

Application for a Permit to Use Surface Water



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
503-986-0900
www.oregon.gov/OWRD

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MAR 10 2022

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME MICHAEL MALEPSY		PHONE (HM) 541-840-1424		OWRD
PHONE (WK) 541-840-1424	CELL 541-840-1424	FAX NONE		
ADDRESS 36 MEADOW LANE				
CITY SHADY COVE	STATE OR	ZIP 97539	E-MAIL * MIKEMALEPSY@WINDERMERE.COM	

Organization

NAME NA		PHONE		FAX
ADDRESS				CELL
CITY	STATE	ZIP	E-MAIL *	

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

AGENT / BUSINESS NAME EVAN MALEPSY / ROGUE CIVIL LLC		PHONE 541-621-2868		FAX NONE
ADDRESS 52 PINERIDGE LANE				CELL 541-621-2868
CITY EAGLE POINT	STATE OR	ZIP 97524	E-MAIL * EMALEPSY@ROGUECIVIL.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 proposed and 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 legally use water until the Water Resources Department issues a permit.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I receive 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 receive water to which they are entitled.

I (we) affirm that the information contained in this application is true and accurate


Michael Malepsy
Manager
3/7/22

Applicant Signature

Print Name and Title if applicable

Date

Applicant Signature

Print Name and Title if applicable

Date

For Department Use: App. Number: _____

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.
- YES, the land is encumbered by easements, rights of way, roads or other encumbrances.
- NO, I have a recorded easement or written authorization permitting access.
- NO, I do not currently have written authorization or easement permitting access.
- NO, 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).
- NO, because water is to be diverted, conveyed, and/or used only on federal lands.

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Affected Landowners: List the names and mailing addresses of all owners of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, even if the applicant has obtained written authorization or an easement from the owner. *(Attach additional sheets if necessary).*

NA

Legal Description: You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into (if unnamed, say so), and the locations of the point of diversion (POD):

Source 1: Rogue River	Tributary to: Pacific Ocean
TRSQQ of POD: 34S 1W 28 NW/NE	
Source 2:	Tributary to:
TRSQQ of POD:	

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

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B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in Section 3A above?

- Yes. No. (Enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which should have been mailed or delivered to the operator.)

If *all* sources listed in Section 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

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

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

SECTION 4: SENSITIVE, THREATENED OR ENDANGERED FISH SPECIES PUBLIC INTEREST INFORMATION

This information must be provided for your application to be accepted as complete. The Water Resources Department will determine whether the proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened or endangered fish species.

To answer the following questions, use the map provided in [Attachment 3](#) or the link below to determine whether the proposed point of diversion (POD) is located in an area where the Upper Columbia, the Lower Columbia, and/or the Statewide public interest rules apply.

For more detailed information, click on the following link and enter the T,R,S,QQ or the Lat/Long of a POD and click on "Submit" to retrieve a report that will show which section, if any, of the rules apply:

https://apps.wrd.state.or.us/apps/misc/lkp_trsqq_features/

If you need help to determine in which area the proposed POD is located, please call the customer service desk at (503) 986-0900.

Upper Columbia - OAR 690-033-0115 thru -0130

Is the POD located in an area where the Upper Columbia Rules apply?

- Yes No

If yes, you are notified that the Water Resources Department will consult with numerous federal, state, local and tribal governmental entities so it may determine whether the proposed use is consistent with the "Columbia River Basin Fish and Wildlife Program" adopted by the Northwest Power Planning Council in 1994 for the protection and recovery of listed fish species. The application may be denied, heavily conditioned, or if appropriate, mitigation for impacts may be needed to obtain approval for the proposed use.

If yes,

- I understand that the proposed use does not involve appropriation of direct streamflow during the time period April 15 to September 30, except as provided in OAR 690-033-0140.
- I understand that I will install, operate and maintain a fish screen and fish passage as listed in ORS 498.301 through 498.346, and 509.580 through 509.910, to the specifications and extent required by Oregon Department of Fish and Wildlife, prior to diversion of water under any permit issued pursuant to this application.
- I understand that the Oregon Department of Environmental Quality will review my application to determine if the proposed use complies with existing state and federal water quality standards.
- I understand that I will install and maintain water use measurement and recording devices as required by the Water Resources Department, and comply with recording and reporting permit condition requirements.

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Lower Columbia - OAR 690-033-0220 thru -0230

Is the POD located in an area where the Lower Columbia rules apply?

Yes No

If yes, you are notified that that the Water Resources Department will determine, by reviewing recovery plans, the Columbia River Basin Fish and Wildlife Program, and regional restoration programs applicable to threatened or endangered fish species, in coordination with state and federal agencies, as appropriate, whether the proposed use is detrimental to the protection or recovery of a threatened or endangered fish species and whether the use can be conditioned or mitigated to avoid the detriment.

If a permit is issued, it will likely contain conditions to ensure the water use complies with existing state and federal water quality standards; and water use measurement, recording and reporting required by the Water Resources Department. The application may be denied, or if appropriate, mitigation for impacts may be needed to obtain approval of the proposed use.

If yes, provide the following information (the information must be provided with the application to be considered complete).

Yes No The proposed use is for more than **one** cubic foot per second (448.8 gpm) and is not subject to the requirements of OAR 690, Division 86 (Water Management and Conservation Plans).

If yes, provide a description of the measures to be taken to assure reasonably efficient water use:

NA

Statewide - OAR 690-033-0330 thru -0340

Is the POD located in an area where the Statewide rules apply?

Yes No

If yes, the Water Resources Department will determine whether the proposed use will occur in an area where endangered, threatened or sensitive fish species are located. If so, the Water Resources Department, Department of Fish and Wildlife, Department of Environmental Quality, and the Department of Agriculture will recommend conditions required to achieve "no loss of essential habitat of threatened and endangered (T&E) fish species," or "no net loss of essential habitat of sensitive (S) fish species." If conditions cannot be identified that meet the standards of no loss of essential T & E fish habitat or no net loss of essential S fish habitat, the agencies will recommend denial of the application unless they conclude that the proposed use would not harm the species.

SECTION 5: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):
(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
Rogue River	Human Consumption	Year-Round	0.010 <input checked="" type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

Please indicate the number of primary, supplemental and/or nursery acres to be irrigated.

Primary: 0 Acres Supplemental: 0 Acres Nursery Use: 0 Acres

If supplemental acres are listed, provide the Permit or Certificate number of the underlying primary water right(s): NA

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

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: 2
- If the use is **mining**, describe what is being mined and the method(s) of extraction: NA

SECTION 6: WATER MANAGEMENT

A. Diversion and Conveyance

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

- Pump (give horsepower and type): 2HP Centrifugal
 Other means (describe):

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

Water will be diverted from the river with a pump placed on the river bank. An intake pipe with foot valve will be placed in the water and be connected to the pump. The water will be pumped to the households with approximately 1" pipe where it will be used for human consumption.

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)
The water will be used for human consumption using standard household faucets/fixtures.

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 public uses of affected surface waters.

The amount of water requested is per OAR 690-310-0260 for human consumption. Waste will be prevented by using only the amount of water necessary for human consumption uses. A totalizing flow meter will be installed at the point of diversion to measure the water. Damage to public uses of affected surface waters will be prevented by using a small diameter intake pipe, and diverting a very low rate of water in relation to the Rogue River flow.

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SECTION 7: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources:

- Diversion will be screened per ODFW specifications in ORS 498.301 through 498.346 to prevent uptake of fish and other aquatic life.
Describe planned actions: Install an approved fish screen on the intake pipe prior to diverting and water.
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Note: If disturbed area is more than one acre, applicant should contact the Department of Environmental Quality to determine if a 1200C permit is required.
Describe planned actions and additional permits required for project implementation: It will not be necessary to conduct excavation, or clearing of banks, to install the small intake and pump system.
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe planned actions and additional permits required for project implementation: The system will use relatively small pipes/parts that can be placed in the water by hand. It will not be necessary for any machinery to be used in the water.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe planned actions: This application is for human consumption. There will be no run-off, and no chemical products will be used.
- List other federal and state permits or contracts to be obtained, if a water right permit is granted.
None

SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: *Upon issuance of permit*
- b) Date construction will be completed: *Within five years of permit issuance*
- c) Date beneficial water use will begin: *Within five years of permit issuance*

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SECTION 9: WITHIN A DISTRICT

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

Irrigation District Name NA	Address	
City	State	Zip

SECTION 10: REMARKS

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

A well was drilled at the site but did not produce sufficient water, see well log JACK 65173. There is no available municipal or other private water source that could be used for human consumption uses, therefore, this application requests an exception to the 80% water availability calculation, as permitted under OAR 690-410-0070(2)(a). Under the rule, when a stream is otherwise over-appropriated to the extent that water is not available based on the 80% exceedance methodology, "some additional uses may be allowed where the public interest in those uses is high and uses are conditioned to protect instream values." There can be no question that water for human consumption constitutes a high public interest. ORS 536.310(3) expresses state policy that adequate and safe supplies of water are to be preserved and protected for human consumption. ORS 536.310(12) provided that when proposed uses of water are in mutually exclusive conflict or when available supplies of water are insufficient for all who desire to use them, preference shall be given to human consumption over all other uses.

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Land Use Information Form



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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 groundwater 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 503-986-0900.

Land Use Information Form



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 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
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Applicant

NAME MICHAEL MALEPSY		PHONE (HM) 541-840-1424	
PHONE (WK) 541-840-1424	CELL 541-840-1424	FAX NONE	
ADDRESS 36 MEADOW LANE			
CITY SHADY COVE	STATE OR	ZIP 97539	E-MAIL* MIKEMALEPSY@WINDERMERE.COM

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:
34S	1W	28	NW NE	400	R2	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Domestic use in a household
34S	1W	28	NW NE	402	R2	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Domestic use in a household

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

City of Shady Cove, Jackson County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Groundwater Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond Groundwater Surface Water (name) Rogue River

Estimated quantity of water needed: 0.010 cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for 2 household(s)
 Municipal Quasi-Municipal Instream Other _____

Briefly describe:

The application is for a water right permit to use surface water from the Rogue River within two households for human consumption.



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.

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.

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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): NA
- 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 <u>Ryan Nolan</u>	TITLE: <u>Principal Planner</u>
SIGNATURE <u>Ryan Nolan</u>	PHONE: <u>541-423-1382</u>
GOVERNMENT ENTITY <u>City of Shady Cove</u>	DATE: <u>03/08/22</u>

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____



I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Christine Walker - County Clerk

After recording return to:
Flywater, LLC, an Oregon limited liability company
PO Box 1004
Shady Cove, OR 97539

Until a change is requested, all tax statements shall be sent to the following address:
Flywater, LLC, an Oregon limited liability company
PO Box 1004
Shady Cove, OR 97539

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STATUTORY WARRANTY DEED

City of Shady Cove, a municipal corporation, Grantor, conveys and warrants to Flywater, LLC, an Oregon limited liability company, Grantee, the following described real property free of encumbrances except as specifically set forth herein:

SEE ATTACHED EXHIBIT "A"

Tax Account No.

This property is free of encumbrances, EXCEPT:
SEE EXHIBIT "A" WITH EXCEPTIONS
The true consideration for this conveyance is \$575,000.00

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IN ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11 CHAPTER 424, OREGON LAWS 2007.

Dated 11 day of February, 2008

City of Shady Cove, a municipal corporation

Elise Smurzynski, City Administrator

STATE OF OREGON
COUNTY OF Jackson

The foregoing instrument was acknowledged before me this 11 day of February, 2008 by Elise Smurzynski as the City Administrator of City of Shady Cove, a municipal corporation on its behalf.

Notary Public State of Oregon
My commission expires: 6/2/11

Order No. 42g0422470



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PARCEL 1:

Beginning at a point on the south line of the property of Rachel E. Johnson, which point is approximately 330 feet South and 750 feet West of the northeast corner of Section 28, Township 34 South, Range 1 West of the Willamette Meridian in Jackson County, State of Oregon, and running thence West 1100 feet to the bank of the Rogue River; thence South 300 feet; thence East 1100 feet and thence North 300 feet to the Place of Beginning.

PARCEL 2:

Beginning at an intersecting point on the north line of the property belonging to Burnice Ida Dennis and the east edge of the gravel bar, which point is approximately 330 feet South and 1395 feet West of the northeast corner of Section 28, Township 34 South, Range 1 West, of the Willamette Meridian, Jackson County, Oregon, and running thence North 700 feet; thence West 340 feet; thence South 6° 30' West along the edge of the Rogue River a distance of 704.5 feet; thence East 420 feet to the Point of Beginning.

PARCEL 3:

A parcel of land lying in Government Lots 7 and 8 (Northeast quarter) of Section 28, Township 34 South, Range 1 West, of the Willamette Meridian, Jackson County, Oregon, and being a portion of the following described property: That tract of land which was conveyed by that certain deed to Lillian Shelton and Charles Shelton, recorded in Book 190 page 620 of Jackson County Record of Deeds, the said parcel being described as follows: Beginning at the southwest corner of the 7.57 acre tract now owned by the State of Oregon as described in Volume 186 page 120 of the Deed Records of Jackson County, said corner also being 630 feet South and 1850 feet West of the northeast corner of said Section 28; thence East along the south line of said tract a distance of 208.45 feet; thence South 9° 40' 15" East a distance of 650 feet; thence South 26° 28' West a distance of 587.43 feet; thence South 87° 40' 30" West a distance of 380 feet to the easterly bank of the Rogue River; thence North 18° 30' East along said river bank a distance of 516 feet; thence North 2° 40' East along said river bank a distance of 693.46 feet; thence East a distance of 127.85 feet to the place of beginning.

Account 10274695, Levy Code 9-15, Map 341W28 400
Account 10253641, Levy Code 9-06, Map 341W28 400

The Grantor is the owner of a strip of land commonly referred to as Brophy Lane, acquired by deeds recorded as No. 81-01350 and 81-01351, Jackson County, Oregon official records. The grantor covenants that this strip of land was acquired for the purpose of a public road and it will take the steps necessary to perfect the dedication of this strip of land to the public as a public road.

Subject to:

1. The subject property is under public, charitable, fraternal, or religious organization ownership and is exempt from ad valorem taxation. Any change in ownership prior to delivery of the assessment roll may result in tax liability.
Tax Identification : 10274695
2. The subject property is under public, charitable, fraternal, or religious organization ownership and is exempt from ad valorem taxation. Any change in ownership prior to delivery of the assessment roll may result in tax liability.
Tax Identification : 10253641
3. The assessment roll and the tax roll disclose that the within described property has been specially assessed as Open Space Land. If the land becomes disqualified for this special assessment under the statute or if there is a change in open space use, additional taxes may be levied as provided for in the statutes.
4. As disclosed by the assessment and tax roll, the premises herein have been specially assessed for farm use. If the land becomes disqualified for this special assessment under the statutes, an additional tax, plus interest and penalty, will be levied for the number of years in which this special assessment was in effect for the land.
Tax Identification : 10274695 and 10253641
5. Any adverse claim based on the assertion that any portion of the subject land has been removed from or brought within the subject land's boundaries by the process of accretion or reliction or any change in the location of the Rogue River
6. Any adverse claim based on the assertion that any portion of the subject land has been created by artificial means or has accreted to such portions so created, or based on the provisions of ORS 274.905 to 274.940.
7. Any adverse claim based on the assertion that any portion of the subject land is now or at any time has been below the ordinary high water line of the Roguer River

8. Rights of fishing, navigation, commerce, flood control, propagation of anadromous fish, and recreation, and other rights of the public, Indian tribes or governmental bodies in and to the waters of the Rogue River.

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4290422470

(4)

Jackson County Clerk
R-BSD 03/11/2010 02:33:03 PM
Cnt=1 ALONZOKM \$15.00 \$10.00 \$5.00 \$11.00 \$15.00 Total:\$56.00



I, Christine Walker, County Clerk for Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Christine Walker - County Clerk

RECORDING REQUESTED BY:

GRANTOR'S NAME:
Flywater LLC

GRANTEE'S NAME:
Malko Investments LLC

SEND TAX STATEMENTS TO:
Malko Investments LLC
36 Meadow Lane
Shady Cove, OR 97539

AFTER RECORDING RETURN TO:
Malko Investments LLC
36 Meadow Lane
Shady Cove, OR 97539

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SPACE ABOVE THIS LINE FOR RECORDER'S USE

BARGAIN AND SALE DEED - STATUTORY FORM
(INDIVIDUAL or CORPORATION)

Flywater LLC, an Oregon limited Liability Company, Grantor, conveys to Malko Investments LLC, an Oregon Limited Liability Company, Grantee, the following described real property, situated in the County of Jackson, State of Oregon,

Parcel 3 of Partition Plat No. P-45-2009 recorded on December 29, 2009 in the Records of Partition Plats and filed as County Survey File No. 20572, Jackson County, Oregon.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, AND SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009.

The true consideration for this conveyance is \$0.00

Dated: February 26, 2010

Flywater LLC

Robert J. Kolodny
Robert J. Kolodny, Co-Trustee of the Kolodny/Dudenhoeffer Revocable Trust Agreement dated 5/25/93, Member

Martha J. Dudenhoeffer
Martha J. Dudenhoeffer, Co-Trustee of the Kolodny/Dudenhoeffer Revocable Trust Agreement dated 5/25/93, Member

Michael T. Malepsy
Michael T. Malepsy, Member

Bonnie L. Malepsy
Bonnie L. Malepsy, Member

RECORDED

State of OREGON

COUNTY of Jackson

This instrument was acknowledged before me on Feb 26, 2010

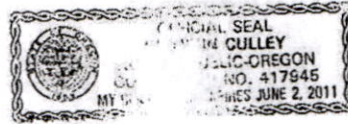
by Michael T. Matepski + Bonnie L. Matepski
members of Flywater LLC

Channin Culley, Notary Public - State of Oregon
My commission expires: 6/2/11

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STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

Subscribed and sworn to (or affirmed) before me on March 2, 2010, by Robert J. Kolodny, who proved to me on the basis of satisfactory evidence to be the person who appeared before me.



(Seal)

Patricia A. Wicks

Signature

STATE OF CALIFORNIA)
) SS.
COUNTY OF SAN DIEGO)

Subscribed and sworn to (or affirmed) before me on March 3, 2010, by Martha J. Dudenhoeffer, who proved to me on the basis of satisfactory evidence to be the person who appeared before me.



(Seal)

Patricia A. Wicks

Signature

h

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.765 & OAR 690-205-0210)

JACK 65173
12/30/2021

WELL I.D. LABEL# L 144850
START CARD # 1055002
ORIGINAL LOG #

(1) LAND OWNER
Owner Well I.D. _____
First Name MICHAEL Last Name MALEPSY
Company FLYWATER LLC
Address PO BOX 1004
City SHADY COVE State OR Zip 97539

(2) TYPE OF WORK
 New Well Deepening Conversion
 Alteration (complete 2a & 10) Abandonment (complete 5a)

(2a) PRE-ALTERATION
Casing: Dia + From To Gauge Stl Plstc Wld Thrd
Material From To Amt sacks/lbs
Seal: _____

(3) DRILL METHOD
 Rotary Air Rotary Mud Cable Auger Cable Mud
 Reverse Rotary Other _____

(4) PROPOSED USE
 Domestic Irrigation Community
 Industrial/ Commercial Livestock Dewatering
 Thermal Injection Other _____

(5) BORE HOLE CONSTRUCTION Special Standard (Attach copy)
Depth of Completed Well 360.00 ft.

BORE HOLE SEAL

Dia	From	To	Material	From	To	Amt	sacks/ lbs
10	0	18	Cement	0	18	10	S
6	18	360				Calculated	4.83
						Calculated	

How was seal placed: Method A B C D E
 Other _____
Backfill placed from _____ ft. to _____ ft. Material _____
Filter pack from _____ ft. to _____ ft. Material _____ Size _____
Explosives used: Yes Type _____ Amount _____

(5a) ABANDONMENT USING UNHYDRATED BENTONITE
Proposed Amount _____ Actual Amount _____

(6) CASING/LINER

Casing	Liner	Dia	+ From	To	Gauge	Stl	Plstc	Wld	Thrd
<input checked="" type="checkbox"/>	<input type="checkbox"/>	6	<input checked="" type="checkbox"/> 1.5	18.5	.250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Shoe Inside Outside Other Location of shoe(s) 18.5
Temp casing Yes Dia _____ From + _____ To _____

(7) PERFORATIONS/SCREENS
Perforations Method _____
Screens Type _____ Material _____

Perf/ Screen	Casing/ Liner	Screen Dia	From	To	Scr/slot width	Slot length	# of slots	Tele/ pipe size

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian

Yield gal/min	Drawdown	Drill stem/Pump depth	Duration (hr)
0.3		358	1

Temperature 56 °F Lab analysis Yes By _____
Water quality concerns? Yes (describe below) TDS amount 341 ppm
From _____ To _____ Description _____ Amount _____ Units _____

(9) LOCATION OF WELL (legal description)
County JACKSON Twp 34.00 S N/S Range 1.00 W E/W WM
Sec 28 NW 1/4 of the NE 1/4 Tax Lot 404
Tax Map Number _____ Lot _____
Lat _____ " or 42.59127800 DMS or DD
Long _____ " or -122.82191200 DMS or DD
 Street address of well Nearest address
500 FLYCASTER LN. SHADY COVE OR 97539

(10) STATIC WATER LEVEL

Existing Well / Pre-Alteration	Date	SWL(psi)	+ SWL(ft)
Completed Well	12/17/2021		71

Flowing Artesian? Dry Hole?
WATER BEARING ZONES Depth water was first found 97.00

SWL Date	From	To	Est Flow	SWL(psi)	+ SWL(ft)
12/17/2021	97	98	0.3		71

(11) WELL LOG

Material	From	To
SAND/COBBLE/MIXED GRAVEL	0	11
GREY SANDSTONE MEDIUM	11	72
GREY BLUE SANDSTONE MEDIUM	72	97
GREY SANDSTONE MEDIUM	97	123
GREY GREEN SANDSTONE MED/HARD	123	206
GREY SANDSTONE MED/HARD	206	262
GREY GREEN SANDSTONE MEDIUM	262	317
LIGHT GREY GREEN SANDSTONE MED/SOFT	317	360

Ground Elevation _____

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Date Started 12/14/2021 Completed 12/17/2021

(unbonded) Water Well Constructor Certification
I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
License Number 1945 Date 12/29/2021
Signed JUSTIN SPLIETHOF (E-filed)

(bonded) Water Well Constructor Certification
I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
License Number 1835 Date 12/30/2021
Signed KEVIN GILL (E-filed)
Contact Info (optional) Clouser Drilling Inc.



File #:

Oregon Water Resources Department

Application Supplement for Human Consumption & Livestock Uses

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For water use permit applications within or above scenic waterways, or from streams for which water is not available due to required instream flows, the Department may issue limited permits for human consumption and livestock uses. Human consumption is limited to indoor use for drinking, cooking, and sanitation and is limited to 500 gallons per day. It does not include outdoor uses such as lawn watering, garden watering or other similar uses.

In order to issue a permit to you for human consumption or livestock use, the Department must find that you cannot reasonably obtain water from any other source. For human consumption, an additional finding must be made that denial of the water right would result in loss of reasonable expectations for use of your property. For livestock use, additional findings must be made that issuance of a permit is necessary to prevent the livestock from watering in or along the stream bed and that you have excluded livestock from the stream and the adjacent riparian zone.

Please answer the following questions, and sign and return this form to Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266.

1. Can you reasonably obtain water from any other source? Yes No

If not, please describe why each of the following options are not reasonable:

- a. Groundwater, such as a well on yours or a neighbor's property. (If expense is the reason groundwater is not reasonable, please provide two estimates of the cost.)

A well was drilled at the site but did not produce sufficient water, see well log JACK 65173. Wells in the surrounding area are low producing and are not reliable.

- b. Securing stored water from upstream reservoirs.

We are not aware of any available stored water upstream that can be used for human consumption. Lost Creek Reservoir has water available, but not allocated for our use.

- c. Trucking water. (If expense is the reason this option is not reasonable, please provide a copy of an estimate of the cost of trucking water.)

Too expensive. Verbal estimates were obtained from "Maries' Water Delivery" and "Got Water" for \$95/2,000 gallons and \$85/2,000 gallons, respectively. Anticipated use is 500 gallons/per day for each residence, so the cost is estimated to be around \$1,400/month.

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d. Community or municipal water suppliers.

There are no community or municipal water suppliers available for connection.

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e. Tying in to a neighboring property's spring.

We are not aware of any neighboring properties with springs.

f. Transferring existing water rights to your proposed use(s).

We are not aware of any water rights available for transfer.

Please identify any other alternate water sources you have considered, and why they are not feasible:

Additional attempts to drill wells have been considered but surrounding wells are low producing unreliable and on the decline. The cost to attempt to try multiple times to drill wells is prohibitive.

2. If you are seeking a permit for **human consumption use**, would denial of your application result in loss of reasonable expectations for use of your property?

Yes No NotApplicable

If so, please describe how:

The expectation for the property is to build two residential homes. Without water for human consumption, we will not build the homes.

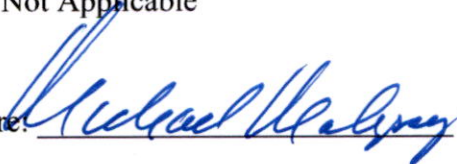
3. If you are seeking a permit for **livestock use**, is the proposed use necessary to prevent the livestock from watering in or along the stream bed?

Yes No Not Applicable

4. If you are seeking a permit for **livestock use**, have you excluded livestock from the stream and the adjacent riparian zone?

Yes No Not Applicable

Applicant Signature: _____



Date: _____

3/7/22

Applicant Signature: _____

Date: _____

Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.140)

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.

Please submit the original application and signatures to the Water Resources Department. Applicants are encouraged to keep a copy of the completed application.

- SECTION 1: Applicant Information and Signature
- SECTION 2: Property Ownership
- SECTION 3: Source of Water
- SECTION 4: Sensitive, Threatened or Endangered Fish Species Public Interest Information
- SECTION 5: Water Use
- SECTION 6: Water Management
- SECTION 7: Resource Protection
- SECTION 8: Project Schedule
- SECTION 9: Within a District
- SECTION 10: Remarks

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Include the following additional items:

- Land Use Information Form with approval and signature of local planning department (*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.
- Fees - Amount enclosed: \$2,110
See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.
- Map that includes the following items:
 - 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 diversion, by reference to a recognized public land survey corner (distances north/south and east/west)
 - Indicate the area of use by Quarter/Quarter and tax lot identified clearly.
 - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
 - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)