



Water Right Application Superseding Initial Review

August 17, 2018

HUNTINGTON TRAVEL PLAZA LLC JOSEPH ALEE
5945 HWY 30 486 NW 9TH ST
HUNTINGTON, OR 97907 ONTARIO, OR 97914

Reference: Application G-18633

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-18633 proposes the appropriation of 0.22 cubic foot per second (CFS) of water from Well 1 (MALH 54422/L118135), Well 2, and Well 3 in Snake River Basin for year-round commercial use.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Commercial use is allowed under the Malheur Basin Program. (OAR 690-510-0010)
4. Groundwater will likely be available within the capacity of the resource, and /or the proposed use of groundwater will avoid injury to existing groundwater rights.
5. The proposed use is not located within or above any state or federal scenic waterway.
6. The points of appropriation are not located within a critical, limited, or withdrawn groundwater area.
7. The Department has determined, based upon OAR 690-009, that the proposed groundwater use from Well 1 (MALH 54422/L118135) will have the potential for substantial interference with Snake River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is available year-round.
8. The Department has determined, based upon OAR 690-009, that the proposed groundwater use from Well 2 and Well 3 will not have the potential for substantial interference with surface water.

9. Because the appropriation of groundwater from Well 1 (MALH 54422/L118135) will have an impact on surface water flows where the Oregon Department of Fish and Wildlife (ODFW) has identified that sensitive, threatened or endangered fish are present, this application will be reviewed by at least ODFW and the Department of Environmental Quality in accordance with OAR 690-033 rules. This review could have an impact on the eventual outcome of your application. This review could cause the use of Well 1 (MALH 54422/L118135) to be proposed for denial, the season of use to be shortened, or impacted in some other way when the Department issues a proposed final order at the next stage of processing.
10. OAR 690-033-0120(2) prohibits the diversion of water from Well 1 (MALH 54422/L118135) from April 15 through September 30 of each year.
11. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

Summary

The appropriation of 0.22 CFS of water from Well 1 (MALH 54422/L118135) in Snake River Basin for commercial use is allowable October 1 to April 14 of each year.

The appropriation of 0.22 CFS of water from Well 2 and Well 3 in Snake River Basin for commercial use is allowable January 1 through December 31 of each year.

Application G-18633 can move to the next phase of the water-rights application review process, which includes a public interest review.

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

The Department has rules (OAR 690-033) that establish additional procedures and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

Your application may undergo additional review from federal, state, local, and tribal governmental entities. This review may cause your application to be limited, conditioned, or denied. Depending on the proposed use, you may be able to mitigate for potential impacts identified in the review.

Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water within the impacted reach through purchasing or transferring another water right. Following the Initial Review, you will be notified if mitigation is required. If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options.

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 fee per application). You must notify the Department **in writing by August 31, 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 Director may require the permittee to keep and maintain a record of the volume of water diverted, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and 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. **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.

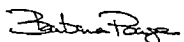
The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that

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 Barbara.J.Poage@oregon.gov or 503-986-0859 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: Barbara Poage, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Poage
Water Rights
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form

G-18633
WAB: Snake River (no WAB)

APPLICATION FACT SHEET

Application File Number: G-18633

Applicant: JOSEPH ALEE AND HUNTINGTON TRAVEL PLAZA LLC

County: MALHEUR

Watermaster: Rick Lusk, 8, ER

Priority Date: March 26, 2018

Source: WELL 1 (MALH 54422/L118135), WELL 2, AND WELL 3 IN SNAKE RIVER BASIN

Use: COMMERCIAL USE

Quantity: 0.22 CUBIC FOOT PER SECOND

Basin Name & Number: Malheur, #10

WAB: SNAKE RIVER (NO WAB)

Well Location(s):

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (MALH 54422/L118135)	15 S	45 E	WM	5	SE NE	2331 FEET SOUTH AND 4790 FEET EAST FROM NW CORNER, SECTION 5
WELL 2	15 S	45 E	WM	5	SE NE	1727 FEET SOUTH AND 4335 FEET EAST FROM NW CORNER, SECTION 5
WELL 3	15 S	45 E	WM	5	SE NE	1489 FEET SOUTH AND 4123 FEET EAST FROM NW CORNER, SECTION 5

Place of Use:

Twp	Rng	Mer	Sec	Q-Q
15 S	45 E	WM	4	SE NE
15 S	45 E	WM	5	SE NE

PUBLIC NOTICE DATE: AUGUST 21, 2018

14 DAY STOP PROCESSING DEADLINE DATE: AUGUST 31, 2018

30 DAY COMMENT DEADLINE DATE: SEPTEMBER 20, 2018

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-18633**.
- 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:

AUGUST 31, 2018

- Return the notice to:

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