

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Instream Transfer)	FINAL ORDER CHANGING MITIGATION
Application T-10623, AND MITIGATION)	WATER TO MITIGATION CREDIT AND
PROJECT MP-120, Deschutes and Klamath)	AWARD OF MITIGATION CREDITS
Counties)	

Authority

Oregon Revised Statute (ORS) ORS 537.746 authorizes the Department to award mitigation credits in the Deschutes Basin to approved mitigation projects. Mitigation credits may be used in the Deschutes Basin, specifically the Deschutes Ground Water Study Area, to mitigate for the impacts of ground water use on surface water flows.

Oregon Administrative Rule (OAR) 690-521-0400(2) implements the statutes and establishes that any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

OAR 690-522-0060 establishes the process for any person to submit a written request to change mitigation water generated by a mitigation project into mitigation credits, provided the request is submitted to the Department no later than December 31, 2021.

Applicant(s)

SHANDA ASSET MANAGEMENT, LLC
56880 VENTURE LANE SUITE 203N
SUNRIVER, OREGON 97707

Findings of Fact

Background

1. On May 27, 2020, SHANDA ASSET MANAGEMENT, LLC submitted a written request to change the mitigation water generated by the previously approved mitigation project number MP-120 (Instream Transfer T-10623) into mitigation credits.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

2. On January 15, 2010, the Department issued an Order approving Instream Transfer T-10623, mitigation project number MP-120. The Order was recorded at Special Order Volume 80, Pages 67-77.
3. The Order described above approved the transfer of 283.5 acres of irrigation to instream use and generated 510.3 acre-feet of Mitigation Water in the Little Deschutes, Upper Deschutes, Middle Deschutes and General Zones of Impact. The Mitigation Water was used to satisfy a portion of the mitigation obligation for Ground Water Application G-16905.
4. Instream water right certificate 86020, created pursuant to the Order approving Instream Transfer T-10623, is identified as a mitigation project/source for Ground Water Application G-16905.
5. On August 31, 2015, the Department issued Ground Water Permit G-17477 (Ground Water Application G-16905).
6. On June 3, 2020, the Department issued Ground Water Permit G-18357, which superseded Ground Water Permit G-17477.

Change of Mitigation Water to Mitigation Credits (pursuant to OAR 690-522-0060) and Award of Deschutes Basin Mitigation Credits

7. The written request described in Finding of Fact #1 above meets all requirements of OAR 690-522-0060(2) and (3), as follows:
 - a) SHANDA ASSET MANAGEMENT, LLC submitted the written request on May 27, 2020, being prior to December 31, 2021;
 - b) The written request identified the previously approved mitigation project number MP-120 (Instream Transfer T-10623) under which the mitigation water was generated and established to satisfy a portion of the mitigation obligation for Ground Water Permit G-18357 (Ground Water Application G-16905);
 - c) SHANDA ASSET MANAGEMENT, LLC is the permit holder of record of Ground Water Permit G-18357 (Ground Water Application G-16905); and
 - d) The written request included all other information requested by the Department.
8. Based upon Finding of Fact #7, the Department may issue an Order to approve the change of mitigation water generated by the previously approved mitigation project number MP-120 into mitigation credits, consistent with the Order approving the mitigation project.
9. To be consistent with the Order approving the previously approved mitigation project, the award of mitigation credits through approval of this Order will be as follows:

- a) The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, to satisfy a mitigation obligation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Little Deschutes, Upper Deschutes, Middle Deschutes and General Zones of Impact; and
- b) Mitigation credits in the amount of 510.3 credits will be awarded to mitigation project number MP-120 (Instream Transfer T-10623) in the name of SHANDA ASSET MANAGEMENT, LLC and assigned to Ground Water Permit G-18357 (Ground Water Application G-16905).

Conclusion of Law

The proposed change of mitigation water to mitigation credits is consistent with the requirements of OAR 690-522-0060.

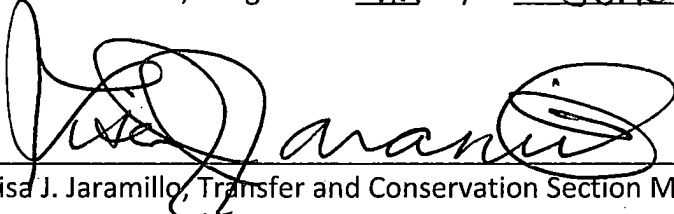
This previously approved mitigation project number MP-120 (Instream Transfer T-10623) will be awarded mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300, 690-521-0400, and 690-522-0060.

Now, therefore, it is ORDERED:

1. The change of mitigation water to mitigation credits is approved.
2. Instream Water Right Certificate 86020 will be cancelled. A new instream certificate shall be issued to describe completion of mitigation project number MP-120 (Instream Transfer T-10623) and the result of this Order changing mitigation water to mitigation credits pursuant to OAR 690-522-0060 and awarding Deschutes Basin mitigation credits.
3. **Award of Mitigation Credits:** Final Award of Mitigation Credits are approved. Mitigation credits in the amount of **510.3 credits**, as described herein, are awarded to mitigation project number MP-120 (Instream Transfer T-10623) in the name of SHANDA ASSET MANAGEMENT, LLC and assigned to Ground Water Permit G-18357 (Ground Water Application G-16905).
4. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Little Deschutes, Upper Deschutes, Middle Deschutes and General Zones of Impact**.
5. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Basin Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

6. The instream certificate created as a result of the approval to change mitigation water to mitigation credits shall be identified as a mitigation credit project for a ground water permit applicant and/or ground water permit/certificate holder. Within each instream certificate, the number of mitigation credits, the zone(s) of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits shall also be specified.

Dated at Salem, Oregon this 4th day of June 2020.

A handwritten signature in black ink, appearing to read "Lisa J. Jaramillo", written over a horizontal line.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Tom M. Byler, Director, Oregon Water Resources Department