



State of Oregon  
**Water Resources Department**  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900

# Application for Allocation and Use of Conserved Water

Please type or print in dark ink. If your application is found to be incomplete, inaccurate or does not include the required fees, we will return it to you. If any requested information does not apply to your application, insert "n/a." If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. APPLICANT INFORMATION

Name: Landowners of the Hurlley Lateral and Three Sisters Irrigation District  
 Address: P.O. Box 2230, Sisters, Oregon, 97759  
 Phone(s): 541.549.8815  
 \*Fax: 541.549.8070 \*E-Mail address: manager@tsidonline.com

\*Optional information

## 2. AGENT INFORMATION

The agent listed is authorized to represent the applicant in all matters relating to this allocation of conserved water application.

Name: Deschutes River Conservancy  
 Address: 700 NW Hill, Bend, OR 97701  
 Phone(s): 541.382.4077x11  
 \*Fax: 541.382.4078 \*E-Mail address: aaron@deschutesriver.org

\*Optional information

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## 3. IRRIGATION & WATER CONTROL DISTRICTS

Is the project within the boundaries of an irrigation district or water control district?

Yes  No

If yes, include Exhibit E and list the name and mailing address of the district:

Three Sisters Irrigation District  
P.O. Box 2230  
Sisters, OR 97759

Did an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553 file this allocation of conserved water?

Yes  No

If yes, when was the District's OAR 690-018-0025 allocation of conserved water policy adopted? 7/12/2005 and reviewed and re-adopted 7/6/2010

## 4. CURRENT WATER RIGHT INFORMATION

A separate page providing the information in Section 4 must be completed for each certificate, permit, decree, or other right involved in the proposed allocation of conserved water.

Water Right Subject to Transfer (check and complete **one** of the following):

<input checked="" type="checkbox"/> Certificated Right	<u>74135</u> Certificate Number	<u>Squaw Creek Decree</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted

<input type="checkbox"/> Transferred Right for which Proof has been Filed	Previous Transfer Number	Date Claim of Beneficial Use Submitted
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Name on Permit, Certificate, or Decree: Squaw Creek Irrigation District  
 County: Deschutes and Jefferson

Provide the following information about the water right of record:

1. Priority Date: 1895
2. Source of Water: Whychus Creek
3. Type of Use: Irrigation, Pond Maintenance, Stock Water

Does the application have a water right involving more than one water right holder?

Yes  No

If yes, are all water right holders applying for this allocation of conserved water?

Yes  No. If no, see Exhibit J.

A) What is the maximum rate and annual duty (volume) of water that may be diverted as stated on the water right of record? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate\* (cfs): 0.08cfs (4 acres \* 1/50 cfs/acre)

*Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm*

2. Duty\* (acre feet): No Duty Assigned to Right

*Note: 1 cfs = 1.983471 ac-ft/day*

\* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What is the maximum amount of water that can be diverted using the pre-project facilities? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate (cfs): 0.08 cfs (for 4 acres of the total 102.1 acres)

2. Duty (acre feet): No Duty Assigned to Right

C) Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail to confirm that the applicant is ready, willing, and able to exercise the right.*

The Three Sisters Irrigation District (TSID) delivers surface water from Whychus Creek. The Hurlley Lateral is served directly from the Cloverdale canal, which is served from TSID Main canal. Irrigation water delivered from the Cloverdale canal is diverted from a headgate structure into a large pond and then conveyed into the Hurlley Lateral. The Hurlley Lateral has the ability to divert the full water right associated with the 102.1 acres of irrigated land to 26 landowners. In April of 2011 the Hurlley Lateral conveyance system was replaced with approximately 6,450' of HDPE high density polyethylene pipe to eliminate water losses in what was previously a damaged delivery system. Initially, 85.6 acres and 21 landowners participated in the conserved water program. Subsequently, a preliminary final order was issued by the state for 0.419 cfs of conserved water to be protected permanently in Whychus Creek (CW-69). One additional landowner who irrigates 4 acres off of the Hurlley Lateral now wishes participate in the conserved water program and transfer an additional 0.02 instream. Please refer to the Affidavit of Water Use in Exhibit A attesting to the

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beneficial use of the full water right for Gregory and Linda Mohnen of the TSID Hurtley Lateral.

### 5. CONSERVATION MEASURES

A) Describe the type of project, check all that apply:

- On-Farm efficiency project  
 Distribution project, such as a ditch piping or lining project  
 Other, \_\_\_\_\_

B) Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, see point of diversion requirement for Exhibit B. *Provide sufficient detail for public noticing the project.*

Approximately 6,450 feet of the TSID Hurtley water conveyance system was replaced with 4", 8" and 10" high density polyethylene pipe to eliminate water losses in April of 2011. Water losses through this irrigation system have been completely eliminated. The project initially yielded 0.419 cfs of conserved water across 85.6 irrigated acres (CW 69), 100% of which was dedicated to instream use. An additional landowner with 4 irrigated acres would like to participate, adding an additional 0.02 cfs of conserved water, 100% of which will be dedicated for in instream use.

C) Place of Use\*: See attached list of participating Hurtley Lateral water rights.

Township	Range	Section	Quarter/Quarter	Total No. Acres
* Not required for a distribution project that does not propose to affect the on-farm rate or duty. If the entire water right is being affected, just state "entire right affected."				

### 6. CONSERVED WATER

A) What amount of water will be needed for the existing, authorized use after implementing conservation measures? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate\* (cfs): 0.06

2. Duty\* (acre feet): \_\_\_\_\_

\* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What amount of water will be conserved as a result of the implementation of the conservation measures? Subtract 6A from the smaller of 4A or 4B under "irrigation system" above.

1. Rate\* (cfs): 0.02 cfs --1895 priority date, 100% protected instream from April 1<sup>st</sup>--November 1<sup>st</sup> and any other time TSID is diverting.

2. Duty\* (acre feet): \_\_\_\_\_

\* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

C) What portions of the conserved water will be allocated to the state and applicant?

1. Portion going to the state (list by percent, rate and duty):

100 Percent                      0.02 cfs--1895 priority date, protected from April 1-November 1  
and any other time TSID is diverting      Rate (cfs)                      N/A Duty (AF)

2. Portion going to the applicant (list by percent, rate and duty):

0 Percent                      \_\_\_\_\_ Rate (cfs)                      \_\_\_\_\_ Duty (AF)

D) The priority for the conserved water is requested to be:

The same as the original right, or

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One minute junior to the original right.

E) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location:

1. Name and address of the person using the water: \_\_\_\_\_
2. Description of the type of beneficial use of the water: \_\_\_\_\_
3. Legal description of the place of use: \_\_\_\_\_

F) If all or part of the applicants' portion of the conserved water is to be leased\*, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right: The applicants intend to permanently place 100% of the conserved water instream.

*\* Water can be temporarily protected instream without filing an OAR 690-077 Instream Lease application.*

### 7. LOCATION OF PROPOSED USE

A) For new out-of-stream uses, describe the boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right would be located. This is land other than that to which this water right is appurtenant. See Exhibit B.  
\_\_\_\_\_

B) For instream uses, to the extent possible, identify the stream reach(es) for which the state's portion of the conserved water should be managed under an instream water right. Be as explicit as possible, by giving river miles, or other identifying information that might be included in the instream certificate.

From the Three Sisters Irrigation District diversion on Whychus Creek (approx. RM 23.5) to the mouth of Whychus Creek (RM 0) and to Lake Billy Chinook ( RM 120) on the middle Deschutes River.

C) Describe the proposed benefit to instream uses.

- for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.  
 other, please describe: \_\_\_\_\_

### 8. MITIGATION

A) Describe any expected effects on other water rights from the proposed allocation of conserved water. Identify what currently happens to the water that is proposed to be conserved.

No effects to other appropriators are expected from the proposed allocation of conserved water. The water to be conserved is lost from the system through seepage and is not available to other appropriators on Whychus Creek.

B) Describe any mitigation or other measures that are planned to avoid harm to other water rights.

No harm to other water rights will occur from this project.

### 9. FUNDING

If more than 25% of the conserved water is proposed to be allocated to the applicant then provide Exhibit C and identify what portion of project funds (expressed as a percentage) come from federal or state public sources that are not subject to repayment. N/A

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Does the Oregon Watershed Enhancement Board (OWEB) have a contractual interest in this project?

Yes  No

If yes, what is the OWEB project number? \_\_\_\_\_

**10. PROJECT SCHEDULE**

If project is not yet complete:

Proposed date construction has/will begin: \_\_\_\_\_

Proposed date construction will be completed and notice of project completion will be filed: \_\_\_\_\_

Proposed date the project will be finalized: \_\_\_\_\_

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If project is already complete:

Date it was implemented: April 2011 (Provide Exhibit K)

The applicant requests:

That the allocation be finalized, or

Additional time be granted to prove that the project worked to the applicant's satisfaction before finalizing the allocation of conserved water. Indicate the amount of time desired 5 years (up to five years after completion of the project may be allocated).

**11. ACKNOWLEDGMENT OF FORFEITURE**

*Complete this if the Certified Water Right Examiner's map shows less acreage has been irrigated over the past five years than allowed under the right.*

I am aware that \_\_\_\_\_ acre(s) have not been irrigated for the last five years and I am abandoning that portion of the water right and make no further claim for the water. I ask that this \_\_\_\_\_ acre(s) portion of the right be permanently canceled.

**12. EXHIBITS**

*Check each of the following attachments included with this application. All attachments are required unless otherwise noted. The application will be returned if all required attachments are not included.*

**Exhibit (Form) A – Evidence of Use Affidavits**

Provide if 1) it is an on-farm efficiency project, or 2) specific acreage is being affected by the project. Consult with Department staff regarding the evidence needed for distribution projects. At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original, not a copy. The form is available at [http://www1.wrd.state.or.us/pdfs/Supplemental\\_Form\\_B.pdf](http://www1.wrd.state.or.us/pdfs/Supplemental_Form_B.pdf).

**Exhibit B – Map**

Provide if the entire water right is not part of the conservation project and/or new lands shall receive water. Consult with Department staff if there is any question regarding the need for submittal. See OAR 690-018-0040(17) and 690-018-0062(3)(a).

**Exhibit C - Project Funding Description**

Provide if more than 25% of water goes to applicant.

**Exhibit H - Ownership & Lien Information**

Provide if application involves:  
• on-farm efficiency project, and/or  
• distribution project affecting specified lands. Provide a report of ownership and lien information or a current recorded deed to the subject lands.

**Exhibit I – Support Letters from ODFW, DEQ and OPRD**

Letters from ODFW, DEQ, and OPRD indicating that they have been consulted and indicating that at least one of the agencies attests that conserved water is needed to support instream uses. See OAR 690-018-0050(4)(f).

**Exhibit J –Water Right Clarification & Notification of Affected Persons**

Provide if the application involves water rights for

See OAR 690-018-0040(18).

**Exhibit D – Identification and Resolution of Water Right Conflicts**

- Provide if construction has begun or been completed and if more than 25% of the project costs have been expended prior to filing this application. See OAR 690-018-0040(19).

**Exhibit E – Letter of Approval from the Irrigation District**

- Provide if project is located within boundaries of an irrigation district and the district is not the applicant. See OAR 690-018-0040(20).

**Exhibit F – District Conserved Water Policy**

- Provide if applicant is an Irrigation District or Water Control District. See OAR 690-018-0040(21) & 690-018-0025.

**Exhibit G - Land Use Information Form**

- See OAR 690-018-0040(22).  
The land use form is available at:  
<http://www1.wrd.state.or.us/pdfs/landuseform.pdf>

- lands under multiple ownerships and not all of the water right holders are applicants, and the project is not being submitted by a District as a distribution project and/or
- which the current final proof survey maps for lands involved in the application do not adequately describe the location of the place of use or the associated priority dates of the associated water rights

*Consult with Department staff if there is any question regarding the need for submittal.*

**Exhibit K –Evidence that the Project was Implemented Within 5 Years.**

- Provide if project was completed before application submittal. See OAR 690-018-0040(12)(a).

**Fees:**

- Amount enclosed: \$ 425  
See OAR 690-018-0040(25) and the Department's Fee Schedule at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml#fees](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#fees) or call (503) 986-0900.

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**13. SIGNATURE**

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

See attached District and Landowner Signatures

applicant signature \_\_\_\_\_ name (print) \_\_\_\_\_ date \_\_\_\_\_  
 \_\_\_\_\_  
agent signature \_\_\_\_\_ name (print) **Aaron Maxwell(DRC)** \_\_\_\_\_ date **7/28/2011** \_\_\_\_\_

**Before submitting your application, be sure you have:**

- Answered each question completely.
- Included the required attachments.
- Provided original signatures for all water right holders or other parties with an interest in the right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

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## Additional Information

The complete OAR Chapter 690, Division 018 Allocation of Conserved Water rules are available at: [http://arcweb.sos.state.or.us/rules/OARS\\_600/OAR\\_690/690\\_018.html](http://arcweb.sos.state.or.us/rules/OARS_600/OAR_690/690_018.html)

### 690-018-0040

#### Application Requirements (Excerpt)

Applicants for allocation of conserved water shall provide to the Department the information described in this rule in substantially the same order as listed. The information shall include:

- (12) For a project that has already been completed:
  - (a) Evidence that the measure was implemented within five years prior to the date of filing the application; and
  - (b) The date on which the applicant intends to request that the allocation be finalized pursuant to OAR 690-018-0062(3).
- (17) A map with sufficient detail to locate and describe the facilities and areas affected by the conservation measures;
  - (18) Identification of any federal or state public sources of project funds and, if federal or state public funds that are not subject to repayment will be used in the project, information showing the estimated project costs and anticipated sources of funds for the project including:
    - (a) The total cost for project engineering and construction;
    - (b) The present value of any incremental changes in the costs of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project;
    - (c) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment; and
    - (d) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds.
  - (19) If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that the applicant has attempted to identify and resolve the concerns of water right holders in the area, governmental entities, or other organizations who have asked to be consulted regarding the allocation of conserved water;
  - (20) A letter showing irrigation district or water control district approval if the conservation project is within the boundaries of the district;
  - (21) For applications submitted by irrigation districts or water controls districts, evidence of an adopted policy consistent with the requirements of OAR 690-018-0025.
  - (22) Land use information outlined in the Department's Land Use Planning Procedures Guide; and
  - (23) Other information the Department or Commission deems necessary and appropriate to aid in the evaluation of the application.
  - (24) The appropriate fee as required under ORS 536.050.
  - (25) The Director shall waive the application fee based on the percent of conserved water allocated to the state for instream use, not to exceed 50 percent of the application fee, if the instream allocation is:
    - (a) To establish an instream water right pursuant to ORS 537.348;
    - (b) Necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.377 or
    - (c) Determined and endorsed in writing by Oregon Department of Fish and Wildlife as a change that will result in a net benefit to fish and wildlife habitat.

### 690-018-0050

#### Processing a Conservation Application (Excerpt)

- (4) The Department shall review the application and consider any comments received under section (3) of this rule to determine:
  - (f) In consultation with the Departments of Fish and Wildlife, Environmental Quality and Parks and Recreation, if conserved water is needed to support instream uses;

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**Water Right Transfer  
EVIDENCE OF USE AFFIDAVIT**

State of Oregon )  
County of Deschutes ) ss

I, Gregory J Mohan, in my capacity as 0,  
mailing address 64990 Collins Rd. Bend, Oregon 97701  
telephone number (541) 419-5339, 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 # 74135; OR

My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	Section	Gov. Lot or D/C	Acres (if applicable)
<u>74135</u>	<u>13</u>	<u>10</u>		<u>36</u>	<u>SE/SE</u>	<u>2504</u>	<u>4</u>

OR

Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: \_\_\_\_\_ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for that portion not leased instream.); OR

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)

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.

3. The water right was used for: (e.g., crops, pasture, etc.): \_\_\_\_\_ AUG 11 2011

(continues on reverse side)

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

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