Brown #2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	n/a	<input type="checkbox"/>	~20-24" ~16-20"	~0-50' ~0-700'	~700-1000'	~0-700'	n/a	basalt	~1000'	~1500	1287
Dyer #2	<input checked="" type="checkbox"/>	<input type="checkbox"/>	n/a	<input type="checkbox"/>	~20-24" ~16-20"	~0-50' ~0-700'	~700-1000'	~0-700'	n/a	basalt	~1000'	~1500	1287
	<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"/>									

* 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.

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SECTION 4: WATER USE

USE	PERIOD OF USE	ANNUAL VOLUME (ACRE-FEET)
QM	Year-round	1287.0

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.

For irrigation use only: N/A

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

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: N/A
If the use is **mining**, describe what is being mined and the method(s) of extraction: N/A

SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

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

Pump (give horsepower and type): vertical line shaft, 350 hp motor

Other means (describe): _____

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

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)
Water will be pumped from wells into the greater Avion water system and delivered to customers systems.

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.

As described in Avion's approved 2010 WMCP, projected growth is driving the necessity for additional water right capacity. Avion customers are charged according to their water usage which is a known deterrent of water waste. The local Watermaster and Regional Manager have approved the method Avion uses to calculate water appropriation within the system. Avion is not appropriating surface water for the proposed quasi-municipal use, therefore the last two issues listed do not apply.

SECTION 6: STORAGE OF GROUND WATER IN A RESERVOIR

If you would like to store ground water in a reservoir, complete this section (if more than one reservoir, reproduce this section for each reservoir). N/A

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Reservoir name: _____ Acreage inundated by reservoir: _____

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Use(s): _____

Volume of Reservoir (acre-feet): _____ Dam height (feet, if excavated, write "zero"): _____ SALEM, OR

Note: If the dam height is greater than or equal to 10.0' above land surface AND the reservoir will store 9.2 acre feet or more, engineered plans and specifications must be approved prior to storage of water.

SECTION 7: USE OF STORED GROUND WATER FROM THE RESERVOIR

If you would like to use stored ground water from the reservoir, complete this section (if more than one reservoir, reproduce this section for each reservoir). N/A

Annual volume (acre-feet): _____

USE OF STORED GROUND WATER	PERIOD OF USE

SECTION 8: PROJECT SCHEDULE

Date construction will begin: upon permit issuance

Date construction will be completed: within 5 years of permit issuance

Date beneficial water use will begin: within 5 years of permit issuance

SECTION 9: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district.

Irrigation District Name Central Oregon Irrigation District	Address 1055 SW Lake Ct.	
City Redmond	State OR	Zip 97756

Irrigation District Name Arnold Irrigation District	Address 19604 Buck Canyon Rd.	
City Bend	State OR	Zip 97702

SECTION 10: REMARKS

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

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Land Use

Information Form SALEM, OR



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

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

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) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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 BY OWRD

Applicant: Avion Water Company, Inc.
First

_____ Last

DEC 14 2012

Mailing Address: 60813 Parrell Road

SALEM, OR

Bend
City

OR
State

97702
Zip

Daytime Phone: 541-382-5342

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:
*see	attached	maps				<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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, and/or used or developed:

Deschutes County and City of Bend

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: 10.0
 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:

Avion is applying for a new groundwater right in the amount of 10cfs; water will be appropriated from 3 wells.

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): _____.

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:	
1. Site Plan 2. Variance	Title 19 of the Deschutes County Code	<input checked="" 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.

The Hannehook site may or may not need land use approval, depending upon what facilities are proposed.

Name: Paul Blikstad Title: Senior Planner

Signature: Paul Blikstad Phone: 541-388-6554 Date: 11-28-12

18-12-15CD
1600

Government Entity: Deschutes 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: _____ **RECEIVED BY OWRD**

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: DEC 14 2012

SALEM, OR

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
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NOTE TO APPLICANTS

SALEM, OR

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Daytime Phone: 541-382-5342

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DEC 03 2013
WATER RESOURCES DEP
SALEM, OREGON

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.

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*see	attached	maps				<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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, and/or used or developed:

Deschutes County and City of Bend

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: 10.0 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:

Avion is applying for a new groundwater right in the amount of 10cfs; water will be appropriated from 3 wells.

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. →

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Please check the appropriate box below and provide the requested information

REVISED 12/3/13

- 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): BDC Chapter 2.1
- 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:	
Site Plan Review	BDC Chapter 4.2	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input checked="" type="checkbox"/> Not Being Pursued
Subdivision Approval	BDC Chapter 4.3	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input checked="" type="checkbox"/> Not Being Pursued
Conditional Use Permits	BDC Chapter 4.4	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input checked="" 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.



CITY OF BEND

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DEC 03 2013

WATER RESOURCES DEPT
SALEM, OREGON

Name: Aaron Henson Title: Senior Planner Phone: 541-383-4885
 Signature: Aaron Henson Date: 11/28/12
 Government Entity: city of Bend

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: _____ **RECEIVED BY OWRD**
 City or County: _____ Staff contact: _____ DEC 14 2012
 Signature: _____ Phone: _____ Date: _____ SALEM, OR

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 BY OWRD

Applicant: Avion Water Company, Inc.
First

_____ Last

DEC 14 2012

Mailing Address: 60813 Parrell Road

SALEM, OR

Bend
City

OR
State

97702
Zip

Daytime Phone: 541-382-5342

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:
*see	attached	maps				<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" 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, and/or used or developed:

Deschutes County and City of Bend

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: 10.0 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:

Avion is applying for a new groundwater right in the amount of 10cfs; water will be appropriated from 3 wells.

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): _____.
- 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.



Name: Aaron Henson Title: Senior Planner
 Signature: Aaron Henson
 Government Entity: city of Bend

Phone: 541-383-4885
 Date: 11/28/12

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 BY OWRD

Applicant name: _____
 City or County: _____ Staff contact: _____ Date: DEC 14 2012
 Signature: _____ Phone: _____ Date: _____
SALEM, OR



Oregon Water Resources Department

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FORM M

SALEM, OR

FOR MUNICIPAL AND QUASI MUNICIPAL WATER SUPPLIES

Unless otherwise noted, water use information should be in acre-feet per year (AFY).
1 acre-foot is equal to 325,851 gallons.

Background Information

Name of water supplier: Avion Water Company, Inc.

Name and size of area to be served: Avion Service Area - ~43,400 acres (3,400 w/in Bend UGB, remainder w/in UGB).
(in square miles)

Present population of service area: 35,172 (2009) – based on Avion's 2010 WMCP update (pg. 5)
(Contact county planning staff, if needed.)

Projected population in 20 years: 42,407 (2022) – based on Avion's 2010 WMCP update (pg. 53)
(Cite source and year. For example: "20,595 Based upon 1995 Portland State University projections.")

List present water rights and permits held:

Date of Issuance:	Natural Source of Water:	Amount Permitted:	Utilization:
<u>c.84975 5/18/1992</u>	<u>groundwater – Deschutes Basin</u>	<u>25.18 cfs</u>	<u>quasi-municipal</u>
<u>G-16025 10/9/2002</u>	<u>groundwater – Deschutes Basin</u>	<u>5.0 cfs</u>	<u>quasi-municipal</u>
<u>G-16026 7/28/2003</u>	<u>groundwater – Deschutes Basin</u>	<u>10.0 cfs</u>	<u>quasi-municipal</u>
<u>*see attached table for a complete list of Avion's water rights (Attachment C)</u>			

Water Use

Average yearly demand: 7,503 AFY Year: 2009

Per-capita daily consumption (in gallons): 201 gpcd
(Divide average annual water sales by population to arrive at consumption, then divide by 365 to get daily values.)

Peak season (by month/day): May to October Total peak season demand: 3,958.3 Acre-feet

Peak season per-capita daily consumption: 522 gpcd (from Avion's 2010 WMCP update)
(Divide total peak season demand by population and the number of days during the peak.)

Annual amount of water:

Produced: 2,251 MG (2009)
(diverted or pumped)

Delivered: 2,112 MG (2009)

Is your system fully metered? Yes No

Describe your rate structure: Base rate plus consumption rate

(e.g. flat rate, increasing or decreasing block rate or combination of different systems)

G-17606

Request for Water

A. Discuss the reason(s) for your request for additional water

(e.g. loss of current supply, peak demand, growth, or other):

This request for additional water is for projected growth within Avion Water's service area.

B. How long is the amount of water requested in this application expected to meet future needs?

(e.g. until the year 2040) This additional water supply will meet Avion's system redundancy needs and future growth needs. The duration of time that this water will meet Avion's needs depends on many factors including well performance, economic growth, land use (e.g. final disposition of City of Bend's UGB) and climatic conditions.

C. Briefly discuss operation of water system and the most constraining component of the system:

Avion operates a number of wells that are interconnected and serve the Greater Avion Area. The projected limiting factor is the number of wells available for appropriation.

D. Percentage of water use by type:

Residential: 87.8%

Commercial: 5.6 %

Public Authority:

Agricultural:

Unaccounted for use: 6.6%

Industrial:

Other (specify use):

E. List cost to implement proposed request.

Compare cost and benefits with other water supply, or combination of supply options. This should include water efficiency measures such as replacing current showerheads with low-flow types. (Attach documentation, as available.)

Avion evaluated these cost/benefits as part of their 2010 approved WMCP. See pages 54 to 56.

F. How and by how much will your proposed water use efficiency programs increase efficiency?

(Express as a percentage of per-capita consumption.)

Avion Water anticipates water use efficiency to increase by 2% of the current per-capita consumption rates. See 2010 approved WMCP, pages 32, and 52.

Avion Water Company, Inc. Water Rights – December 2012

Water Rights within the Greater Avion Service Area

G-10184	G-9946	82418	4.22	GW	QM	2/81	Modified by T-10205
G-10421	G-9948	82419	2.50	GW	QM	7/81	Modified by T-10205
G-10378	G-9975	82420	2.15	GW	QM	6/81	Modified by T-10205
G-10154	G-9217	82414	1.11	GW	QM	2/81	Modified by T-10205
G-10242	G-9269	82415	0.32	GW	QM	4/81	Modified by T-10205
G-10310	G-9320	82416	0.04	GW	QM	5/81	Modified by T-10205
G-10445	G-9976	82417	0.03	GW	QM	7/81	Modified by T-10205
G-10348	G-9971	-	0.48	GW	GD	5/81	Modified by T-7778
G-10599	G-9981	87382	0.18	GW	GD	11/81	Modified by T-7778
G-10440	G-10000	86161	0.56	GW	GD	7/81	Modified by T-7778 and T-10918
G-10263	G-9341	-	0.66	GW	QM	4/81	Modified by T-7778
G-10208	G-16949	-	0.37	GW	QM	5/81	Conestoga Hills
G-10347	G-11972	-	0.24	GW	QM	1/83	
G-11741	G-11389	85743	1.00	GW	QM	11/87	
G-12924	G-12788	84975	25.2	GW	QM	12/92	Use under this and all other underlying rights with the same POAs is limited to 11,305 gpm; Modified by T-7778 and T-10407
G-15851	G-16025	-	5	GW	QM	10/02	Modified by T-10204
G-16060	G-16026	-	10	GW	QM	7/03	Modified by T-10204

Water Rights outside the Greater Avion Service Area (Satellite Areas)

G-13446	G-12192	-	0.29	GW	DI	6/93	Powell Butte View Estates
G-8754	G-8258	84898	0.04	GW	GD	4/78	
G-10371	G-9999	84899	0.27	GW	DI	6/81	
G-10207	G-9283	-	0.577	GW	QM	3/81	Cinder Butte
G-10617	G-9982	-	0.1	GW	GD	12/81	Odin Falls I
G-12757	G-12330	-	0.46	GW	QM	1/92	Odin Falls II
G-10290	G-9398	86874	0.59	GW	QM	4/81	Red Cloud- modified by T-9526
G-13616	G-12936	87594	0.53	GW	QM	2/94	Red Cloud- modified by T-9525
G-10349	G-9972	-	0.57	GW	DI	5/81	Wildriver
G-10466	G-10019	86875	0.63	GW	DI	7/81	RECEIVED BY FORWARD 828

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EB

EASEMENT

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2005-42318



\$46.00

07/05/2005 11:10:22 AM

SPAC: D-EAS Cnt=1 Stn=23 PAM
\$20.00 \$11.00 \$10.00 \$5.00
RECORDER'S USE

Witness my hand and seal of County affixed.

NAME TITLE
By _____, Deputy.

Between
Rebecca Brown

And
Avion Water Company, Inc

After recording, return to (Name, Address, Zip):
Avion Water Company, Inc
60813 Parrell Rd
Bend, OR 97702

THIS AGREEMENT made and entered into on March 17, 2005, by and between Rebecca Brown hereinafter called the first party, and Avion Water Company, Inc hereinafter called the second party, WITNESSETH:

WHEREAS: The first party is the record owner of the following described real property in Deschutes County, State of Oregon, to-wit: Parcel of land located in the South half of the Southeast Quarter of the Southwest Quarter (S 1/2 SE 1/4 SW 1/4) of Section Fifteen (15), Township Eighteen (18), Range Twelve (12) East of the Willamette Meridian; more particularly described in Exhibit "A" Also known as Tax Account 181215DC01600

and has the unrestricted right to grant the easement hereinafter described relative to the real estate; and the second party is the record owner of the following described real property in that county and state, to-wit: Not Applicable

NOW, THEREFORE, in view of the premises and in consideration of \$ 16,000 by the second party to the first party paid, the receipt of which is acknowledged by the first party, it is agreed:

The first party hereby grants, assigns and sets over to the second party an easement, to-wit: an exclusive easement for the purpose of constructing, operating, maintaining, repairing, replacing and reconstructing underground utility lines, two wells and underground pump station together with all necessary appurtenances. Said utility lines, wells and pump station to be located in a 60 foot by 40 foot parcel more particularly described in Exhibit "A". Shown on Exhibit "B"

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(Insert a full description of the nature and type of easement granted by the first party to the second party.)

(OVER)

G-17606

4/3

The second party shall have all rights of ingress and egress to and from the real estate (including the right from time to time, except as hereinafter provided, to cut, trim and remove trees, brush, overhanging branches and other obstructions) necessary for the second party's use, enjoyment, operation and maintenance of the easement hereby granted and all rights and privileges incident thereto.

Except as to the rights herein granted, the first party shall have the full use and control of the above described real estate. The second party agrees to save and hold the first party harmless from any and all claims of third parties arising from the second party's use of the rights herein granted.

The period of this easement shall be perpetual always subject, however, to the following specific conditions, restrictions and considerations: should the first party subdivide or partition said property described in Exhibit "A", the first party shall sell and the second party shall buy the 60 foot by 40 foot parcel described in Exhibit "A" for one (1) dollar.

If this easement is for a right of way over or across the real estate, the center line of the easement is described as follows:

Not applicable

and the second party's right of way shall be parallel with the center line and not more than N/A feet distant from either side thereof.

During the existence of this easement, maintenance of the easement and costs of repair of the easement, if damaged by natural disasters or other events for which all holders of an interest in the easement are blameless, shall be the responsibility of (check one): the first party; the second party; both parties, share and share alike; both parties, with the first party responsible for _____% and the second party responsible for _____%. (If the last alternative is selected, the percentages allocated to each party should total 100.)

During the existence of this easement, holders of an interest in the easement who are responsible for damage to the easement because of negligence or abnormal use shall repair the damage at their sole expense.

This agreement shall bind and inure to the benefit of, as the circumstances may require, not only the parties hereto but also their respective heirs, executors, administrators, assigns, and successors in interest.

In construing this agreement, where the context so requires, the singular includes the plural and all grammatical changes shall be made so that this agreement shall apply equally to individuals and to corporations. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by its board of directors.

IN WITNESS WHEREOF, the parties have hereunto set their hands in duplicate on the day and year first written above.

Rebecca Brown
Rebecca Brown

FIRST PARTY

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STATE OF OREGON, County of Deschutes) ss.
This instrument was acknowledged before me on 4/20/2005
by Rebecca Brown
This instrument was acknowledged before me on 4/20/2005
by _____
as _____
of _____

Deanna J West
Notary Public for Oregon
My commission expires NOV 18, 2007

Jan M. Wick
Jan M. Wick, President

SECOND PARTY



STATE OF OREGON, County of Deschutes) ss.
This instrument was acknowledged before me on March 23, 2005
by Jan M. Wick
This instrument was acknowledged before me on _____
by _____
as _____
of _____

David Tolve
Notary Public for Oregon
My commission expires DEC 23 2006

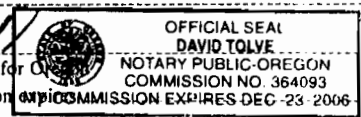
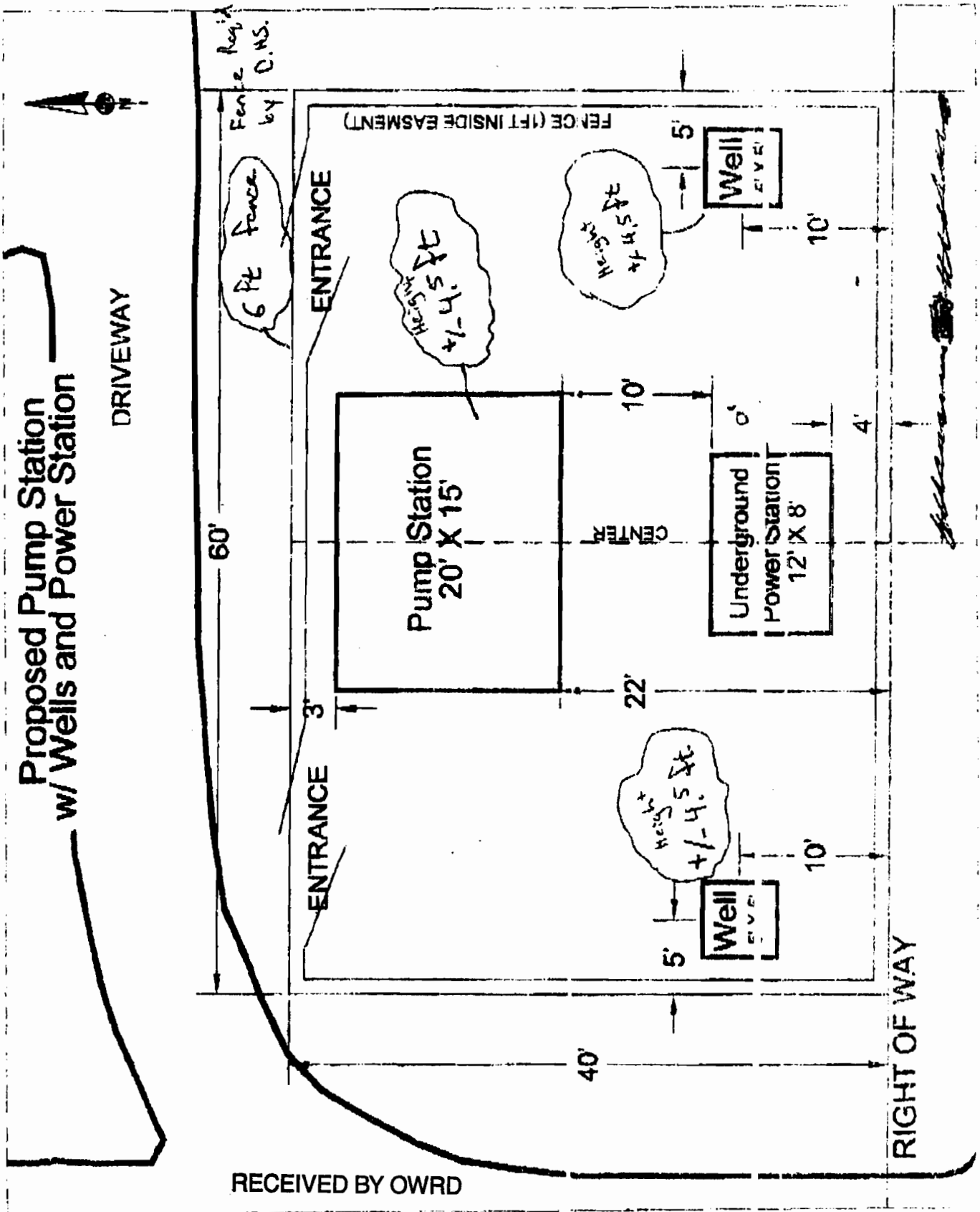


EXHIBIT "B"



Proposed Pump Station
w/ Wells and Power Station

DRIVEWAY

60'

Fence Req'd
by
C.N.S.

6 FT fence

ENTRANCE

FENCE (11 FT INSIDE EASEMENT)

Pump Station
20' X 15'

Tree
4.5 FT

Tree
4.5 FT

Well
4.5 FT

10'

CENTER

Underground
Power Station
12' X 8'

10'

ENTRANCE

3'

Tree
4.5 FT

Well
4.5 FT

10'

40'

RIGHT OF WAY

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↓ 80-



\$86.00

00527323200700000720120120

02/08/2007 09:24:22 AM

M-DTAS Cnt=1 Str=4 TM

\$80.00 \$11.00 \$10.00 \$5.00

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After Recording Return To:
Alison A. Huycke
Francis Hansen & Martin LLP
1148 NW Hill St.
Bend, OR 97701

SUBORDINATION OF TRUST DEED
(SUBORDINATION AGREEMENT)

DEC 14 2012

SALEM, OR

This Subordination Agreement ("Subordination Agreement") is among VEVA FAY DYER ("Beneficiary"), AVION WATER COMPANY, INC ("Avion"), and DYER LAND AND CATTLE COMPANY, LLC ("Grantor").

RECITALS

- A. Beneficiary loaned Grantor a sum ONE MILLION FOUR HUNDRED SEVENTY FOUR THOUSAND TWO HUNDRED DOLLARS (\$1,474,200.00) evidenced by a promissory and deed of trust entered on November 29, 2006 (the "Trust Deed") secured by the premises described in the Trust Deed (the "Premises").
- B. The Trust Deed was recorded on December 7, 2006, Volume 2006 Page 80006 in Deschutes County, State of Oregon.
- C. Grantor and Avion have signed an Agreement (the "Agreement") whereby (i) Grantor would grant Avion a reservoir site easement on the Premises, at the location described on *Exhibit A*, for a perpetual exclusive easement for the purpose of construction, operation, maintenance, repair, replacement, reconstruction, and expansion of underground utility lines, wells, two above ground storage tanks, and an above ground pump station together with all necessary appurtenances, (the "Reservoir Easement") (ii) Grantor would execute a sale agreement for property described on Exhibit A selling that portion of the Premises to Avion upon any future development of the Premises, and (iii) Grantor would grant Avion a permanent and nonexclusive access and utility easement across the Premises (the "Access Easement"). The Access Easement is attached as *Exhibit B*.
- D. For the Transaction to occur, it is required the Beneficiary subordinate it's rights under said Trust Deed and Beneficiary to agree not interfere with or interrupt Avion's use of either the Reservoir Easement or the Access Easement.
- E. Beneficiary is signing and delivering this Subordination Agreement pursuant to the desire to have the Trust Deed subordinate to the Reservoir Easement and the Access Easement.

AGREEMENT

1. Subordination.

- 1.1 Beneficiary's interest in the Trust Deed will be subordinate to the Reservoir Easement and the Access Easement, and all of Beneficiary's rights under the Trust Deed will be subordinate to all of Avion's rights under the Reservoir Easement and the Access Easement.
- 1.2 The Reservoir Easement and the Access Easement shall have priority and shall be accorded first above the Trust Deed, notwithstanding the Trust Deed was dated and recorded prior to the Reservoir Easement and the Access Easement.

2. Acknowledgment of Reliance. Beneficiary acknowledges that Grantor and Avion will rely on this Subordination Agreement as a basis for closing the Transaction.

Francis Hansen & Martin, LLP
1148 N.W. Wall Street • Bend, Oregon 97701-1914
(541) 389-5010

3
17

Francis Hansen & Martin, LLP
 1148 N.W. Wall Street • Bend, Oregon 97701-1914
 (541) 389-5010

3. **Binding Effect.** This Subordination Agreement will be binding on the parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit.
4. **Amendment.** This Subordination Agreement may be amended only by a written agreement signed by each party.
5. **Remedies.** The parties will have all remedies available to them at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.
6. **Governing Law.** This Subordination Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Subordination Agreement.
7. **Attorney's Fees.** If any arbitration or litigation is instituted to interpret, enforce, or rescind this Subordination Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.
8. **Entire Agreement.** This Subordination Agreement contains the entire understanding of the parties regarding the subject matter of this Subordination Agreement and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of this Subordination Agreement.

Dated: 2/5/07, 2007

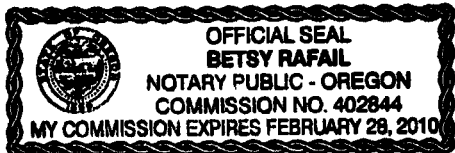
Beneficiary:

VEVA FAY DYER



State of Oregon)
)) ss.
 County of Deschutes)

This instrument was acknowledged before me on 2/5/2007 by VEVA FAY DYER.



Betsy Rafail
 Notary Public for Oregon
 Commission No.: 402844
 My Commission Expires: 2/28/2010

EXHIBIT A

The said easement to be located on the East half of the Southeast Quarter, Section 14, Township 17 South, Range 12 East of the Willamette Meridian; EXCEPT: the North 625 feet, Deschutes County, Oregon, more particularly described as follows:

THE TRUE POINT OF BEGINNING being the Northwest corner of the above described property; thence Easterly along the North property line for a distance of 435.00 feet; thence Southerly and parallel to the West property line for a distance of 285.00 feet; thence Westerly and parallel to the North property line for a distance of 435.00 feet; thence North along the West property line for a distance of 285.00 feet and THE TRUE POINT OF BEGINNING. (See Exhibits "A" and "B")

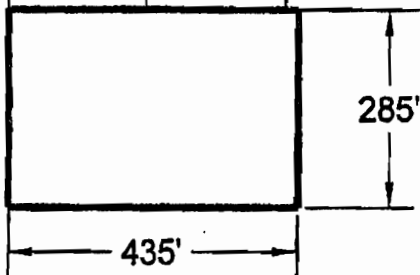
RECEIVED BY OWRD

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SALEM, OR

AVION WATER CO, INC.

Exhibit "A"

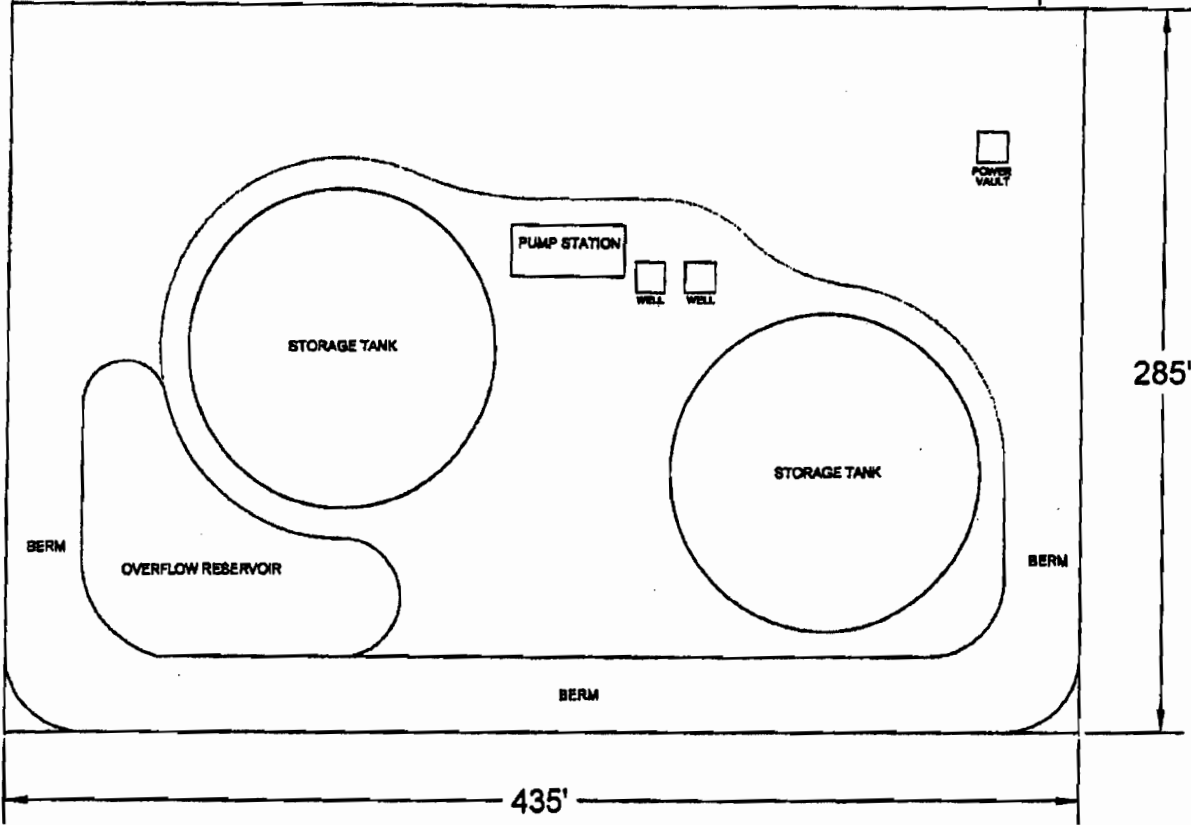


DYER LAND AND CATTLE COMPANY, LLC
63223 HAMEHOOK
1712140000806

HAMEHOOK ROAD

AVION WATER CO, INC.

EXHIBIT "B"



RECEIVED BY OWRD

DEC 14 2012

SALEM, OR

Exhibit A
Page 3 of 3

G-17606

After recording,
this Easement shall be delivered to:

Sharon R. Smith
BRYANT LOVLIE & JARVIS, P.C.
591 SW Mill View Way
Bend, Oregon 97702

ACCESS AND UTILITIES EASEMENT

In consideration of the sum of other than money, DYER LAND & CATTLE COMPANY, LLC, hereinafter Grantor, conveys to AVION WATER COMPANY, INC. an Oregon corporation, its heirs, successors and assigns, hereinafter Grantee, a perpetual nonexclusive easement to use a strip of land described on the attached *Exhibit A*.

The terms of this easement are as follows:

1. Grantee, its agents, independent contractors and invitees shall construct, reconstruct, maintain and repair underground utilities and a gravel access road on the easement strip. Grantee may at its expense improve the access road to a paved road.
2. Grantor reserves the right to use, construct, reconstruct and maintain a road located upon the easement strip. Grantor reserves the right to improve the access road at its expense. The parties shall cooperate so that each party's use shall cause a minimum of interference to the other's use.
3. Grantee shall not block access to the easement with a gate unless the Grantee receives prior written consent from the Grantor.
4. The Grantor reserves the right to relocate the easement. However, once the access and utilities are in place the Grantor shall pay for the cost of the relocation of the easement, including relocating the underground utilities and the access road. If the Grantor chooses to relocate the easement the Grantor shall not interfere with water utility service provided by the Grantee.
5. Grantee agrees to indemnify and defend Grantor from any loss, claim or liability to Grantor arising in any manner out of Grantee's use of the easement strip. Grantee shall pay Grantor for any property of Grantor damaged by Grantee's use of this easement. Grantee assumes all risk arising out of Grantee's use of the easement strip and Grantor shall have no liability to Grantee or others for any condition existing thereon. Grantee agrees and represents that Grantee is accepting the easement on the premises "AS IS".
6. This Easement shall terminate if the Grantee has access to the property to which the easement is appurtenant across a public right of way and the Grantee has access to its underground utilities in a public right of way. The Grantee shall sign a termination of easement

DEC 14 2012

SALEM, OR

after the road is dedicated to the public. Grantor shall be responsible for recording that termination of easement after dedicating the road to the public.

7. This Easement is granted subject to all prior easements or encumbrances of record.

8. Following is a description of the property to which this easement is appurtenant:

See attached *Exhibit B*.

9. Attorney's Fees. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Easement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursements specified in ORCP 68 A(2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. 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 APPROVED USES, 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 197.352.

Date: February 7, 2007

GRANTOR:

DYER LAND & CATTLE COMPANY, LLC


BY: BOYD J. DYER
ITS: MANAGER

GRANTEE:

AVION WATER COMPANY, INC.

EXHIBIT B

2 OF 7

G-17606

Jason Wick
BY: JASON WICK
ITS: VICE PRESIDENT

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was acknowledged before me this 7th day of February, 2007, by Boyd J. Dyer, Manager of Dyer Land & Cattle Company, LLC.



Linda Sinclair
Notary/Public for Oregon
My Commission Expires: 12/21/2008

STATE OF OREGON, County of Deschutes, ss:

The foregoing instrument was acknowledged before me this 7th day of February, 2007, by Jason Wick, Vice President of Avion Water Company, Inc.



Linda Sinclair
Notary Public for Oregon
My Commission Expires: 12/21/2008

EXHIBIT A



AVION WATER CO INC.

60813 Parrell Road • Bend, OR 97702

Ph: (541) 382-5342 • fax: 541-382-5390 • Email: avlon@avlonwater.com

Beginning at the Northeast property corner of the above described property; thence South 182.00 feet along the East property line to the True Point of Beginning; Thence Westerly for a distance of 868.00 feet to a point 191.00 feet South of the North property line, said point lying on the East boundary line of the reservoir site; thence South 60.00 feet along said reservoir boundary; thence East 868.00 feet to the East property line; thence North 60.00 feet along the East property line to the True Point of Beginning. (See Exhibit "A")

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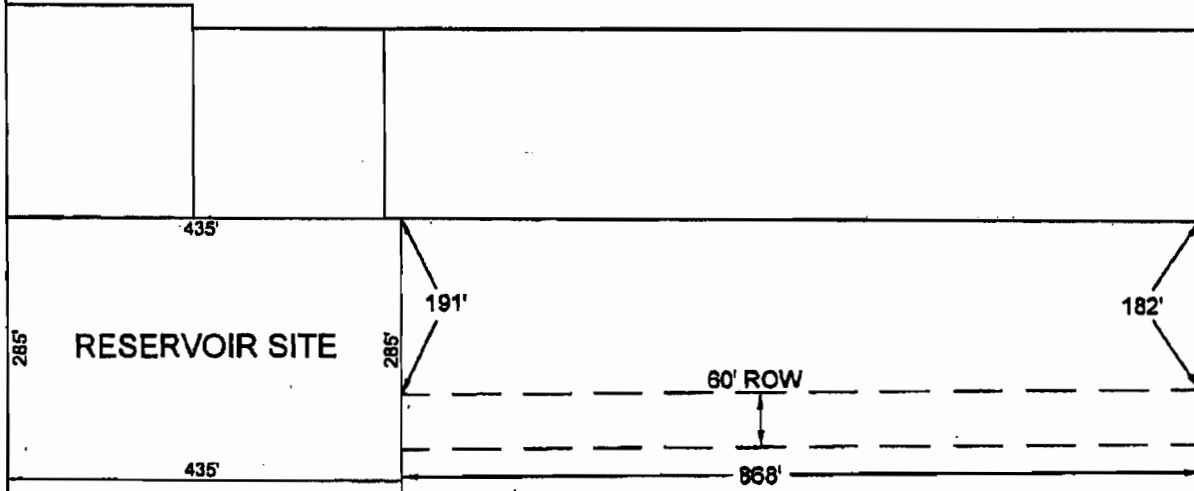
Exhibit A
Page 1 of 2

EXHIBIT B
4 OF 7

G-17606

AVION WATER CO, INC.

Dyer Reservoir Site
Permanent Utility Access Road
Exhibit "A"



285'

RESERVOIR SITE

435'

285'

191'

182'

60' ROW

435'

868'

HAMEHOOK ROAD

DYER LAND AND CATTLE COMPANY, LLC
63223 HAMEHOOK
1712140000806

EXHIBIT B

5 OF 7

NOT TO SCALE

DRAWN BY : TANNER LEMMON
AVION WATER GIS DEPARTMENT

EXHIBIT B

A parcel of land located on the East half of the Southeast Quarter, Section 14, Township 17 South, Range 12 East of the Willamette Meridian; EXCEPT: the North 625 feet, Deschutes County, Oregon, more particularly described as follows:

THE TRUE POINT OF BEGINNING being the Northwest corner of the above described property; thence Easterly along the North property line for a distance of 435.00 feet; thence Southerly and parallel to the West property line for a distance of 285.00 feet; thence Westerly and parallel to the North property line for a distance of 435.00 feet; thence North along the West property line for a distance of 285.00 feet and THE TRUE POINT OF BEGINNING.

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Exhibit B

EXHIBIT B

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G-17606



Reservoir Site to which access and utility easement are appurtenant

285'

435'

DYER LAND AND CATTLE COMPANY, LLC
63223 HAMEHOOK
1712140000806

HAMEHOOK ROAD

Exhibit B

EXHIBIT

B

7

OF

7



RECEIVED BY OWRD

December 5, 2012

DEC 14 2012

Mr. Tim Wallin
Water Right Division
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

SALEM, OR

RE: Application for a Permit to Use Groundwater

Dear Tim:

On behalf of the applicant, Avion Water Company, Inc., we are submitting the enclosed Application for a Permit to Use Groundwater. Please also find enclosed the filing fee of \$4,000, calculated as follows:

- Groundwater base: \$1,000
- 1st cfs or fraction of: \$250
- Each additional cfs or fraction of: \$2,250 (9 cfs x \$250)
- Each additional POA after 1st well: \$500 (2 wells x \$250)

If you have any questions regarding the enclosed information, please call me at 541-753-0745.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Sussman", written in a cursive style.

Adam Sussman
Principal Water Rights Consultant

Cc: Jason Wick, Avion Water Company