STATE OF OREGON }
} ss
County of Marion. }
I certify that the within was received by me on the 18th day of April, 2025 at 9:00 o'clock A.m. and was recorded in the Miscellaneous Records Vol. 134 Pages 392-395.
Water Resources Director

Addendum to the April 12, 2012 NUID and DRC Agreement recorded at OWRD's Misc. Order Vol. 9, Pg. 218-224 and to the July 12, 1996 NUID Water Accounting document recorded at OWRD's Misc. Order Vol. 9, Pg. 225-226

JOINT PETITION

by
the Applicant and DRC to Modify Bypass Flow Rates

Purpose

Deschutes River Conservancy (DRC) and North Unit Irrigation District (NUID) request that the Oregon Water Resources Department (OWRD) consider this petition of the Crooked River Minimum Bypass Flow Agreement for implementation starting in the 2025 irrigation season.

Context

DRC, NUID, and Central Oregon Irrigation District (COID) implemented projects under the North Unit Water Supply Initiative from 2011-2020. The goal of the program was to provide more reliable Deschutes River primary water rights to patrons with NUID Crooked River primary water rights, in exchange for permanently converting the subject Crooked River primary water rights to instream use in the Crooked River below the NUID pumps. The program included the implementation of three canal lining/piping projects, which ultimately resulted in separate Final Orders and Certificates pursuant to the State of Oregon's Allocation of Conserved Water statutes. In total, NUID received 10,785 acre-feet of more reliable Deschutes River water, while a corresponding 10,785 acre-feet have been permanently restored to the Crooked River.

Table 1. 2010-2020 North Unit Water Supply Initiative Project Summary

Projects Summary			
Conserved Water Project #	**Ac-Ft**	**Date of OWRD Final Order**	**Description of Conservation Improvements**
CW-75	7,880	9/18/2013	Lined a portion of NUID Main Canal
CW-81	1,300	4/10/2015	Piped COID's I-Lateral
CW-115	1,605	12/16/2020	Piped COID's West-F Lateral
Total	**10,785**		

Minimum Bypass Flow Agreement

Because NUID holds supplemental Crooked River live flow water rights senior to the primary Crooked River live flow water rights transferred to instream use, the program developed, in addition to the certificated instream rights, a minimum bypass flow agreement (2012 Agreement) that was incorporated into the Conserved Water Final Orders to ensure that the transferred primary Crooked River water rights are in fact protected instream and the subject water is not otherwise susceptible to diversion under NUID's senior supplemental Crooked River water rights. The minimum flow agreement protects the conservation savings on top of historic streamflow that was present 70% of the time (non-dry year) and 30% of the time (dry year) during each month prior to phase I of the Initiative (from 2001 through 2010). The 2012 Agreement includes criteria for OWRD to make an annual determination regarding whether the Dry Year or Non-Dry Year flow requirements will apply to the upcoming irrigation season. OWRD is to make this determination by March 31 based on predicted end-of-March Prineville Reservoir contents and reservoir outflows during the previous 30 days. The 2012 Agreement further provides that DRC and NUID may petition OWRD to change bypass flow rates due to changed conditions.

Basis for Proposed Revisions: DRC and NUID are proposing to revise the 2012 Agreement bypass flow rates for the following reasons:

- Crooked River water management has changed significantly with the passage of the Crooked River Act in 2014, as well as with flow management provisions being implemented as part of the Habitat Conservation Plan and the corresponding Incidental Take Permits issued under Section 10 of the Endangered Species Act.
- The basin has experienced more frequent drought conditions over the last four years than the historic baseline period of record that was used in developing the agreement flow rates. For example, 8 out of the last 11 years have been designated as dry years versus the target 3 out of 10 years originally envisioned for the agreement.
- The Dry Year/Non-Dry Year determination criteria has proven ineffective in forecasting the type of water year that will be experienced in the forthcoming irrigation season. In some years, the reservoir filled completely after a Dry Year determination was made by OWRD; in other years, the basin experienced drought conditions after a Non-Dry Year determination was made by OWRD.

Conversations among DRC, NUID, OWRD, and the U.S. Bureau of Reclamation explored how and whether better forecasting tools could be used but did not identify an effective solution. Given the extent of changes to the historic baseline and water management, and the difficulty of forecasting the water year based on the Dry Year/Non-Dry Year determination timeline, DRC and NUID believe that simplifying the 2012 Agreement serves both the river and NUID.

Proposed Revisions:

NUID and DRC are proposing to change the 2012 Agreement flows to one set of flows that would be protected every year regardless of whether the year might otherwise be deemed a Dry Year or a Non-Dry Year. The proposal splits the difference between Dry Year and Non-Dry Year flows (see Table 2). This revision would:

- Provide predictability to NUID so it and its water users can plan more effectively for the irrigation season.
- Increase flows protected in the river in dry years when instream flows are needed most.

- Relieve OWRD decision-making obligations based on imperfect information with potentially competing inputs (e.g., early drought declarations by the Governor vs. late spring flood flows).

Table 2. Dry/Non-Dry Year Minimum Instream Flows and Proposed Revised Flows.

A Month	**B** Dry Year (cfs)	**C** Non-Dry Year (cfs)	**D** Proposed Revision (cfs)
Apr	121.79	182.59	152.2
May	47.45	99.25	73.4
Jun	59.69	91.39	75.5
Jul	57.13	67.13	62.1
Aug	63.15	74.455	68.8
Sep	61.24	117.86	89.6
Oct	122.55	152.25	137.4

1. Revisions after Petition by Parties to OWRD

After any Final Orders are issued by OWRD in response to this Addendum to Attachment 3-2012 NUID Conserved Water Application, and in response to a joint petition by the Applicant and the DRC to modify the flow rates due to changed conditions, OWRD may revise the flow rates.

2. Daily Stream Flow Records

Applicant agrees it shall observe and record daily stream flow levels in the Crooked River at gage 14087300 and time recorded at least once between 5 AM and 6 PM for each day that it considers operating its pumps on the Crooked River. (And in case of a future event that makes data from gage 14087300 unavailable, then Applicant will observe stream flow levels at an alternate gage location established by OWRD that adequately describes stream flow in the reach downstream from the Crooked River NUID Pumps.)

3. Applicant Diversions and Minimum Crooked River Stream Flows

Applicant agrees it shall not divert any live flow water at the Crooked River NUID Pumps if that diversion would reduce the daily observed Crooked River stream flow level below the levels identified in this Addendum to Attachment 3 to Conserved Water Application CW-75. At the same time, when stored water is released from Prineville Reservoir for NUID's diversion at the NUID Pumps (pursuant to NUID's annual contract with the U.S. Bureau of Reclamation, as provided for in the Crooked River Act of 2014), then NUID may divert such stored water releases even if instream flows are below the minimum instream flows identified in this Addendum to Attachment 3 to Conserved Water Application CW-75. Instream water rights established pursuant to ORS 537.341, ORS 537.346, ORS 537.348, or ORS 537.470 shall replace portions of the flow rates set forth in Table 2 of this Addendum to Attachment 3 to Conserved Water Application CW-75.

4. Submission of Daily Stream Flow Observations and Pumping Rates

Applicant agrees it shall record its daily near-real time stream flow observations and daily pumping rates and submit this information digitally to OWRD following the completion of each irrigation season and prior to the subsequent irrigation season, and/or anytime OWRD requests the information.