



Lisa Jaramillo
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266

October 27, 2017

Dear Lisa,

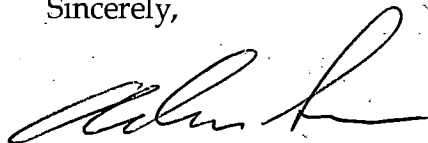
Seal Rock Water District (SRWD) is the holder of water right Certificates 21390 and 32199. SRWD recently completed an Ownership Update (enclosed), which OWRD received on February 27, 2014, demonstrating that SRWD is the holder of Certificate 21390. Water right Certificate 21390 authorizes the use of 1.0 cfs from Henderson Creek for municipal use and water right Certificate 32199 authorizes the use of 0.40 cfs from Hill Creek (also known as Deer Creek) for municipal use.

SRWD is proposing to transfer Certificates 21390 and 32199 to instream use for a period of up to 99 years. The enclosed time-limited transfer application is requesting to change the character of use and place of use to instream. SRWD is requesting that the water be protected from the authorized point of diversion for Certificate 21390 to the mouth of Henderson Creek, and from the authorized point of diversion for Certificate 32199 to the mouth of Hill Creek (also known as Deer Creek).

Please find the enclosed check in the amount of \$1,480.00 for the application fee.

If you have any questions regarding the proposed transfer application or you are interested in receiving additional information, please contact me at 541-257-9001.

Sincerely,



Adam Sussman
Principal Water Resources Consultant

Enclosures: Check for application fee; time-limited water right transfer application; Certificates 32199 and 21390; instream transfer application maps; evidence of use affidavit; land use notification; Certificate 21390 ownership update.



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

Application for Water Right Instream Transfer

Part 1 of 6 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 6 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 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
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.
- ☒ ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ ☒ Part 5 – Completed Instream Use Information.
- ☒ ☒ Part 6 – Information about the Transferred Water Rights: **How many water rights are to be transferred? 2 List them here: Certificates 32199 and 21390 (Attachment A)**
Please include a separate Part 6 for each water right. (See instructions on page 8)

Attachments:

- ☒ ☒ Completed Instream Transfer Application Map. (**Attachment B**)
- ☒ ☒ Completed Evidence of Use Affidavit and supporting documentation. (**Attachment C**)
- ☐ ☒ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.) **N/A: The applicant is a municipal water provider and subject water rights are for municipal use.**
- ☐ ☒ 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. (**Attachment D**)

(For Staff Use Only)

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

- ☐ Application fee not enclosed/insufficient ☐ Map not included or incomplete
- ☐ Land Use Form not enclosed or incomplete
- ☐ Additional signature(s) required ☐ Part _____ is incomplete

Other/Explanation _____

Staff: _____ 503-986-0 _____

Date: ____/____/____

Revised 7/1/2017

1 12765

Part 2 of 6 – 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://apps.wrd.state.or.us/apps/wr/cwre_license_view/.
- 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 good quality paper.
- ☒ ☒ The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is 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.

Part 3 of 6 – Fee Worksheet

FEE WORKSHEET for INSTREAM TRANSFER			
1	Base Fee (includes Place of Use and Character of Use to Instream changes to one water right for up to 1 cfs)	1	\$2,090
2	Number of water rights included in transfer <u>2 (2a)</u> Subtract 1 from the number in 2a above: <u>1 (2b)</u> <i>If only one water right, this will be 0</i> Multiply line 2b by \$520 and enter » » » » » » » » » » » » » »	2	520
3	Enter the cfs for the portions of the rights to be transferred (see example below*): <u>1.4 (3a)</u> Subtract 1.0 from the number in 3a above: <u>0.4 (3b)</u> If 3b is 0, enter 0 on line 3 » » » » » » » » » » » » » » » » If 3b is greater than 0, round up to the nearest whole number: <u>1 (3c)</u> and multiply 3c by \$350, then enter on line 3 » » » » » » » » » »	3	350
4	Add entries on lines 1 through 3 above » » » » » » » » » » Subtotal:	4	2960
5	Multiply line 4 by 0.5 and enter on line 5 » » » » » » » » » » » » » » » »	5	1480
6	Subtract line 5 from line 4 » » » » » » » » » » » » » » Transfer Fee:	6	1480

*Example for Line 3a calculation to transfer 45.0 acres of Primary Certificate 12345 (total 1.25 cfs for 100 acres) and 45.0 acres of Supplemental Certificate 87654 (1/80 cfs per acre) on the same land:

1. For irrigation calculate cfs for each water right involved as follows:
 - a. Divide total authorized cfs by total acres in the water right (*for C12345, $1.25 \text{ cfs} \div 100 \text{ ac}$*); then multiply by the number of acres to be transferred to get the transfer cfs (*$\times 45 \text{ ac} = 0.56 \text{ cfs}$*).
 - b. If the water right certificate does not list total cfs, but identifies the allowable use as 1/40 or 1/80 of a cfs per acre; multiply number of acres proposed for change by either 0.025 (1/40) or 0.0125 (1/80). (*For C87654, $45.0 \text{ ac} \times 0.0125 \text{ cfs/ac} = 0.56 \text{ cfs}$*)
2. Add cfs for the portions of water rights on all the land included in the transfer; however **do not count cfs for supplemental rights on acreage for which you have already calculated the cfs fee for the primary right on the same land**. The fee should be assessed only once for each “on the ground” acre included in the transfer. (*In this example, blank 3a would be only 0.56 cfs, since both rights serve the same 45.0 acres. Blank 3b would be 0 and Line 3 would then also become 0.*)

Part 4 of 6 – Applicant Information and Signature

Is this a ☐ Permanent Instream Transfer or ☒ Time-Limited Instream Transfer?

Organization Information

NAME SEAL ROCK WATER DISTRICT, ATTN ADAM DENLINGER		PHONE (541) 563-3529	FAX
ADDRESS 1037 NW GREBE STREET		CELL	
CITY SEAL ROCK	STATE OR	ZIP 97376	E-MAIL* ADENLINGER@SRWD.ORG
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

AGENT / BUSINESS NAME GSI WATER SOLUTIONS		PHONE (541) 257-9001	FAX
ADDRESS 1600 SW WESTERN AVENUE, SUITE 240		CELL	
CITY CORVALLIS	STATE OR	ZIP 97333	E-MAIL* ASUSSMAN@GSIWS.COM
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why: **The applicant is proposing a time-limited transfer to transfer all of Certificates 32199 and 21390 instream for a period of 99 years. As described in the Settlement Agreement between Seal Rock Water District and WaterWatch of Oregon dated 8/4/2016, the applicant will only request earlier termination of this time-limited instream transfer if the water under Certificates 32199 and/or 21390 is needed for use by the applicant for municipal purposes. The Applicant will not terminate this instream transfer unless water is not reasonably available under the permit derived from Application S-88124 for all uses authorized by the terms and conditions of the permit. If the applicant is required to use water under Certificates 32199 and/or 21390, then once the condition(s) requiring the use of water under Certificates 32199 and/or 21390 for municipal purposes no longer exist, the applicant will file applications to again protect water instream under these water rights.**

If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

☐ Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)

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.

I understand that prior to Department approval of the transfer, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: Newport News Times.

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


Applicant Signature

Adam Denlinger, General Manager
Print Name (and Title if applicable)

October 10, 2017
Date

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 deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.

N/A: The applicant is a municipal water provider and the subject water rights are for municipal use.

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 N/A	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	ADDRESS	
CITY	STATE	ZIP

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 Lincoln County Department of Planning and Development	ADDRESS 210 SW 2nd Street	
CITY Newport	STATE OR	ZIP 97365

ENTITY NAME City of Newport	ADDRESS Newport City Hall, 169 SW Coast Hwy	
CITY Newport	STATE OR	ZIP 97365

Part 5 of 6 – 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 5)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
32199	Oct. 1, 1959	Hill Creek*	Year round	.40 cfs	289.59
21390	May 17, 1948	Henderson Creek	Year round	1.0 cfs	723.97
TOTAL VOLUME					1,013.56

***Hill Creek is also known as Deer Creek. The National Hydrologic Database labels the creek "Deer Creek."**

***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:

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): **Water is to be protected from the authorized point of diversion for Certificate 32199 to the mouth of Hill Creek (also known as Deer Creek) at the Pacific Ocean and from the authorized point of diversion for Certificate 21390 to the mouth of Henderson Creek at the Pacific Ocean.**

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

- ☒ None
- ☐ 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): _____.

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:

N/A-There are no existing instream water rights in Henderson Creek or Hill Creek (also known as Deer Creek)

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:

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

2017 Begin Year to 2116 End Year

- ☒ Time-limited instream transfer is to terminate based upon other conditions:

Conditions: **The applicant is proposing a time-limited transfer to transfer all of Certificates 32199 and 21390 instream for a period of 99 years. As described in the Settlement Agreement between Seal Rock Water District and WaterWatch of Oregon dated 8/4/2016, the applicant will only request earlier termination of this time-limited instream transfer if the water under Certificates 32199 and/or 21390 is needed for use by the applicant for municipal purposes. The Applicant will not terminate this instream transfer unless water is not reasonably available under the permit derived from Application S-88124 for all uses authorized by the terms and conditions of the permit. If the applicant is required to use water under Certificates 32199 and/or 21390, then once the condition(s) requiring the use of water under Certificates 32199 and/or 21390 for municipal purposes no longer exist, the applicant will file applications to again protect water instream under these water rights.**

Part 6 of 6 – Water Right Information

CERTIFICATE # 32199

Name on Certificate: Seal Rock Water District

Date(s) of Priority: October 1, 1959

Source(s) of Water to be Affected by the Transfer: Hill Creek (also known as Deer Creek)

Description of Water Delivery System

System capacity: 0.40 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. **N/A: The applicant is a municipal water provider and the subject water rights are for municipal use.**

Other Water Rights

Are there other water right certificates, water use permits or ground water registrations associated with the "from" lands? ☐ Yes ☐ No **N/A: The applicant is a municipal water provider and the subject water rights are for municipal use.**

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	¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Hill Creek POD*		12	S	12	W	24	SE	SE		630 feet North and 311 feet West from the Southeast corner of Section 24, Range 12 South, W.M.**

*Hill Creek is also known as Deer Creek. The National Hydrologic Database currently labels the creek Deer Creek.

** Certificate 32199 does not provide a detailed description of the POD location. This description was taken from the POD location described in the map which accompanies Permit S-26489.

Will the proposed instream transfer affect the entire water right?

☒ Yes Then Table 2 on Page 10 does not need to be completed.

☐ No Then complete all of Table 2 to describe the portion of the water right to be changed.

Table 2. Description of Change to Water Right Certificate # 32199

List only the part of the right that will be changed. If more than one POD serves the lands, specify the acreage associated with each POD.

Twp		Rng		Sec		¼ ¼		Tax Lot	Gov't Lot or DLC	Acreage 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	"	"	"
TOTAL ACRES													

Additional remarks: **The proposed instream transfer affects the entire water right.**

Part 6 of 6 – Water Right Information

CERTIFICATE # 21390

Name on Certificate: A.D. Dority, Jr. and Theo. M. and Margaret O. Dority. See Attachment E (Certificate 21390 Ownership Update)

Date(s) of Priority: May 17, 1948

Source(s) of Water to be Affected by the Transfer: Henderson Creek

Description of Water Delivery System

System capacity: 1.0 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. N/A: The applicant is a municipal water provider and the subject water rights are for municipal use.

Other Water Rights

Are there other water right certificates, water use permits or ground water registrations associated with the "from" lands? ☐ Yes ☐ No N/A: The applicant is a municipal water provider the subject water rights are for municipal use.

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	¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Henderson Creek POD		11	S	11	W	30	SE	NE		*Not provided in Certificate 21390

*Certificate 21390 does not provide a detailed description of the authorized POD location. We have mapped the location to represent the point of diversion location as accurately as possible (See Attachment B).

Will the proposed instream transfer affect the entire water right?

☒ Yes Then Table 2 on Page 10 does not need to be completed.

☐ No Then complete all of Table 2 to describe the portion of the water right to be changed.

List only the part of the right that will be changed. If more than one POD serves the lands, specify the acreage associated with each POD.

Additional remarks: **The proposed instream transfer affects the entire water right.**