

SUPERSEDING MEMORANDUM OF AGREEMENT

This SUPERSEDING MEMORANDUM OF AGREEMENT is made on August 19, 2022 (the "Effective Date") to correct a scrivener's error contained in the original MEMORANDUM OF AGREEMENT executed on June 1, 2021 and entered into the special order records of the Water Resources Director at Special Order Volume 120, Page 773. Recital B of the original MEMORANDUM OF AGREEMENT incorrectly identified that Certificate 95177, issued to TUMALO IRRIGATION DISTRICT ("TID"), authorized the storage of 32,268.0 acre-feet of water. It should have identified that Certificate 95177 authorized the use of 32,268.0 acre-feet of water stored under Certificate 76683 (as corrected below in Recital B of this SUPERSEDING MEMORANDUM OF AGREEMENT).

The original June 1, 2021, MEMORANDUM OF AGREEMENT was to memorialize an agreement identified as a condition of approval to Allocation of Conserved Water Application CW-37 ("Agreement"). The Agreement was made by and between the TUMALO IRRIGATION DISTRICT ("TID") and the OREGON WATER RESOURCES DEPARTMENT ("OWRD") (collectively, the "Parties") requiring an operational flow release of not less than 5.0 cubic-feet per second (CFS) year-around at the Crescent Creek Gaging Station Number 14060000.

RECITALS

A. On May 20, 2005, TID filed an application for an allocation of conserved water requesting conserved water under Certificates 74146 and 74148 which were superseded by Certificates 95175 and 95177 respectively.

B. TID is the holder of Water Right Certificate 95177. Certificate 95177, as amended by CW-37, is for the use of 32,268.0 acre-feet of water stored under Certificate 76683.

C. On December 9, 2005, OWRD issued a Final Order Approving Allocation of Conserved Water for Application CW-37, recorded in Special Order Volume 67, Pages 509-517 ("Approval Order"). The Approval Order at page 517 describes an informal agreement that has allowed for the release of approximately 5.0 CFS from Crescent Lake Reservoir as measured at the Crescent Creek Gaging Station Number 1406000. As part of the conserved water project, TID requested this gentleman's agreement be formalized.

D. The Approval Order did not anticipate an incremental finalization and did not address when the informal agreement would be finalized. On June 23, 2008, TID requested the gentleman's agreement be formalized when the entire project was complete.

E. The project was completed in seven phases. The incremental finalization orders and resulting instream certificates from reductions to Certificate 74148/95177 with the source of Crescent Lake Reservoir are as follows:

Increment	Date	Special Order Volume - Page	Instream Certificate	Instream Volume (AF)	Instream Season	Conversion to CFS
1	6/25/2008	75-202	84352	89.25	1/1 to 12/31	0.123
2	2/28/2012	87-99	87440	222.41	1/1 to 12/31	0.307
3	11/26/2013	91-530	88992	331.52	1/1 to 12/31	0.458
4	10/6/2016	103-15	91923	276.90	1/1 to 12/31	0.382
5 (5A)	12/26/2018	112-175	95726	383.10	1/1 to 12/31	0.529
6 (5B)	1/13/2020	114-839	95727	697.48	1/1 to 12/31	0.963
Totals				2000.66		2.762

F. On May 14, 2021, OWRD issued a Final Order Approving the Seventh and Final Increment on Completion and Finalization of Allocation of Conserved Water CW-37. This final order authorized issuance of an instream certificate from Crescent Lake Reservoir as follows:

Increment	Date	Special Order Volume - Page	Instream Certificate	Instream Volume (AF)	Instream Season	Conversion to CFS
7	5/14/2021	120-587	95730	731.34	1/1 to 12/31	1.010

Consistent with the incremental finalization orders listed in paragraph E above, the Parties desire to memorialize the agreement requiring an operational flow release of not less than 5.0 cubic-feet per second (CFS) year-around at the Crescent Creek Gaging Station Number 14060000.

AGREEMENT

1. An operational flow release of not less than 5.0 CFS shall be required year-around at Crescent Creek Gauging Station Number 14060000.
2. The instream water rights created by CW-37 from Crescent Lake Reservoir, as specified in Paragraphs E and F above, shall be additive to the 5.0 CFS flow. The instream water rights created by CW-37 total 3.772 CFS or 2,732.0 acre-feet.
3. The 5.0 CFS operational flow shall not be additive to TID's irrigation releases, nor shall it be additive to the minimum flows required under the Deschutes Basin Habitat Conservation Plan.
4. Any additional flow restoration activities, including but not limited to, instream transfers, allocations of conserved water, and instream leases, shall also be additive to the 5.0 CFS operational flow requirement, unless otherwise specified by a subsequent order.
6. Water users above Crescent Lake Reservoir shall not be regulated to satisfy the 5.0 CFS requirement.

7. Each Party to this Agreement represents, warrants, and agrees that the person who executed this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to these terms. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, TID and OWRD have executed this Agreement as of the date first written above.

Tumalo Irrigation District:



By: Chris Schull
District Manager

Oregon Water Resources Department:



By: Douglas Woodcock
Deputy Director, Water Management