



Oregon
Kate Brown, Governor

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

Water Right Application Initial Review

June 29, 2018

AVION WATER CO. INC.
ATTN: JASON WICK
60813 PARRELL RD
BEND OR 97702

Reference: Application G-18608

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your options. In determining whether an application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)

1. Application G-18608 proposes the appropriation of 0.67 cubic foot per second (CFS) of water from SCCE Well 1 (DESC 58167/L91141), SCCE Well 2 (DESC 58037/L90036), and SCCE Well 3 (DESC 59678/L42967) in Whychus Creek Basin for quasi-municipal use January 1 through December 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water for quasi-municipal use is allowed under the Deschutes Basin Program (OAR 690-505-0040).
4. If properly conditioned, the proposed use of groundwater will avoid injury to existing groundwater rights and the resource.
5. The Department has determined, based upon OAR 690-09, that the proposed groundwater use will have the potential for substantial interference with Whychus Creek. Therefore, in accordance with OAR 690-410-0070(1) and 690-400-0010(11)(a), surface water availability must be considered.
6. Surface water is not available at any time of the year due to senior water rights on Deschutes River and downstream waters.

7. The proposed use of hydraulically-connected groundwater with the potential for substantial interference is not allowable in the Deschutes Basin from April 15 through September 30 of each year (OAR 690-33-120(2)(b)).
8. The proposed wells are located within the Deschutes Groundwater Study Area. By law, the Department is required to deny the application unless mitigation is provided. The unfavorable finding of the Initial Review may be overcome if mitigation is provided pursuant to the Deschutes Groundwater Mitigation Rules. (OAR 690-505-0500 to -0630)
9. Pursuant to OAR 690-505-0500(1), there is a 200.0 CFS cap on the amount of new groundwater use that may be allocated within the Deschutes Groundwater Study Area. Under the current rules, once the cap is reached, the Department will not be able to propose issuance on any new permits.
10. The Department has determined the mitigation obligation is 24.8 acre-feet (AF) annually. The required mitigation is based on quasi-municipal use. The mitigation obligation is calculated based on a consumptive-use factor of 40% of the annual volume.
11. The Department has determined that mitigation for the proposed use must be located in the The General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located on the Deschutes River below Lake Billy Chinook).
12. The proposed use is located above the Deschutes Scenic Waterway, as designated under Oregon Revised Statute 390.826. The Department has determined, based upon OAR 690-310-0260, that there is a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish, and wildlife.

Summary

The appropriation of 0.67 CFS of water from SCCE Well 1 (DESC 58167/L91141), SCCE Well 2 (DESC 58037/L90036), and SCCE Well 3 (DESC 59678/L42967) in Whychus Creek Basin for quasi-municipal use is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

Mitigation Obligation Options:

To satisfy the mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 24.8 qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits, you may want to contact Laura Wilke at 503-986-0884 for a list of mitigation credit holders.

If you decide to purchase mitigation credits, you must submit a documentary evidence form demonstrating that you have obtained mitigation credits. The mitigation bank or the individual you have obtained credits from should provide you with a completed form. Blank forms may be obtained from the Department at the address above, or from the Bend Regional office.

If you are proposing to implement a mitigation project, you must identify and describe the project in sufficient detail so that the Department can make a preliminary determination as to whether the proposed project will likely meet the mitigation obligation. Please contact Laura Wilke (503-986-0884) for further information on mitigation projects, forms, and specific requirements to be included in the proposal.

Mitigation credits must be obtained and/or a mitigation project must be completed before a permit can be issued.

At this time, you must decide whether to proceed or to withdraw the application.

Proceed

If you choose to proceed with the application you do not have to notify the Department. The application will be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

Withdraw

You may withdraw the application and receive a refund (minus a \$260 processing charge per application). You must notify the Department **in writing** by **July 13, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If a Permit is Issued it will Likely Include the Following Conditions:

1. Construction of the well shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the construction deadline to begin is missed.
2. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.
3. **Measurement Devices, and Recording/Reporting of Annual Water Use Conditions:**
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water used each month, and shall submit an annual report which includes the recorded water-use measurements to the Department annually, or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

4. Static Water Level Conditions:

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

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

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

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

5. Ground Water Mitigation Conditions:

Mitigation Obligation: 24.8 acre-feet of mitigation water in the General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located below Lake Billy Chinook).

Mitigation Source: Mitigation Credits or a Mitigation Project, in accordance with the incremental development plan on file with the Department, meeting the requirements of OAR Chapter 690, Division 505 (Deschutes Ground Water Mitigation Rules) and OAR Chapter 690, Division 522.

The permittee shall provide mitigation prior to each stage of development under the permit, as described in the incremental development mitigation plan on file with the Department, and in accordance with the standards of the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505.

The permittee shall not increase the rate or amount of water diverted, as described in the incremental development mitigation plan, prior to increasing the corresponding mitigation.

The permittee shall seek and receive Departmental approval prior to changing the incremental mitigation development plan and related mitigation obligation for each stage of permit development.

The permittee shall report to the Department the progress of implementing the incremental mitigation development plan and related mitigation no later than April 1 of each year. The annual report shall include the annual volume of water used, the source of mitigation, and any offset used for that period. This annual notification is not necessary if the permittee has completed development and submitted a Claim of Beneficial Use to the Department.

Mitigation water must be legally protected instream in the General Zone of Impact for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the maintenance and terms and conditions of a valid contract or satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

6. Water Management and Conservation Plan Condition:

Within 3 years of permit issuance, the permittee shall submit a Water Management and Conservation Plan, addressing use under this permit, consistent with OAR 690-086. The time line for submittal of a plan under this permit does not alter the time lines for submittal of a plan under any other order of the Department. No water may be diverted if a Water Management and Conservation Plan is not submitted within 3 years of permit issuance.

7. Scenic Waterway Condition:

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right, or as those quantities may be reduced subsequently. However, the use of groundwater allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows, provided the required mitigation is maintained.

8. Well Identification Tag Condition:

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

The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at <http://www.oregon.gov/ODA/programs/NaturalResources/Pages/AgWaterQuality.aspx> to learn more about the plans and how they may affect the proposed water use.

If you have any questions:

Feel free to contact me at Elisabeth.A.Graham@oregon.gov or 503-986-0808 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Lisa Graham, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description, Stop Processing Request Form, Response to Notice of Mitigation Obligation; and Deschutes Mitigation Rules

G-18608

APPLICATION FACT SHEET

Application File Number: G-18608

Applicant: AVION WATER CO. INC.

County: DESCHUTES

Watermaster: JEREMY GIFFIN, 11, SCR

Priority Date: FEBRUARY 12, 2018

Source: SCCE WELL 1 (DESC 58167/L91141), SCCE WELL 2 (DESC 58039/L42966), AND SCCE WELL 3 (DESC 59678/L42967) IN WHYCHUS CREEK BASIN

Use: QUASI-MUNICIPAL USE

Quantity: 0.67 CUBIC FOOT PER SECOND

Basin Name & Number: DESCHUTES, #5

WAB: WHYCHUS CR > DESCHUTES R - AT MOUTH

Well Locations:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
SCCE WELL 1 (DESC 58167/L91141)	14 S	11 E	WM	17	SW SW	1120 FEET NORTH AND 650 FEET EAST FROM SW CORNER, SECTION 17
SCCE WELL 2 (DESC 58039/L42966)	14 S	11 E	WM	17	SW SW	950 FEET NORTH AND 695 FEET EAST FROM SW CORNER, SECTION 17
SCCE WELL 3 (DESC 59678/L42967)	14 S	11 E	WM	17	SW SW	925 FEET NORTH AND 630 FEET EAST FROM SW CORNER, SECTION 17

Place of Use:

Twp	Rng	Mer	Sec	Q-Q
14 S	10 E	WM	24	NE SE
14 S	10 E	WM	24	SE SE
14 S	10 E	WM	25	NE NE
14 S	11 E	WM	17	SW SW
14 S	11 E	WM	17	SE SW
14 S	11 E	WM	17	SW SE
14 S	11 E	WM	19	NE NE
14 S	11 E	WM	19	SE NE
14 S	11 E	WM	19	NE NW
14 S	11 E	WM	19	SW NW
14 S	11 E	WM	19	SE NW
14 S	11 E	WM	19	NE SW
14 S	11 E	WM	19	NW SW
14 S	11 E	WM	19	SW SW
14 S	11 E	WM	19	SE SW

Twp	Rng	Mer	Sec	Q-Q
14 S	11 E	WM	19	NE SE
14 S	11 E	WM	19	NW SE
14 S	11 E	WM	19	SW SE
14 S	11 E	WM	20	NE-NW
14 S	11 E	WM	20	NW NW

PUBLIC NOTICE DATE: July 3, 2018

14 DAY STOP PROCESSING DEADLINE DATE: July 13, 2018

30 DAY COMMENT DEADLINE DATE: August 2, 2018

**RESPONSE TO NOTICE OF MITIGATION OBLIGATION
MUNICIPAL OR QUASI-MUNICIPAL INCREMENTAL DEVELOPMENT PLAN**

Municipal or Quasi-Municipal groundwater permit applicants may satisfy a mitigation obligation by incrementally obtaining and providing mitigation to coincide with the incremental development of the permit, provided mitigation is provided prior to each stage of development of the permit, in accordance with the standards under OAR 690-505-0610(2)-(5). A mitigation obligation may be satisfied by obtaining mitigation credits, providing for implementation of a mitigation project, or both (OAR 690-505-0610(2)). Please read and complete this acknowledgment of mitigation obligation and return it to the Department at the address above.

Applicant(s): AVION WATER CO. INC.

Applicant's agent (*if applicable*): ADAM SUSSMAN GSI WATER SOLUTIONS INC.

Application number: G-18608

Proposed Use: QUASI-MUNICIPAL USE

Period of Use: JANUARY 1 THROUGH DECEMBER 31

Rate requested: 0.67 CUBIC FOOT PER SECOND

Volume requested: 62.0 ACRE-FEET

Mitigation Obligation: 24.8 ACRE-FEET

Zone of Impact: THE GENERAL ZONE OF IMPACT

Please read and initial the following statements:

_____ We intend to provide incremental mitigation.

_____ We understand that mitigation must be provided prior to each stage of development of the permit and that the mitigation must meet the requirements of OAR 690-505-0610(2)-(5).

_____ We understand that the first increment of mitigation must be obtained, submitted to the Department and legally protected instream prior to a permit being issued.

_____ We understand that after receiving the water right permit, I (we) may not increase water use without providing the corresponding required mitigation.

_____ We understand that we will be required to submit a new or update Water Management and Conservation Plan under OAR Chapter 690, Division 86 within 2 years of the Department issuing a permit.

_____ We understand that may we modify the incremental development plan and related mitigation obligation only with prior written Departmental approval.

(over)

Please estimate the time schedule for development of the water right permit and the proposed source of mitigation that may be obtained and used prior to each stage of development (this proposed development schedule must describe 100% of the requested volume).

For the first increment of permit development we will need approximately _____ acre-feet of the _____ acre-feet requested in the application. The first increment of mitigation will be required by _____ (date).

The proposed source of mitigation water for this increment of use will be (please check):

_____ Purchase mitigation credits and / or _____ A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

By _____ (approximate year), for the second increment of permit development, I (we) will need approximately _____ additional acre-feet of the _____ total volume requested in the application.

The proposed mitigation source for this increment of use will be: (please check)

_____ Purchase mitigation credits and / or _____ A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

**Please complete a section for each subsequent stage of
Incremental Development beyond the first two using the additional page below.**

Applicant _____ or Applicant's Agent _____
Date _____

Mail to: Attn: Lisa Graham
 Oregon Water Resources Department
 725 Summer St NE Suite A
 Salem OR 97301-1266

Incremental Development beyond increments one and two:

Application G-18608 Applicant: GSI WATER SOLUTIONS INC.

By _____ (approximate year), for the _____ increment of permit development, we will need approximately _____ additional acre-feet of the _____ total volume requested in the application.

The proposed mitigation source for this increment of use will be (please check):

_____ Purchase mitigation credits and / or _____ A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

By _____ (approximate year), for the _____ increment of permit development, I (we) will need approximately _____ additional acre-feet of the _____ total volume requested in the application.

The proposed mitigation source for this increment of use will be (please check):

_____ Purchase mitigation credits and / or _____ A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

ATTACH ADDITIONAL PAGES AS NECESSARY

Mail to: Attn: Lisa Graham
 Oregon Water Resources Department
 725 Summer St NE Suite A
 Salem OR 97301-1266

Mailing List for IR Copies

Application G-18608

IR Date: June 29, 2018

Original and map mailed to applicant:

AVION WATER CO. INC.
ATTN; JASON WICK
60813 PARRELL RD
BEND, OR 97702

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)

SENT VIA AUTO EMAIL:

1. WRD – Watermaster Jeremy Giffin #11

SENT VIA EMAIL:

2. WRD – Hydrographics
3. Agent - Adam Sussman: ASUSSMAN@GSIWS.COM

Copies sent to:

1. WRD - Laura Wilke
2. WRD - Sarah Henderson
3. DRC - Genevieve Hubert

IR, Map, and Fact Sheet Copies sent to:

1. WRD - File G-18608
2. ODFW District Biologists: Brett Hodgson and Amy Stuart
3. ODFW: Danette Faucera
4. DEQ: Eric Nigg & Bonnie Lamb, Eastern Region
5. DOA: Salem: Jim Johnson & Paul Measeles
6. DSL: Shawn Zumwalt

Specialist: Lisa Graham

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information about water right topics, weekly public notice, forms and fees please visit our web site at www.wrd.state.or.us

1. Pre-application considerations

- Follow instructions in the application packet.
- If you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Customer Service Group at (503) 986-0801.

2. Application filing

- Application with fee is received by the Department.
- Department determines completeness of application.
- If use is not allowed by statute (ORS 538), the application and fees are returned to the applicant.
- An incomplete application and fees are returned to the applicant.
- Only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing.

3. Initial Review (IR)

- Caseworker reviews application by considering basin plans, water availability, statutory restrictions, and all other appropriate factors.
- Caseworker sends IR report to Applicant.
- Contact the Caseworker if you have questions about the IR.
- Four days after date of the IR, it is included in Department's weekly Public Notice.
- Public comments must be submitted within 30 days after the Public Notice.
- **An administrative hold** may be requested in writing by Applicant.

4. Proposed Final Order (PFO)

- Caseworker evaluates application against required criteria and develops draft permit, if appropriate.
- PFO includes instructions for filing of protests.
- Caseworker considers public comments and mails PFO to Applicant.
- The PFO is included in Department's weekly Public Notice.
- Public protests to the PFO must be submitted within 45 days after the Public Notice.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is issued.

Permit holder responsibilities

- Comply with all water use conditions of the permit.
- Advise Department of address change or assignment to new permit holder.
- If need arises, request extension of time or authorize cancellation of permit.
- Submit timely claim of beneficial use (COBU) to the Department.
- Most permits require COBU to be prepared by a Certified Water Right Examiner.
- Permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions.

STOP PROCESSING REQUEST FORM
FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR
APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.
- Applicant notification to withdraw Water Right Application **G-18608**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application.
- Signature _____ Date _____
- Signature _____ Date _____
- Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$260 examination fee) be returned.
- This notice must be received at Water Resources Department by:

July 13, 2018

- Return the notice to:

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