

Application for Water Right Instream Transfer



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

FOR ALL INSTREAM TRANSFER APPLICATIONS

Check all items included with this application. (N/A = Not Applicable)

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Map Checklist.
- Part 3 – Completed Instream Transfer Application – Applicant Information and Signature.
- Part 4 – Completed Instream Transfer Application – Water Right Information. Please include a separate Part 4 for each water right. List all water right certificates to be transferred here: **Certificate 86022.**
- Part 5 – Completed Instream Transfer Application - Proposed Instream Use Information.

Attachments:

- Completed Instream Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- Fees – Amount enclosed: **\$1,050 (50% times \$2,100 calculated as follows: \$900 base fee + \$700 for Additional Type of Change + \$500 (\$250/cfs or fraction at 1.35 cfs)).**
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0883.

Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.

- N/A Affidavit(s) of Consent.
- N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- Land Use Notice - Notice of the intent to file an instream transfer application must be provided to each affected local government along the proposed reach. Copies of the notices must be enclosed with the instream transfer application.

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

- | | |
|--|---|
| <input type="checkbox"/> Application fee not enclosed/insufficient | <input type="checkbox"/> Map not included or incomplete |
| <input type="checkbox"/> Land Use Form not enclosed or incomplete | <input type="checkbox"/> Land use notice not included or incomplete |
| <input type="checkbox"/> Additional signature(s) required | <input type="checkbox"/> Part _____ is incomplete |

Other/Explanation _____

Staff: _____ 503-986-0 _____ Date: ____ / ____ / ____

Part 2 of 5 – Map Checklist

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For list of CWREs see http://www1.wrd.state.or.us/pdfs/cwre_listing.pdf.
- OR**
- N/A Waiver of requirement that map be prepared by a CWRE. Completed map waiver form is signed by the Department's Regional Manager and included in the application. The map **must** still meet Department mapping requirements described below.
- N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- Permanent quality printed with dark ink on white or clear paper or film.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, three (3) paper copies and an electronic copy in a .pdf, .tiff or .jpg format are required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- Township, Range, Section, quarter-quarter, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right, priority date and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- Existing diversion point(s) with distance and bearing or coordinates from a recognized survey corner. This information can generally be found in your water right certificate or permit.

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

T 11163

Part 3 of 5 – Applicant Information and Signature

Type of Instream Transfer	
<input checked="" type="checkbox"/> Permanent Instream Transfer	or <input type="checkbox"/> Time-Limited Instream Transfer

Applicant Information

APPLICANT/BUSINESS NAME Paulina Meadows LLC, c/o Larry Keith		PHONE NO. See agent info below	ADDITIONAL CONTACT NO.
ADDRESS 250 N Hansard		FAX NO. See agent info below	
CITY Lebanon	STATE OR	ZIP 97355	E-MAIL See agent info below

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

APPLICANT/BUSINESS NAME Martha Pagel Schwabe, Williamson & Wyatt		PHONE NO. 503-540-4260	ADDITIONAL CONTACT NO.
ADDRESS 530 Center St. NE, Suite 400		FAX NO. 503-796-2900	
CITY Salem	STATE OR	ZIP 97301	E-MAIL mpagel@schwabe.com

If an agent is listed above, please check one of the following:

- Please send all correspondence to Agent. Send copies of correspondence to Applicant; **OR**
- Please send all correspondence to Applicant. Send copies of correspondence to Agent.
- Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? Yes No

If NO, include signatures of all landowners (and mailing address if different than the applicant's) or attach affidavits of consent (and mailing addresses) from all landowners or individuals/entities to which the water right(s) has been conveyed.

Check one box

- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **OR**
- I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; **OR**
- I affirm that the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

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


Applicant signature

Larry Keith, Manager
Name (and title if applicable) (print)

11/24/2010
Date

Applicant signature

Name (and title if applicable) (print)

Date

T 11163

In your own words tell us what change(s) you want made and the reason for the change(s): **The applicant proposes to change the current irrigation use to instream use to create mitigation credits in the Little Deschutes and General Zones of Impact.**

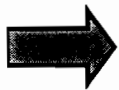
Check the following boxes that apply:

Check here if any of the water rights proposed for transfer are located within or served by an irrigation district or other water district before the transfer. (Tip: Complete and attach Supplemental Form D.)

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

Check here if water for any of the rights is supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME La Pine Cooperative Water Association	ADDRESS P.O. Box 97	
CITY La Pine	STATE OR	ZIP 97739



To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction the proposed instream reach will be located.

ENTITY NAME City of La Pine	ADDRESS P.O. Box 3055, 51340 Hwy 97	
CITY La Pine	STATE OR	ZIP 97739

ENTITY NAME Deschutes County, Land Use Planning	ADDRESS 117 NW Lafayette Ave	
CITY Bend	STATE OR	ZIP 97701

ENTITY NAME Jefferson County, Community Development	ADDRESS 85 SE D St	
CITY Madras	STATE OR	ZIP 97741

ENTITY NAME City of Bend, Planning Department	ADDRESS 710 NW Wall St	
CITY Bend	STATE OR	ZIP 97701

ENTITY NAME Confederated Tribes of Warm Springs	ADDRESS 1233 Veterans Street	
CITY Warm Springs	STATE OR	ZIP 97761

RECEIVED
DEC 09 2010

ENTITY NAME City of Maupin	ADDRESS 408 Deschutes Avenue	
CITY Maupin	STATE OR	ZIP 97037

WATER RESOURCES DEPT
SALEM, OREGON

ENTITY NAME Wasco County Planning Division	ADDRESS 2705 East 2nd Street	
CITY	STATE	ZIP

CERTIFICATE # 86022

Name on Certificate: La Pine Cooperative Water Association

Date(s) of Priority: 1897

Source(s) of Water to be Affected by the Transfer: Little Deschutes River

Description of Water Delivery System

System capacity: 28.3 cubic feet per second (cfs) OR
 _____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. **The authorized POD is located at SW SW, Section 34, T 23S. R 9E. WM and has a capacity to divert the entire water right in Certificate 86022, which can reach 28.3 cfs during the peak irrigation season.**

Other Water Rights

Are there other water right certificates, water use permits or ground water registrations associated with the "from" lands? Yes No

If YES, list the certificate, water use permit, or ground water registration numbers: _____.


 Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

Table 1. Location of Authorized Point(s) of Diversion (POD)

(Note: If the POD name is not specified on the certificate, assign it a name or number here. Also, if the POD is not described in the Certificate, provide a description below)

POD Name or Number	Priority Date (if different between PODs)	Twp	Rng	Sec	1/4	1/4	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD	1897	23 S	9 E	34	SW	SW		550 feet North and 1150 feet east from the SW corner of Section 34

Will the proposed instream transfer affect the entire water right?

- Yes Then Table 2 on Page 6 does not need to be completed.
 No Then complete all of Table 2 to describe the portion of the water right to be changed.

RECEIVED

DEC 09 2010

T 11163

Please use additional pages of Table 2 as needed

Table 2. Description of Change to Water Right Certificate # 86022

List only the part of the right that will be changed. For the acreage in each quarter-quarter, list the change proposed. If more than one change, specify the acreage associated with each change. If more than one POD, specify the acreage associated with each POD.

Twp		Rng		Sec	¼ ¼		Tax Lot	Gov't Lot or DLC	Acres if Applicable	Type of USE listed on Certificate	Priority Date (if not the same for all acres or type of use)	POD(s) (name or number from Table 1)
2	S	9	E	14	NE	NW	100		15.0	Irrigation	4/1/1900	POD #1 POD #2
"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
22	S	10	E	15	SE	SE	2802		22.70	Irrigation	1897	POD
22	S	10	E	22	NE	NE	100		31.20	Irrigation	1897	POD
TOTAL ACRES									53.90			

Additional remarks: This application seeks to change the use of water for the acres listed above from irrigation to instream use to create mitigation credits in the Little Deschutes and General Zones of Impact.

RECEIVED

DEC 09 2010

T 11163

Part 5 of 5 – Proposed Instream Use Information

Identify the Public Use for which the instream right is requested (check at least one box):

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
- Recreation
- Navigation
- Pollution Abatement

Instream use proposed to be created by the instream transfer:

Originating Water Right Number (as identified in Part 4)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
86022	1897	Little Deschutes River	April 1 through October 31	1.35 cfs @ 1/40; 0.67 cfs @ 1/80	215.6
TOTAL VOLUME					215.6

*Tip: To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or

**Tip: To calculate volume, multiply the rate by the number of days in the instream period and then multiply by 1.983471.

Note: The instream rate may not exceed the max rate allowed by the existing right(s) and the total volume may not exceed to max volume or duty allowed by the existing right(s).

Additional Information: The water right is 1.35 cfs (at 1/40th) from May 23 to August 20 and 0.67 cfs (at 1/80th) from April 1 to May 22 and August 21 to November 1.

Identify the location of the proposed instream water right.

- Water is requested to be protected at a point.
Location (i.e. the point of diversion (POD) – use the POD Name or Number from Table 1):
_____.
- Water is requested to be protected within a reach:
Location of proposed reach (If an instream water right reach is requested, identify the upstream and downstream extent of the reach): **From the authorized POD in the SW SW, Section 34, T23S, R9E, WM to the mouth of the Little Deschutes, into the Deschutes River and down to Lake Billy Chinook (~River Mile 120).**

Recommendations for conditions on the instream use to avoid taking away or impairing existing water rights.

- None

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

T 11163
Revised 2/5/2010

- Other (such conditions may include, but are not limited to, reductions in the instream flow levels in cfs per month or total ac-ft, the effective reach(es) or lake levels of the instream flow, measuring locations and the strategy for monitoring the instream flow or lake levels):__.

Are there any existing instream water rights on the same point or within the same requested reach(es) or lake, or on a portion thereof:

- No Yes (identify other instream water rights):

Some of the instream water rights include Certificate 73226, Certificate 83652, T-10623, and IL-1059. OWRD also maintains a list of all instream water rights for the identified reach.

Note: New instream water rights are generally (but not always) additive to instream water rights established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of instream water rights established under ORS 537.341 (state agency application process) or ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date.

Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 and ORS 537.470 and replace a portion of any instream water right established under ORS 537.341 and ORS 537.346 with an earlier priority date?

- Yes No. If no, please explain your intent below:

If the proposed conversion would add to the amounts of an existing instream water right(s) established under ORS 537.341 or 537.346, provide documentation demonstrating why additional instream flows are necessary. Supporting documentation should include information from the Oregon Dept. of Fish and Wildlife (ODFW) (fish life), Dept. of Environmental Quality (DEQ) (pollution abatement), and/or Parks and Recreation Dept. (recreation).

Is the requested instream flow intended to exceed the estimated average natural flow or level occurring from the drainage system?

- No; **OR**
 Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); **OR**
 Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:

- The requested flow does not exceed the maximum amount of any instream water right application applied for under ORS 537.341 (state agency instream water right application process) for the same reach or portion thereof, and the requested public use is for the same public use as the afore mentioned instream water right application, **and**
- For the specified time period that flows are requested to exceed the estimated average natural flow or lake level, the stream is in an ODFW flow restoration priority watershed. A copy of the priority watershed map indicating the specific watershed involved should be included with the application. Priority watershed maps may be found on the OWRD web page; **or**
- The stream is listed as water quality limited and DEQ has provided scientific information that demonstrates that increased flows would improve water quality. The scientific information provided by DEQ should be included with the transfer application.

For a Time Limited Instream Transfer, please answer the following: Not Applicable

- The time-limited instream transfer is for a specific number of years:

_____ Begin Year to _____ End Year

Time-limited instream transfer is to terminate based upon other conditions:
Conditions: _____.

T 11163

RECEIVED
DEC 09 2010
WATER RESOURCES DEPT
SALEM, OREGON

Attachment B

Evidence of Use Affidavit & Supporting Documentation

T 11163

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

Application for Water Right Transfer

Evidence of Use Affidavit



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.wrd.state.or.us

Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

State of Oregon)
) ss
 County of CROOK)

I, JOYCE STEARNS BARNEY, in my capacity as MANAGING PARTNER OF STEARNS LAND COMPANY, LIMITED PARTNERSHIP,
 mailing address 825 NE CREST DRIVE, PRINEVILLE OR 97754
 telephone number (541)447-5983, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):
 Personal observation Professional expertise

2. I attest that:

- Water was used during the previous five years on the **entire** place of use for Certificate # ____; **OR**
 My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township		Range		Mer	Sec	¼ ¼		Gov't Lot or DLC	Acres (if applicable)
86022	22	S	10	E	WM	15	SE	SE		22.70
86022	22	S	10	E	WM	22	NE	NE		31.20

NOV 15 2010

OR

- Confirming Certificate # ____ has been issued within the past five years; **OR**
 Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: L-740 (SEE ABOVE CHART FOR DESCRIPTION OF LEASED RIGHTS) (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
 The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
 Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # ____ (For Historic POD/POA Transfers)

RECEIVED

DEC 09 2010

(continues on reverse side)

T 11163

3. The water right was used for: (e.g., crops, pasture, etc.): INSTREAM USE

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Joseph S. Jarney
Signature of Affiant

11-11-2010
Date

Signed and sworn to (or affirmed) before me this 11th day of Nov., 2010.



Emily M. Hite
Notary Public for Oregon

My Commission Expires: 06-29-2012

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> ● Power usage records for pumps associated with irrigation use ● Fertilizer or seed bills related to irrigated crops ● Farmers Co-op sales receipt
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> ● District assessment records for water delivered ● Crop reports submitted under a federal loan agreement ● Beneficial use reports from district ● IRS Farm Usage Deduction Report ● Agricultural Stabilization Plan ● CREP Report
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com</p>
<input checked="" type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

RECEIVED

NOV 15 2010

DEC 09 2010

T 11163



**DESCHUTES RIVER
CONSERVANCY**

COPY

September 23, 2010

Joyce Stearns
Stearns Land Co., LLP
825 NE Crest Dr.
Prineville, OR 97754

Dear Joyce:

Thank you for leasing your Walker Basin water during the 2010 irrigation season. Along with protection of your water right, your participation in the leasing program has contributed to streamflows in the Little Deschutes and Deschutes Rivers. Increased streamflows improve water quality, lower stream temperatures, help maintain riparian areas, and support fish, wildlife and recreation.

Total Leasing Expected in 2010:

Deschutes River	46 cfs
Lower Deschutes	10.3 cfs
Little Deschutes	5 cfs
Crooked River	10 cfs
Tumalo Creek	4.4 cfs
Whychus Creek	13.3 cfs
Lower Trout Creek	2.3 cfs
Other Tributaries	13 cfs

Every instream lease compounds on the next to create positive results in our Basin. Your instream lease expires at the end of the 2010 leasing season. We appreciate your participation in the instream leasing program and look forward to working with you again in 2011 and will be in contact in the fall about a lease renewal.

Enclosed please find a check in the amount of \$2,156.00 for instream lease number L-740.

Please contact me at 541-382-4077, ext 16 or gen@deschutesriver.org if you have any questions.

Sincerely,

Genevieve Hubert
Program Manager

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

NOV 15 2010

700 NW Hill Street • Bend, Oregon 97701
(P.O. Box 1560 • 97709)

541.382.4077 • Fax 541.382.4078

www.deschutesriver.org / info@deschutesriver.org

T 11163

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

In the Matter of the Proposed Short-Term)	DETERMINATION and
Lease of Existing Water Rights for Instream)	FINAL ORDER ON PROPOSED
Use, Certificate 72196, Deschutes County)	INSTREAM LEASE & MITIGATION
.)	CREDIT PROJECT

ORS 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. OAR Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating short-term instream lease applications.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Lessor #1
Pooled Instream Lease for several landowners
(described in Finding of Fact #2)

Lessor #2
LaPine Cooperative Water Association
PO Box 97
LaPine, OR 97736

Lessee
Deschutes Water Exchange (DWE) Mitigation Bank
PO Box 1560
Bend, OR 97709
ghubert@deschutesrc.org

RECEIVED
DEC 09 2010
WATER RESOURCES DEPT
SALEM, OREGON

Findings of Fact

1. On May 4, 2006, the DWE Mitigation Bank, LaPine Cooperative Water Association, on behalf of various landowners, filed an application to lease a portion of Certificate 72196 to instream use. The Department assigned the application number L-740.
2. The right to be leased has been clarified from the application and is as follows (clarifications shown in bold):

Certificate: 72196
Priority Date: 1897 and April 30, 1902
Acres: 250.9 acres under the 1897 priority date and 147.1 acres under the April 30, 1902 priority date
Season of Use: April 1 to November 1

T 11163

This is a final order in other than 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 either 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.

Quantity: 1897:
 Rate: 3.14 Cubic Feet per Second (CFS) April 1 to May 23 & August 20 to November 1
 6.27 CFS May 23 to August 20
 Duty: 1003.6 Acre-Feet (AF)
 April 30, 1902:
 Rate: 1.84 CFS April 1 to May 23 & August 20 to November 1
 3.68 CFS May 23 to August 20
 Duty: 588.4 AF
Source: Little Deschutes River, tributary to the Deschutes River
Authorized Place of Use:

IRRIGATION OF 398.0 ACRES							
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres	Landowner (Lessor #1)
1897 Priority Date (250.9 acres)							
22 S	10 E	WM	22	SE NE	101	15.4	Gordon Wanek
22 S	10 E	WM	22	NE SE	101	26.2	Gordon Wanek
22 S	10 E	WM	22	SW SE	101/102/109	5.1	Gordon Wanek
22 S	10 E	WM	22	SE SE	101/109	5.6	Gordon Wanek
22 S	10 E	WM	23	NW SW	2400	1.0	Gordon Wanek
22 S	10 E	WM	23	NW SW	2401	8.1	Gordon Wanek
22 S	10 E	WM	23	SW SW	2401	4.8	Gordon Wanek
22 S	10 E	WM	27	NE NE	102/103	12.0	Gordon Wanek
22 S	10 E	WM	27	NW NE	102/103	34.0	Gordon Wanek
22 S	10 E	WM	27	SW NE	103/104/108	35.3	Gordon Wanek
22 S	10 E	WM	27	SE NE	103/104/108	15.2	Gordon Wanek
22 S	10 E	WM	27	NE SE	108/105	5.7	Gordon Wanek
22 S	10 E	WM	27	NW SE	108/105	28.6	Gordon Wanek
22 S	10 E	WM	15	SE SE	2802	22.7	Stearns Land Company
22 S	10 E	WM	22	NE NE	100	31.2	Stearns Land Company
April 30, 1902 Priority Date (147.1 acres)							
22 S	10 E	WM	22	SW NE	101	37.4	Gordon Wanek
22 S	10 E	WM	22	SE NE	101	1.0	Gordon Wanek
22 S	10 E	WM	22	NW SE	101	33.0	Gordon Wanek
22 S	10 E	WM	22	SW SE	101	31.6	Gordon Wanek
23 S	10 E	WM	6	NE NE	700	32.7	Albert and Patricia Havlic
23 S	10 E	WM	6	NW NE	700	5.0	Albert and Patricia Havlic
23 S	10 E	WM	6	SE NE	700	6.4	Albert and Patricia Havlic

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
23 S	9 E	WM	34	SW SW	550 feet North & 1150 feet East from the SW Corner of Section 34

3. The lease application includes the information required under OAR 690-077-0077(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(6). No comments were received.

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
 SALEM, OREGON

T 11163

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

4. The instream use is as follows:
Little Deschutes River tributary to the Deschutes River

Instream Reach 1: From POD (as described in Finding of Fact #10) to the mouth of the Little Deschutes River

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
72196	1897	3.108	1003.1	May 1 – October 10
	April 30, 1902	1.823	588.2	May 1 – May 22
		1.822		May 23 – August 19
		1.823		August 20 – October 10

Instream Reach 2: From the confluence of Little Deschutes River and the Deschutes River to Lake Billy Chinook

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
72196	1897	2.89	932.9	May 1 – October 10
	April 30, 1902	1.70	547.0	May 1 – May 22
		1.69		May 23 – August 19
		1.70		August 20 – October 10

5. Other conditions to prevent injury and enlargement are:

A 7% loss factor has been applied to the portion of the reach extending from the confluence of the Little Deschutes River and Deschutes River to Lake Billy Chinook. The segment of the Deschutes River at the confluence to Bend is a loosing reach.

The maximum volume protected instream over the entire length of the reach, being from the point of diversion to Lake Billy Chinook, during the period May 1 through October 10 shall not exceed 1003.1 AF under the 1897 priority date and 588.2 AF under the April 30, 1902 priority date.

6. Based upon review of the application, comments received, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. This finding is made through an abbreviated review recognizing that the lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.
7. If a right which has been leased is later proposed to be leased again or transferred to an instream use under ORS 537.348 and OAR 690-077-0070 or OAR 690-077-0075 a new injury review shall be required. Transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of future leases or transfers.
8. The lease will terminate on October 31, 2010.
9. The lessor has requested the option of terminating the lease early with written notice to the Department.

T 11163

Preliminary Award of Deschutes Basin Mitigation Credits

10. The Lessee, a mitigation bank chartered by the Water Resources Commission, has requested that the portion of the right to be protected instream be used to generate mitigation credits.
11. The Department assigned this mitigation credit project number MP-85.
12. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6). The Department also provided notice of the mitigation credit project to the Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, Oregon Parks and Recreation Department, Oregon Department of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2). Comments were received from the Oregon Parks and Recreation Department. These comments identified a need for additional instream flow protections for recreational fishing.
13. The shaping proposed by the instream lease application appears to meet these recommendations. Therefore, no modifications were made to the lease based upon comments received.
14. The Department finds that **716.4** mitigation credits may be awarded to this mitigation credit project and assigned to the Deschutes Water Exchange Mitigation Bank. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation 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.
15. The mitigation credits expire on December 31, 2010.
16. The use and maintenance of the mitigation credits is subject to the terms and conditions of the Deschutes Water Exchange Mitigation Bank Charter.
17. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of the Final Order approving the proposed instream lease shall result in completion of the project and verification that the project is complete.
18. No precedent is set by this Final Order as to the amount of mitigation credits that may be generated by a subsequent mitigation credit project.

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

CONCLUSIONS OF LAW

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease agreement conforms to the applicable provisions of OAR 690-077-0015.

This mitigation project results in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

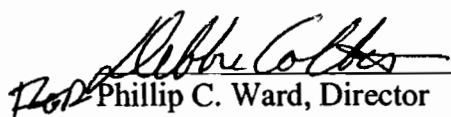
T 11163

ORDER

Therefore, it is ORDERED:

1. That the Short-Term Lease as described herein is APPROVED.
2. The former place of use shall no longer receive water as part of these rights during the term of the lease.
3. The lease shall terminate on October 31, 2010. The lessor and lessee shall have the option of terminating the lease with written notice to the Department provided to both the Salem office and Watermaster office. Written notice of termination of a lease must be provided by all lessors and the lessee. The written notice to Salem office must include original signatures. The notice to the Watermaster office may be made by fax or e-mail. The lease may be terminated at any time during a calendar year. However, if the termination request is received after the period of allowed use has begun for the water right(s) being leased, water may not be used under the right(s) leased until the following calendar year.
4. **Final Award of Deschutes Basin Mitigation Credits:** Issuance of this Final Order results in completion of the project and verification by the Department that the project is complete. The Department concludes that the mitigation credit project is awarded mitigation credits, as described above, pursuant to OAR 690-521-0400 and ORS 537.746. Mitigation Credits, in the amount of 716.4 credits, as described herein, are awarded to this mitigation project and assigned to the Deschutes Water Exchange Mitigation Bank. Mitigation Credits 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 (or until they expire or are terminated) 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 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 mitigation credits shall expire on December 31, 2010.
7. The use and maintenance of the mitigation credits shall be subject to the terms and conditions of the Deschutes Water Exchange Mitigation Bank Charter.

Dated at Salem, Oregon this 13th day of June 2006.


Phillip C. Ward, Director

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

Mailing date: JUN 16 2006

T 11163

Attachment C

Land Use Notification Letter

T 11163

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

Equitable Center, 530 Center St., NE, Suite 400, Salem, OR 97301 | Phone 503.540.4262 | Fax 503.399.1645 | www.schwabe.com

SHONEE D. LANGFORD
Direct Line: Salem 503-540-4261; Portland 503-796-2896
E-Mail: slangford@schwabe.com

November 16, 2010

City of LaPine
P.O. Box 3055
51340 Hwy 97
LaPine, OR 97739

Jefferson County Planning Division
85 SE D St
Madras, OR 97741

Confederated Tribes of Warm Springs
1233 Veterans Street
Warm Springs, OR 97761

Wasco County Planning Division
2705 East 2nd Street
The Dalles, OR 97058

Deschutes County, Land Use Planning
117 NW Lafayette Ave
Bend, OR 97701

City of Bend, Planning Department
710 NW Wall St
Bend, OR 97701

City of Maupin
408 Deschutes Avenue
Maupin, OR 97037

Re: Proposed Instream Water Right Transfer
Our File No.: 111543/136227

To Whom it May Concern:

Paulina Meadows LLC is providing notification of its intent to transfer a water right to instream use. The transfer application is requesting to change a portion of water right certificate 86022 to instream use. This portion of the water right consists of a right for irrigation use on 22.70 acres in Tax Lot 2802 (SE-SE, Section 15, T 22S, R 10E, W.M.) and 31.20 acres in Tax Lot 100 (NE-NE Section 22, T 22S, R 10E, WM).

The proposed transfer will place approximately 1.35 cubic feet per second instream with an 1897 priority date. Paulina Meadows LLC requested that the water be protected from the authorized POD (SW-SW, Section 34, T 23S, R 9E, WM) to the mouth of the Little Deschutes, into the Deschutes River and down to Lake Billy Chinook (~River Mile 120).

T 11163

RECEIVED

DEC 09 2010

November 16, 2010

Page 2

If you have any questions regarding the proposed transfer application or you are interested in receiving additional information, please contact me at 503-540-4261 or slangford@schwabe.com.

Sincerely,



Shonee D. Langford

SDL:sdl

cc: Laura K. Wilke

T 11163

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

Attachment D

Landowner Consent

T 11163

RECEIVED
DEC 09 2010
WATER RESOURCES DEPT
SALEM, OREGON

**Application for Water Right
Transfer
Consent by Deeded Landowner**



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

State of Oregon)
)ss
County of Crook)

I, Joyce Stearns Barney, in my capacity as Managing Partner of Stearns Land Company, Limited Partnership, mailing address 825 NE Crest Drive, Prineville OR 97754, telephone number 541-447-5983, hereby consent to Paulina Meadows LLC's proposed transfer of 53.9 acres of water rights described in Water Right Certificate Number 86022 and listed therein under the name of Joyce Barney. The water rights to be transferred are located as follows: 22.7 acres in tax lot number 2802 in the SE ¼ of the SE ¼ of Section 15 and 31.2 acres in tax lot number 100 in the NE ¼ of the NE ¼ of Section 22, all in Township 22 North, Range 10 East, W.M.

Joyce Stearns Barney
Signature

11-11-10
Date

Acknowledged before me this 11th day of November, 2010.



Emily M. Hite
Notary Public for Oregon

My commission expires 06-29-2012

RECEIVED

DEC 09 2010

WATER RESOURCES DEPT
SALEM, OREGON

NOV 15 2010

T 11163