

Groundwater Right Application Guidebook

Oregon Water Resources Department



Why do I need a water right?

Under Oregon Law, all water belongs to the public. With few exceptions, any person wishing to take and use surface water or groundwater must first obtain a permit from the Water Resources Department. The water right, once developed, is a type of property right and is attached to the land where it was established. Land with an attached water right may be several miles from the actual source of water. In Oregon, landowners with water flowing past, through, or below their property do not automatically have a right to use that water.

Oregon's water laws are based on the principal of "prior appropriation." That is, the first person to obtain a water right to a water source is the last to be shut off in times of low water availability. In water-short times, water users with the oldest water right can demand the amount specified in their right regardless of the needs of junior users. If there is a surplus beyond the specified amount of the senior right holder, the person with the next oldest priority date can take their specified amount as necessary to satisfy their appropriation under their right and so on down the line until there is no surplus. The date of application for a permit usually becomes the priority date of the right.

Oregon's water code contains four basic provisions:

- Surface or groundwater may be legally diverted only if it is used under the terms of a valid water right for a beneficial purpose.
- The more senior the water right, the longer water is available in a time of shortage.
- A water right certificate is attached to the land where it was established. If the land is sold, the water right goes with the land to the new owner. (This does not apply to water rights still in permit status.)
- A water right is valid as long as it is used at least once every five years, for its intended purpose. If the right is unused for five consecutive years, it is legally forfeited and subject to cancellation, with few exceptions.

By law, the land use associated with water use must comply with the statewide land-use goals and local land-use plans. If state goals or local comprehensive plans prohibit the land use the water-use permit may not be exercised until land-use approval is obtained.

The Water Right: Applying for a Permit to Use Water

Obtaining your permit is a critical hurdle in obtaining a water right. A permit is the authorization necessary from the Water Resources Department to begin constructing a water delivery system and begin using water. During the review stage, your application is examined by the Department to ensure that allowing your use will not have the potential to cause injury to existing water rights or to the public interest. It is also during this step in the process that Oregon law allows other water right holders, government agencies and the public to object to issuing the permit. However, once the Department issues the permit, and if you comply with the conditions of the permit, the Department cannot revoke your permit later or decide to impose new standards on the use when a final water right certificate is issued.

The standards by which applications are judged are explained in the administrative rules, Chapter 690, Division 310. Oregon law requires all state agencies to put policies into rule so the public knows in advance what is required, and to discourage arbitrary decisions by agencies.

An application is a request to use water. Each application receives a careful analysis by the Department. Small uses upstream could have impacts downstream, and new water uses can interfere with more senior uses. For example, a large, new well can dry up an older well nearby. Adding new users to the system must be done carefully to preserve investments made by existing water right holders.

Instructions: Completing the Application Form

Note: All information should be typewritten or neatly printed with dark ink. All items must be completed even if parts or all of the required information appears on supplemental maps or drawings. Applications must be submitted on original forms that are provided by the Department or watermaster. Sign the forms in ink.

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

If you are an individual, or represent an association, firm, partnership, cooperative, corporation or municipality, and you wish to apply for a water right permit, include your name, mailing address and phone numbers. You may include a fax number, if you have one, and/or an e-mail address. These numbers are not required but they may assist the Department in contacting you.

SECTION 2: PROPERTY OWNERSHIP

You must either own the property or have legal access to the property where you propose to appropriate (well location), transport, and use groundwater.

- If you own all the land that includes the well, conveyance, and use of the groundwater, mark YES and identify if encumbrances are or are not present.
- If you do not own all the lands involved, you must provide a list of the names and addresses of the affected property owners.
- If there are more than 25 landowners, you will be required to file a public notice in a newspaper that circulates in the area of the water use. Contact the Department for more information.

SECTION 3: WELL DEVELOPMENT

- **Name of nearest surface water.** For each well, identify the nearest surface water. This may include a stream, river, lake, or reservoir.
- **Distance to nearest surface water:** For each well that is less than 1 mile from surface water, indicate the distance (in feet) from the well to the nearest surface water. This information helps the Department to know the extent of interference and interconnection between surface waters and groundwater. Indicate the surface water and the distance in smallest reasonable increments. For example: 1) 400 feet from Butterfly Creek, 2) $\frac{3}{4}$ mile from Rockfish Lake.
- **Elevation difference:** For each well that is less than 1 mile from the nearest surface water, indicate the elevation change from the well head and the surface water. This can be determined using a topographic map of the area or by survey methods. Small elevation increments are necessary to provide an accurate elevation difference.
- **Additional information about your existing or proposed well(s) that may be helpful in evaluating your proposed use of groundwater:**
 - If the well is flowing artesian, which means that it is flowing naturally without drawing the water using a pump system, you may need to employ some controls to manage and conserve the water. Explain any methods you will be using to manage the flowing water. Special seals, containment devices, sanitary caps, and any valves or pressure gauges should be mentioned.
 - For existing wells, describe any alterations or repairs not documented in the attached well log or other materials.
- **Source (aquifer):** Indicate the proposed source (i.e., gravel and sand, alluvium, basalt, bedrock, etc.).
- **Total maximum rate requested:** Indicate the total rate of water you propose to use from all wells. Each well will be evaluated at the maximum rate unless you indicate well-specific rates and in the table on Page 3. To process your application, the Department must determine whether the amount of water you are requesting will be available without injuring the supply of water for existing water right holders.
- **Well characteristics:** Complete the table on Page 3 for each individual well. 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.
 - Include the well name or number and whether the well is proposed or existing.
 - Indicate the Well ID (well tag) or Well Log ID. New or newly altered wells must have a Well ID number stamped onto a stainless steel tag affixed to the well casing. If available, please provide the ID number for each of your wells. If tags have not been affixed to your wells, ID numbers have not been assigned yet. You may insert “n/a” in that portion of your application.

If your existing well does not have a Well ID (well tag), you can request a Well ID from the Department. The Well ID is intended to serve as a unique identification number for each well.

- Please indicate if the well is flowing artesian, which means it is flowing naturally without drawing the water using a pump system.
- Indicate the inner and outer casing diameter of each well and the casing interval in feet.
- If your well is perforated to allow inflow of water, indicate the intervals with which the casing is perforated.
- Include the seal interval in feet, the static water level measurement in feet, and the date of static water level measurement.
- Indicate the source aquifer (ie. gravel and sand, alluvium, basalt, bedrock, etc.).
- Indicate the total well depth.
- For each well, indicate the production rate (well-specific rate) in gallons per minute and the proposed annual volume in acre-feet.

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

In this section, check the appropriate box to indicate which section of the Division 33 rules may apply to your application. Use the Figure on Page 15 of the groundwater application to assist you.

If your proposed groundwater use is determined to have the potential for substantial interference with nearby surface waters, 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.

SECTION 5: WATER USE

Type(s) of Use(s): In order to receive a water right you must show that you will be using the water beneficially and without waste. Use entries from the following tables to indicate what the beneficial use of your water will be. *Note: The description provided for each use is intended to provide a brief listing of examples. The uses indicated may include, but are not limited to, the brief list of examples.*

Category: Agricultural or Land Management
a) General agricultural use: Water used for the production of agricultural products including construction, operation and maintenance of agricultural facilities, and livestock sanitation at farms, ranches, dairies and nurseries. Examples: dust control, temperature control, animal waste management, barn or farm sanitation, dairy operation, and fire control. <u>Agricultural use does not include irrigation.</u>
b) Irrigation: Water that is applied artificially to crops or plants to promote growth or to nourish. Examples: watering any agricultural crop, commercial garden, tree farm, orchard, park, golf course, play field or vineyard and alkali abatement.

c) Cranberry use: Use of water for growing, protecting and harvesting cranberries. Examples: irrigation of cranberries or other crops in rotation, using water for chemical application to crops, flooding for harvesting or to control pests, and temperature control.
d) Nursery operations: Use of water for operating a commercial nursery. Examples: temperature control, watering of containerized stock, soil preparation, application of chemicals or fertilizers, watering within greenhouses and uses to construct, operate and maintain nursery facilities. The use of water within plant nursery operations constitutes a different use from field irrigation, although field irrigation may be part of nursery use. If used for field irrigation for nursery stock, such use is not restricted to the agricultural irrigation season that may be defined for your area.
e) Stockwater: Use of water for consumption by domesticated animals and wild animals held in captivity as pets or for profit.
f) Temperature control: Use of water to protect a growing crop from damage caused by extreme temperatures.
g) Forest and range management: Water use for operations conducted on or pertaining to forest lands and range lands. Examples: reforestation, road construction and maintenance, harvesting, vegetation management, and disposal of slash. Forest and range management does not include irrigation.

Category: Industrial/Commercial
a) Industrial: Water use associated with the processing or manufacture of a product. Examples: construction, operation and maintenance of an industrial site, facilities and buildings. Related uses: general construction, road construction, non-hydroelectric power production, including downhole heat exchange and geothermal, agricultural or forest products processing, and fire protection. Such uses shall not include irrigation or landscape maintenance of more than 1/2 acre.
b) Commercial: Use of water for the production, sale or delivery of goods, services or commodities by a public or private entity. Examples: construction, operation and maintenance of commercial facilities. Examples of commercial facilities include an office, resort, recreational facility, motel, hotel, gas station, kennel, store, medical facility and veterinary hospital. Examples of water uses within such facilities include human consumption, sanitation, food processing, and fire protection. Such uses shall not include irrigation or landscape maintenance of more than 1/2 acre.
c) Fire protection: Use and storage of water for the purpose of extinguishing fires or reducing the potential outbreak of fires.
d) Mining: Use of water for extraction, preliminary grading, processing of minerals or aggregate at a mining site or construction, operation and maintenance of a mining site. These uses include, but are not limited to, general construction, road construction, and dust control.
e) Power development: Use of water for developing electrical or mechanical power. Examples: water for the operation of a hydraulic ram or water wheel and hydroelectric power generation.

Category: Drinking water supply

Note: If using water for domestic purposes (e.g., drinking, cooking, cleaning) you must indicate the number of households that will be supplied.

- a) **Human consumption:** Use of water for the purposes of drinking, cooking, and sanitation.
- b) **Domestic use:** Use of water for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses.
- c) **Domestic use expanded:** Use of water in addition to that allowed for domestic use, for watering up to 1/2 acre of lawn or noncommercial garden

Category: Community water supply

Note: If using water for municipal use, you must include [Form M](#) with your application.

- a) **Municipal:** Delivery and use of water through the water service system of a municipal corporation for all water uses usual and ordinary to such systems. Examples: domestic water use, irrigation of lawns and gardens, commercial water use, industrial water use, fire protection, irrigation and other water uses in park and recreation facilities and street washing. Such uses shall not include generation of hydroelectric power.
- b) **Quasi-municipal:** Use of water through the water service system of a corporation other than a public corporation created for the purpose of operating a water supply system and for uses usual and ordinary to municipal water use.
- c) **Group domestic:** Use of water for domestic water use by more than one residence or dwelling unit.
- d) **Stormwater management:** Use or storage of water in any structure or drainageway that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvements, flood control or property protection. Other examples: existing features such as wetlands, water quality swales and ponds which are maintained as storm water quality facilities.

Category: Environmental benefit

- a) **Aquatic life:** Use of water to support natural or artificial propagation and sustenance of fish and other aquatic life.
- b) **Pollution abatement:** Use of water to dilute, transport or prevent pollution.
- c) **Recreation:** Use of water for play, relaxation or amusement. Examples: boating, fishing, wading, swimming and scenic values.
- d) **Wetland enhancement:** Use of water to restore, create, or enhance or maintain wetland resources.
- e) **Wildlife:** Use of water by or for sustaining wildlife species and their habitat.

Period of Use: Indicate the period of use for each use you are proposing. Some types of uses, such as irrigation, are allowed only during certain months or seasons. For example, in Western Oregon the irrigation season is generally March 1 to October 31. In order to examine your application it is important for the Department to know which months you are requesting to use the water. If you will be using it year-round, indicate “year-round.” If you will be using it seasonally (i.e. irrigation seasons) give the beginning date and ending date.

Annual volume of water: Indicate the amount of water for each type of use in acre feet. To process your application, the Department must determine whether the amount of water you are requesting will be available without injuring the supply of senior water right holders.

If applying for irrigation use: If you will be using the water for primary or supplemental irrigation, or applying it to land for another reason, indicate the total number of acres of primary irrigation and supplemental irrigation (if applicable) where the water will be applied. If you are proposing supplemental irrigation, include the Permit or Certificate number of the underlying primary water right. Indicate the maximum total number of acre-feet you expect to use in an irrigation season.

If applying for municipal or quasi-municipal use: Attach completed [Form M](#).

If applying for domestic use: Indicate the number of households.

If applying for mining use: Describe what is being mined and the method(s) of extraction.

SECTION 6: WATER MANAGEMENT

- A. **Diversion and Conveyance:** Please describe the methods you will use to appropriate the proposed water from the well(s) and the method you will use to bring the water from the well(s) to the place of use. For example: size and length of pipelines or ditches. You may attach a diagram or drawing of the assembly if it will help in your description.
- B. **Application Method:** Please describe the methods you will use, individually or in combination, to apply water to the place of use. If you are not applying water to land, leave it blank.
- C. **Conservation:** Explain any methods you will employ to conserve water. For example: special irrigation systems, soil moisture measurements, lined irrigation canals, water audits, or retrofitting more efficient fixtures. To stay within the limits of your water right, you should consider some way to measure the amount of water you are taking on a daily basis during the period of use allowed in your permit. Indicate how you will measure the water you have diverted. Note: your permit, when issued, may require and specify the type of measurement you will need.

SECTION 7: PROJECT SCHEDULE

List the projected dates of your intended progress for construction of the water system and actual use of the water. If the Department issues a permit to use water, it will include time limits to complete construction and begin water use, generally within five years from the date of the permit. A substantial portion of the development must occur within one year of issuance of the permit.

SECTION 8: RESOURCE PROTECTION

In granting permission to use water the state encourages, and in some instances requires, careful control of activities that may affect adjacent waterways or streamside areas. Use this section of the application form to describe planned actions to protect water quality, or additional permits that may be required for project implementation.

SECTION 9: WITHIN A DISTRICT

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

SECTION 10: REMARKS

You may want to elaborate on circumstances, methods, or systems for your proposed water use. If you need additional space, attach a sheet to your application form and indicate the specific item you are addressing.

Map Requirements

In order to properly examine your application, the Department must have an accurate map that shows the location of the proposed water source and area(s) of use. The maps submitted shall meet the following criteria:

The map shall be of permanent quality and drawn clearly in ink on good quality paper.

Maps should be submitted on 8.5 x 11 inch paper. If a map is larger than 11 x 17 inches, submit four copies or draw on tracing vellum or mylar.

The map must be drawn to a standard, even scale of not less than 4 inches = 1 mile. Standard scales include 1"-400'; 1"-1320". Use only whole numbers. U.S.G.S Quad maps, title company maps or aerial photo maps will not be accepted.

Each copy of the map must clearly show the elements of the proposed appropriation:

- The location of main canals, ditches, pipelines or flumes. Place of use should be indicated if appropriate. Example: cross-hatching or shading. Maps for irrigation use must indicate the number of acres per quarter-quarter section and include shading or cross-hatching to identify the place of use.
- The section number, township, range, tax lot lines and numbers, nearest quarter- quarter section, and a north directional symbol.
- A platted and recorded subdivision map, deed description survey map or a county assessor tax lot map may be submitted as the application map if all the required information is clearly shown on each print.

Minimum Application Requirements Checklist:

Use the minimum application requirements checklist on Page 9 of the application form to assist you in making sure that all required elements are submitted to the Department along with the application form. Before submitting the application, be sure you include all the necessary items below:

- **Properly completed application form:** Completed application form signed and dated in ink by all applicants. If there is more than one applicant, be sure that all applicants sign the application (Page 1).
- **Land Use Information Form:** Include a Land Use Information Form approved and signed (must be original) or a Land Use Information Form receipt signed by a representative of the local planning agency having jurisdiction (i.e., county or city planning).
- **Property description:** A legal description of (1) the property from which water is to be appropriated (well location), (2) any property crossed by the proposed ditch, canal, or other work, and (3), any property on which the groundwater is to be used, must accompany the application. Photocopies of the legal description in the deed, title insurance, or land sales contract would fulfill this requirement.

Payment: Exam Fees are due when you submit your application. See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900 for assistance in determining your examination fees. Submit a check or money order made out to WRD for the examination fee. Recording fees may be paid later, if you wish. Your application will be returned if all necessary examination fees are not received.

- **Legible and accurate application map:** A map of the proposed development must accompany each application for a permit. See Minimum Requirements Checklist on Page 9 for map requirements.
- **Additional materials:** For existing well(s), submit a copy of the well log. For municipal or quasi-municipal use, submit Form M.