



# Oregon

Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

August 31, 2016

JAMES W. & HELEN M. CHRISTOPHERSON  
489 HAMILTON RD  
JACKSONVILLE, OR 97530

ANTONIO CRUZ MENA  
680 UPPER APPLGATE RD  
JACKSONVILLE OR 97530

MARTINA H. & JAMES W. CHRISTOPHERSON JR  
C/O JAMES W. & HELEN M. CHRISTOPHERSON  
489 HAMILTON RD  
JACKSONVILLE, OR 97530

**SUBJECT: Time-Limited Instream Transfer Application T-11398**

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11398. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

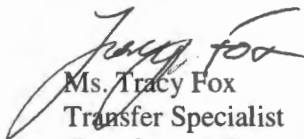
A public notice is being published in the Department's weekly publication and in the Medford Mail Tribune newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at [Tracy.L.Fox@wr.d.state.or.us](mailto:Tracy.L.Fox@wr.d.state.or.us) or 503-986-0827 if I may be of assistance.

Sincerely,



Ms. Tracy Fox  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11398  
Travis N. Kelly, District 13 Watermaster *(via e-mail)*  
Larry Mentee, Southwest Region Manager *(via e-mail)*  
Janelle Dunlevy, Applegate Partnership & Watershed Council *(via e-mail)*  
Bob Hunter, WaterWatch *(via e-mail)*  
Jonathan Marshall, Landowner *(via e-mail)*  
Perry N. Salzhauer, Attorney for Jonathan Marshall *(via e-mail)*

enclosure

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

In the Matter of Time-Limited Instream ) PRELIMINARY DETERMINATION  
Transfer Application T-11398, Jackson ) PROPOSING APPROVAL OF A  
County ) CHANGE IN PLACE OF USE AND  
) CHARACTER OF USE

Oregon Revised Statutes (ORS) 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rule (OAR) Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

**Applicants**

James W. and Helen M. Christopherson  
Martina H. and James W. Christopherson Jr  
489 Hamilton Rd  
Jacksonville, OR 97530

Antonio Cruz Mena  
680 Upper Applegate Rd  
Jacksonville OR 97530

**Findings of Fact**

1. On April 9, 2012, James W. and Helen M. Christopherson, Martina H. and James W. Christopherson Jr. and Antonio Cruz Mena filed a time-limited transfer application to change the character of use and place of use, under Transfer T-8948, approved by the Oregon Water Resources Department (Department) on June 29, 2009, as evidenced by Special Order Volume 78, Page 266; Transfer T-9465, approved by the Department on June 29, 2009, as evidenced by Special Order Volume 78, Page 262; and T-9654, approved by the Department on June 29, 2009, as evidenced by Special Order Volume 78, Page 254, to instream use until such time that conditions for termination of a stored water use contract agreement between the applicants and the Bureau of Reclamation (BOR) are met. The Department assigned the transfer application number T-11398.
2. The applicants have requested that approval of this time-limited instream transfer be contingent upon the applicants entering into a stored water use contract with the BOR and approval by the Department of a permit to use stored water.
3. Consistent with land use requirements, prior to submitting the time-limited instream transfer application, the applicants provided notification of the intent to file the instream transfer application to Jackson County. Additionally, the Department provided notice of the proposed action to Jackson County upon receipt of Transfer Application T-11398.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

4. Notice of the application for transfer was published on April 24, 2012, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. A new certificate was issued February 15, 2013, for the water right evidenced by Special Order Volume 78, Page 266 (T-8948). The new certificate is 87906.
6. A new certificate was issued February 15, 2013, for the water right evidenced by Special Order Volume 78, Page 262 (T-9465). The new certificate is 87907.
7. A new certificate was issued June 3, 2013, for the water right evidenced by Special Order Volume 78, Page 254 (T-9654). The new certificate is 87908.
8. On April 10, 2012, a signed contract with the BOR and a surface water permit application to use stored water, application number S-87796, were submitted to the Department. The permit application is being processed concurrently with this time-limited instream transfer application.
9. On November 23, 2015, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11398 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of December 28, 2015, for the applicants to respond.
10. Further Department review of Transfer Application T-11398 revealed that the method used to determine the rate and duty of water to be transferred instream in the November 23, 2015, Draft Preliminary Determination was not consistent with similar transfers in the same area.
11. On March 3, 2016, the Department sent a copy of a Revised Draft Preliminary Determination proposing to approve Transfer Application T-11398 to the applicants. The Revised Draft Preliminary Determination cover letter set forth a deadline of April 4, 2016, for the applicants to respond. The applicants, except for ANTONIO CRUZ MENA, requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
12. The property owned by ANTONIO CRUZ MENA at the time of the transfer application was owned by the Federal Home Loan Mortgage Corporation until spring of 2016. The Federal Home Loan Mortgage Corporation was sent copies of both the November 23, 2015, Draft Preliminary Determination and the March 3, 2016, Revised Draft Preliminary Determination. They did not respond by the deadline.
13. On May 6, 2016, Jonathan Marshall notified the Department that he had purchased the property previously owned by Cruz Mena then the Federal Home Loan Mortgage Corporation. Jackson County Property Data shows that this property was sold on April 21, 2016, to JM Applegate LLC. On July 21, 2016, Mr. Marshall's attorney, on his behalf, indicated that Mr. Marshall was not interested in pursuing the instream transfer application for this property. Certificate 87908 is the portion pertinent to ANTONIO CRUZ MENA,

then the Federal Home Loan Mortgage Corporation then Jonathan Marshall/JM Applegate LLC. This Preliminary Determination has been amended to exclude Certificate 87908.

14. The first right to be transferred is as follows:

**Certificate:** 87906 in the name of JAMES W. AND HELEN M. CHRISTOPHERSON (confirmed by Rogue River Decree, of record in the Order Record of the Water Resources Director in Volume 4, at Page 1)  
**Use:** IRRIGATION OF 3.0 ACRES AND LIVESTOCK  
**Priority Date:** SEPTEMBER 1, 1857  
**Rate:** 0.06 CUBIC FOOT PER SECOND (CFS)  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FIFTIETH of one cubic foot per second, or its equivalent for each acre irrigated.  
**Source:** LITTLE APPLGATE RIVER, tributary to the APPLGATE RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
39 S	3 W	WM	4	NE NE	2	ADDITIONAL - 175 FEET SOUTH AND 1160 FEET WEST FROM THE NE CORNER OF SECTION 4
39 S	3 W	WM	14	NE NE		ORIGINAL - FARMERS DITCH - 350 FEET SOUTH AND 900 FEET WEST FROM THE NE CORNER OF SECTION 14

**Authorized Place of Use:**

IRRIGATION and LIVESTOCK						
Twp	Rng	Mer	Sec	Q-Q	Gov't Lot	Acres
39 S	3 W	WM	4	NE NE	2	3.0

15. The second right to be transferred is as follows:

**Certificate:** 87907 in the name of MARTINA H. AND JAMES W. CHRISTOPHERSON, JR (perfected under Permit S-6030)  
**Use:** IRRIGATION of 3.77 ACRES  
**Priority Date:** SEPTEMBER 13, 1923  
**Rate:** 0.047 CFS TO JULY 1 and 0.027 CFS after JULY 1  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed its equivalent for each acre irrigated during the irrigation season of each year.  
**Source:** LITTLE APPLGATE RIVER, tributary to the APPLGATE RIVER

**Authorized Points of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
38 S	3 W	WM	33	NE NW	9	ADDITIONAL - 820 FEET SOUTH AND 110 FEET EAST FROM THE SW CORNER OF DLC 40
39 S	3 W	WM	13	NW NW		ORIGINAL - 930 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 13

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
38 S	3 W	WM	27	SW SW	40	2.06
38 S	3 W	WM	34	NW NW	40	1.71

16. Diversion of water under Certificate 87907 from the original point of diversion on the Little Applegate River, based upon a May 29, 1931, Jackson County Circuit Court ruling, is senior to diversion of water from Farmers Ditch.
17. Certificates 87906 and 87907 do not specify a duty limit per acre. However, the Rogue River Decree identifies that water may be used in a continuous flow throughout the irrigation season. While Certificates 87906 and 87907 are not decreed water rights, the Department’s Watermaster has identified that water may be diverted at a continuous rate under each of these rights, given their rate limitations, for the existing use considering beneficial use without waste.
18. Certificates 87906 and 87907 do not specify the irrigation season. The irrigation season, as established by the Rogue River Decree, is April 1 through October 31.
19. The applicants have entered into a 25-year agreement with the BOR to provide stored water for irrigation of the places of use as described in Finding of Fact Nos. 14 and 15. This agreement automatically renews for additional 25-year periods unless otherwise terminated by the parties. The applicants request that the water rights described in Finding of Fact Nos. 14 and 15 revert to their authorized use and places of use upon termination of a stored water contract with the BOR or if the agreement between the applicants and the BOR is not renewed. The termination request may either be received from both the BOR and the applicants or from the applicants along with evidence that the stored water contract has been terminated or that the agreement with the BOR has not been renewed.
20. Transfer Application T-11398 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values on a time limited basis.
21. Transfer Application T-11398 proposes to change the place of use of the right to create an instream reach from Farmers Ditch point of diversion (as described in Finding of Fact No. 14 for Certificate 87906) and from the point of diversion (as described in Finding of Fact No. 15) for Certificate 87907, to the mouth of the Little Applegate River.

22. The applicant proposes the quantities water to be transferred instream to be protected follows:

Certificate	Priority Date	Instream Period	Instream Rate (cfs)
87906	9/1/1857	April 1 through October 31	0.060
87907	9/13/1923	April 1 through October 31	0.047^
		Total	0.060

^ Rate changes during season. Water has been diverted into a ditch the entire irrigation season and the rights have been used as part of a rotation agreement.

23. There are several existing instream water rights established through time-limited instream transfers within the same reach as that proposed for the new instream water right. In addition, there is an existing instream water right (Certificate 75996) with a priority date of December 7, 1990, established through an instream water right application filed by the Oregon Department of Fish and Wildlife (ODFW).
24. The applicants have requested that any instream water right established as a result of this instream transfer be additive to existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant has also requested that any instream water rights established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

***Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)***

25. Water has been used within the last five years according to the terms and conditions of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
26. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-11398.
27. There is a supplemental irrigation right, Certificate 19723, not included as part of the transfer application, that is appurtenant to a portion of the same place of use as Certificate 87906. Generally, supplemental rights must be included with the transfer application or cancelled. In this case, the applicant has requested that this supplemental right be left in place for the duration of the time-limited instream transfer. The Department has reviewed the request and identified that the supplemental right may remain in place for the duration of the time-limited instream transfer and be used as supplemental to a permit issued under Application S-87796. Upon termination of this instream transfer, the supplemental right will revert to being supplemental to Certificate 87906.

28. Based upon the transfer application, water may be protected instream as follows:  
 Instream Reach No. 1: From the original pod (as described in Finding of Fact No. 15) to the Farmers Ditch pod (as described in Finding of Fact No. 14).

Certificate	Priority Date	Instream Rate (CFS)		Instream Volume (AF)
		April 1 through June 30	July 1 through October 31	
87907	9/13/1923	0.047	0.027	15.07

Instream Reach No. 2: From the Farmers Ditch pod (as described in Finding of Fact No. 14) to the mouth of the Little Applegate River (RM 0.0) at the confluence with the Applegate River.

Certificate	Priority Date	Instream Rate (CFS)		Instream Volume (AF)
		April 1 through June 30	July 1 through October 31	
87906	9/1/1857	0.06	0.06	25.47
87907	9/13/1923	0.047	0.027	15.07
Totals		0.107	0.087	40.54

29. The proposed changes would not result in enlargement of the rights.
30. The proposed changes would not result in injury to other water rights.
31. The amount of the proposed instream flow and the timing of the proposed instream flow is allowable within the limits and use of the original water rights.
32. The protection of flows within the proposed reaches is appropriate, considering:
- a) The instream water right begins at the recorded points of diversion;
  - b) The location of confluences with other streams downstream of the points of diversion;
  - c) There are no known areas of natural loss of streamflow to the river bed downstream from the points of diversion; and
  - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right.
33. There is an existing instream water right Certificate 75996, with a priority date of December 7, 1990, within the same reach as that proposed for the new instream water right under this transfer application. This instream water right was established by an application for instream water right (IS-70982) filed by the ODFW to provide instream flows for various life stages of Coho, fall chinook salmon, summer and winter steelhead, and cutthroat trout.

The quantities that may be protected instream under this right are less than the quantities requested in the instream water right application filed by the ODFW. In addition, the instream rates approved for Certificate 75996 are not always met.

Instream Rate in CFS	April	May*	June	July	Aug.	Sept.*	Oct.*
Rate Requested	85.0	85.0/50.0	50.0	33.0	33.0	33.0/50.0	50.0/85.0
Rate Approved	75.9	73.2/50.0	50.0	14.6	2.01	1.51	11.5

\*The rate requested and/or approved for instream use is broken down by half month with the first rate listed being for the first half of the month and the second rate for the second half of the month.

34. There are several time-limited instream water rights with senior priority dates ranging from 1854 to 1971 within the same reach on the Little Applegate River established under the instream transfer process for fish and wildlife habitat. These time-limited instream water rights may be unwound under the same conditions as proposed in Finding of Fact No. 19.
35. Instream water rights established by instream transfer may be additive to other instream water rights and/or replace a portion of existing instream water rights with an earlier priority date. The combination of instream water rights for the same reach may not exceed the quantity needed to provide increased public benefit (OAR 690-077-0015(11)).
36. The existing time-limited instream water rights are additive to each other during the full instream period, April through October.
37. The existing time-limited instream water rights are additive to Certificate 75996 during April, the first half of May, and July through October and replace a portion of Certificate 75996 during the second half of May and June.
38. The instream water right additive/replacing relationship as requested by the applicant in Finding of Fact No. 24, is inconsistent with previous time-limited instream water rights within the same reach.
39. ODFW has indicated that providing for additional instream flows and protecting water instream up to the amounts requested by ODFW in Instream Water Right Application IS-70982 (see Finding of Fact No. 33), will provide a beneficial purpose for various life stages of Coho and Fall Chinook salmon, summer and winter steelhead and cutthroat trout. Additionally, Coho are listed as threatened under the Endangered Species Act.
40. Therefore, the Department has determined that the total monthly quantity of water to be protected instream under the existing and proposed instream rights within the same reach provide a beneficial purpose and may add to and replace other existing instream water rights as follows:
  - a) During the second half of May and the month of June, any water right established by this time-limited instream transfer may add to other time-limited instream rights and replace a portion of Certificate 75996 with an earlier priority date.



- b) During April, the first half of May, and July through October, any instream water right established under this time-limited instream transfer may be additive to any other instream water right within the same reach up to the flows requested by the ODFW in instream water right application IS-70982 (see Finding of Fact No. 33).
  - c) For April, the first half of May, and July through October, once the cumulative total of the proposed and existing instream water rights reaches the instream rates requested by the ODFW instream water right application IS-70982, any additional quantities protected instream as a result of a time-limited instream transfer, considering respective priority dates, may replace a portion of Certificate 75996 with an earlier priority date.
41. The quantity of water protected instream under the existing instream water rights currently exceeds the estimated average natural flows in April, the first half of May, and July through October. By adding the instream use proposed under this time-limited instream transfer, estimated average natural flows are further exceeded in these months and half month. By rule, the quantity of water that may be protected instream cannot exceed the estimated average natural flows unless certain criteria are met. OAR 690-077-0015(4) and (5).
42. The Department has determined that the estimated average natural flows may be exceeded under OAR 690-077-0015(4) and (5) due to the following:
- a) The quantity to be protected instream in July through October, together with other instream water rights within the same reach, will not exceed the amounts requested in the original instream water right application (IS-70982) filed by the ODFW (see Finding of Fact No. 33) and;
  - b) The water right proposed to be transferred to instream use on a time-limited basis is within an ODFW flow restoration priority watershed for July through October.
  - c) ODFW has indicated that exceeding the estimated average natural flows in April, the first half of May, and July through October, within the proposed reach, up to the amounts requested by ODFW in application IS-70982, are significant for the applied for public use, specifically for Coho and Fall Chinook salmon, summer and winter steelhead and cutthroat trout for migration, spawning, egg incubation, fry emergence and juvenile rearing.

### **Determination and Proposed Action**

The proposed changes in place of use and character of use in Time-Limited Instream Transfer Application T-11398 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Time-Limited Instream Transfer Application T-11398 is approved, the final order will include the following:

1. The changes in character of use and place of use to instream use proposed in Time-Limited Instream Transfer Application T-11398 are approved and become effective when this order is signed, or when the permit under Application S-87796 is issued, whichever happens later.
2. The exercise of the right evidenced by Certificate 87906 for Irrigation and Stock and for Certificate 87907 for Irrigation, at the former places of use shall be SUSPENDED, without loss of priority, for the term of the transfer authorized herein.
3. During the term of this order, the portion of supplemental water right Certificate 19723 (or any superseding certificates) for supplemental irrigation, appurtenant to the portion of place of use also under Certificate 87906, shall remain in place and may only be used for supplemental irrigation to a permit issued under application S-87796. Upon termination of this instream transfer, the supplemental right will revert to being supplemental to Certificate 87906.
4. Water shall be protected instream for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
5. The instream water right shall provide for the protection of streamflows as follows:  
*Instream Reach No. 1: From the "Original" pod (as described in Finding of Fact No. 15) to the Farmers Ditch pod (as described in Finding of Fact No. 14).*

Certificate	Priority Date	Instream Rate (CFS)		Instream Volume (AF)
		April 1 through June 30	July 1 through October 31	
87907	9/13/1923	0.047	0.027	15.07

*Instream Reach No. 2: From the Farmers Ditch pod (as described in Finding of Fact No. 14) to the mouth of the Little Applegate River (RM 0.0) at the confluence with the Applegate River.*

Certificate	Priority Date	Instream Rate (CFS)		Instream Volume (AF)
		April 1 through June 30	July 1 through October 31	
87906	9/1/1857	0.06	0.06	25.47
87907	9/13/1923	0.047	0.027	15.07
<i>Totals</i>		0.107	0.087	40.54

6. Water rights upstream of the original points of diversion shall not be subject to regulation for flows in excess of the quantity to which this instream water right is entitled at the original points of diversion.
7. For regulation purposes, protection of instream flows resulting from Certificates 87906 and 87907 shall be senior to instream flows originating from Farmers Ditch.

8. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion located at:*

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
39 S	3 W	WM	14	NE NE	FARMERS DITCH (ORIGINAL) - 350 FEET SOUTH AND 900 FEET WEST FROM THE NE CORNER OF SECTION 14
39 S	3 W	WM	13	NW NW	ORIGINAL - 930 FEET SOUTH AND 10 FEET EAST FROM THE NW CORNER OF SECTION 13

9. *During the term of this order and for the second half of May and the month of June the instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470.*
10. *During the term of this order and for April, the first half of May, and the months of July, August, September, and October the instream right established by this transfer shall be in addition to instream water rights established pursuant to ORS 537.341, 537.346, 537.348 or 537.470, but the quantity protected instream shall not exceed the rate in cfs shown below:*

<i>Rate in CFS</i>	<i>April</i>	<i>May</i>	<i>June</i>	<i>July</i>	<i>Aug.</i>	<i>Sept.</i>	<i>Oct.</i>
<i>1<sup>st</sup> half of month</i>	85.0	85.0	50.0	33.0	33.0	33.0	50.0
<i>2<sup>nd</sup> half of month</i>	85.0	50.0	50.0	33.0	33.0	50.0	85.0

*These months or partial months are shown to describe the maximum instream rate associated with the time-limited instream water right, in connection with other instream water rights for the same reach.*


*Once the amounts protected instream as a result of this time limited instream transfer, in combination with other time-limited instream transfers, exceeds the amounts listed above, any additional quantities protected instream as a result of a time-limited instream transfer, considering respective priority dates, shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 unless otherwise specified by an order approving a new instream water right under these statutes..*

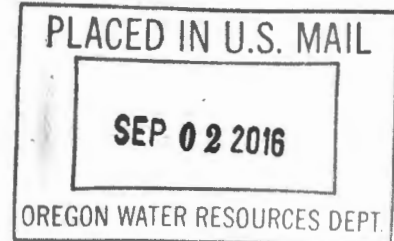
11. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 87906 and 87907 and any related decree.*
12. *The term of this Final Order shall continue until terminated. Upon expiration of this transfer, the use of water shall revert to its original uses and places of use as described by Certificates 87906 and 87907. The use shall revert to the authorized uses and places of use upon submission of a termination request from:*
- a) *The Bureau of Reclamation and the applicants, or*

b) *The applicants along with evidence that the stored water contract from Applegate Reservoir has been terminated or that the agreement between the applicants and the Bureau of Reclamation has not been renewed.*

13. *This order may be terminated if a permit is not issued or is rescinded under Water Right Application S-87796.*

Dated at Salem, Oregon this 31 day of August, 2016.

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department



This Preliminary Determination was prepared by Tracy Fox. If you have questions about the information in this document, you may reach me at 503 986-0827 or Tracy.L.Fox@wrds.state.or.us.

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>

Protests should be addressed to the Water Rights Services Division, Oregon Water Resources Department, 725 Summer Street, Suite A, Salem, OR 97301-1266.