



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

www.wrd.state.or.us

Date: December 7, 2017

Name: John Short, for Philip and Penelope Knight

We are returning your Transfer Application form for the following reason(s):

- Application fee not included.
- Application fee insufficient. Please remit an additional \$_____.
- Land Use form not enclosed.
- Land Use form incomplete.
- Map not enclosed.
- Map is incomplete or does not meet mapping standards.
- Part _____ is incomplete..
- Additional signature(s) required.

Philip and Penelope P. Knight failed to sign the application. The Department cannot

accept an unsigned application. Please sign, and return the entire packet, along with the

fees, so that the Department can process.

Please call (503) 986-0801 if you should have any questions.

Sincerely,

Tamera Smith

Water Rights Customer Service

Enclosure

RECEIVED BY OWRD

DEC 18 2017

SALEM, OR



T 12795



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

Application for Permanent Water Right Transfer

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.

RECEIVED BY OWRD

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

DEC 18 2017

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Transfer Application 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.
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? One List them here: C-87331**
Please include a separate Part 5 for each water right. (See instructions on page 6)

SALEM, OR

Attachments:

- Completed Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- 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.
- N/A Land Use Information Form with approval and signature (or signed land use form receipt stub). Not required if water is to be diverted, conveyed, and/or used only on federal lands or if **all** of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(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: ____/____/____

RECEIVED BY OWRD

NOV 29 2017

SALEM, OR

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 a list of CWREs, see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/. CWRE stamp and signature are not required for substitutions.
- 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, ¼ ¼, 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.
- N/A Proposed 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.
- Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32’15.5”) or decimal with five or more digits after the decimal (example – 42.53764°).

RECEIVED BY OWRD

RECEIVED BY OWRD

Applicant Information

APPLICANT/BUSINESS NAME Philip & Penelope Knight		PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS 34645 SW Cloudrest Lane			FAX NO.
CITY Hillsboro	STATE OR	ZIP 97123	E-MAIL
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 John A. Short / Water Right Services, LLC		PHONE NO. 541-389-2837	ADDITIONAL CONTACT NO.
ADDRESS PO Box 1830			FAX NO.
CITY Bend	STATE OR	ZIP 97709	E-MAIL johnshort@usa.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:
 Permanent transfer of 20 acres surface water from Cert 87331 downstream to new Place of Use.

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

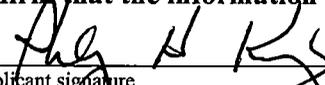
- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); **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 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 BY OWRD
DEC 18 2017

GALEM, OR

I understand that prior to Department approval of the transfer application, 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: Frontier Advertiser.

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


 Applicant signature


 Applicant signature

Philip Knight
 Print Name (and Title if applicable)

12/8/17
 Date

Penelope Knight
 Print Name (and Title if applicable)

12/8/17
 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.*

Check the following boxes that apply:

- The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold? Yes No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see: <http://www.oregon.gov/owrd/docs/transfer-propertytransactions.pdf>

RECEIVING LANDOWNER NAME N/A			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS				FAX NO. RECEIVED BY OWRD
CITY	STATE	ZIP	E-MAIL	NOV 29 2017

Describe any special ownership circumstances here: _____

SALEM, OR

- Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (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 supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME N/A	ADDRESS		
CITY	STATE	ZIP	

 To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

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

ENTITY NAME	ADDRESS		
CITY	STATE	ZIP	

RECEIVED BY OWRD

DEC 18 2017

Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # 87331

RECEIVED BY OWRD

Description of Water Delivery System

System capacity: 5.0 cubic feet per second (cfs) OR
 _____ gallons per minute (gpm)

DEC 18 2017

SALEM, OR

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. _____

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)
 (Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-____)	Twp	Rng	Sec	1/4	1/4	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)	
POD 1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		14	S	14	E	22	NE	NE	1300 ft South from the NE Corner of S22
POD 2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		13	S	13	E	34	SE	SW	1,180 ft North from the SW Corner of S34
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed									
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed									

Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):

- | | |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU) | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE) | <input type="checkbox"/> Point of Appropriation/Well (POA) |
| <input checked="" type="checkbox"/> Point of Diversion (POD) | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD) | <input type="checkbox"/> Substitution (SUB) |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV) |

Will all of the proposed changes affect the entire water right?

- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

RECEIVED BY OWRD

NOV 29 2017

1 12795

Please use and attach additional pages of Table 2 as needed.
See page 6 for instructions.

Do you have questions about how to fill-out the tables?
Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Changes to Water Right Certificate # 87331

List the change proposed for the acreage in each 1/4 1/4. If more than one change is proposed, specify the acreage associated with each change.
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.											Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.														
Twp	Rng	Sec	1/4	1/4	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	1/4	1/4	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date				
EXAMPLE																										
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901
																									POD #6	1901
14	S	14	E	15	NE	SE	100		2.2	IR	POD 1	1946		13	S	13	E	34	NE	SW	100 & 103		5.7		POD 2	1946
14	S	14	E	15	NW	SE	100		0.8	IR	POD 1	1946		13	S	13	E	34	SE	SW	103		5.3		POD 2	1946
14	S	14	E	15	SE	SE	100		16.6	IR	POD 1	1946		13	S	13	E	34	NW	SE	100		2.0		POD 2	1946
14	S	14	E	22	NW	NW	100		0.4	IR	POD 1	1946		13	S	13	E	34	SW	SE	100		7.0		POD 2	1946
TOTAL ACRES:												TOTAL ACRES:														

RECEIVED BY OWRD

TOTAL ACRES: 20.0

Additional remarks: _____

DEC 18 2017

RECEIVED BY OWRD

12795

For Place of Use or Character of Use Changes

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

If YES, list the certificate, water use permit, or ground water registration numbers 2734 & 83850.



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.

For Substitution (ground water supplemental irrigation will be substituted for surface water primary irrigation)

RECEIVED BY OWRD

Ground water supplemental Permit or Certificate # N/A;
Surface water primary Certificate # N/A.

NOV 29 2017

SALEM, OR

For a change from Supplemental Irrigation Use to Primary Irrigation Use

Identify the primary certificate to be cancelled. Certificate # N/A

For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

Tip: You may search for well logs on the Department's web page at:

http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

Table 3. Construction of Point(s) of Appropriation

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No.	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well-specific rate (cfs or gpm). If less than full rate of water right

RECEIVED BY OWRD

T 12795

DEC 18 2017

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

RECEIVED BY OWRD DEC 22 2017 SALEM, OR	RECEIVED BY OWRD NOV 29 2017 SALEM, OR
--	--

Name: Jefferson Spencer Title: Planning Director
 Signature: [Signature] Phone: 541-475-4462 Date: 11.14.17
 Government Entity: Jefferson County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

Land Use Information Form



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

Applicant: Philip H. & Penelope P. Knight
First Last

Mailing Address: 34645 SW Choucrest Lane
Hillsboro OR 97123 Daytime Phone: _____
City State Zip

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
13S	13E	34	SESW	103	EFU	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	IR
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Jefferson

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond
 Ground Water
 Surface Water (name) Crooked River

Estimated quantity of water needed: 0.02 cubic feet per second
 gallons per minute
 acre-feet

Intended use of water: Irrigation
 Commercial
 Industrial
 Domestic for _____ household(s)
 Municipal
 Quasi-Municipal
 Instream
 Other _____

Briefly describe:

change Water Right to new diversion and Use to Beneficial Use for crop irrigation

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

RECEIVED BY OWRD

RECEIVED BY OWRD
Revised 2/8/2010

Land Use Information Form - Page 2 of 3

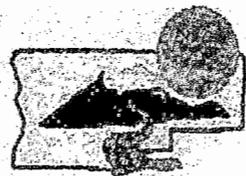
NOV 29 2017

WR / FS

DEC 22 2017

SALEM, OR

SALEM, OR



JEFFERSON COUNTY COMMUNITY DEVELOPMENT

Transaction Receipt

85 SE D St.
Madras, OR 97741

Phone: 541-475-4462

Record Number: 451-17-000087-NQRY

Receipt Number: 11985

www.co.jefferson.or.us

permits@co.jefferson.or.us

Address: 1581 SW STAGECOACH LN, TERREBONNE, OR 97760

Receipt Date: 11/15/17

Parcel Number: 11098

Fee Items Paid

DESCRIPTION	ACCOUNT CODE	AMOUNT PAID
Agency sign-off incl LUC Statement, DMV, water right, etc	503-100-343-4322	\$41.00
		\$41.00

Payment Summary

PAYMENT METHOD	PAYER	COMMENTS	AMOUNT PAID
Credit Card Authorization - 91774B	JOHN A SHORT		\$41.00
			\$41.00

RECEIVED BY OWRD

DEC 22 2017

SALEM, OR

RECEIVED BY OWRD

NOV 29 2017

SALEM, OR

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

In the Matter of Instream Lease Application) DETERMINATION and
 IL-1204 and Preliminary and Final Award) FINAL ORDER ON PROPOSED
 of Mitigation Credits, Certificates 87331) INSTREAM LEASE and MITIGATION
 and 2734, Crook County) CREDIT PROJECT

Authority

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 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

Butler Ranch, Inc.
 5294 Lone Pine Rd.
 Terrebonne, OR 97760
johnshort@use.com

Lessee

Deschutes River Conservancy (DRC)
 Mitigation Bank
 P.O. Box 1560
 Bend, Oregon 97709
gen@deschutesriver.org

RECEIVED BY OWRD

DEC 22 2017

Findings of Fact

SALEM, OR

1. On March 15, 2012, the DRC Mitigation Bank and Butler Ranch filed an application to lease a portion of Certificates 87331 and 2734 for instream use. The Department assigned the application number IL-1204.
2. On March 28, 2012, a revised lease application was received from the DRC Mitigation Bank.
3. The portion of the first right to be leased is as follows:

Certificate: 2734 in the name of E.D. Tirrill (perfected under Permit S-823)
Use: Irrigation of 14.3 acres
Priority Date: August 24, 1911
Quantity: **Rate:** 0.18 Cubic Foot per Second (CFS)
Source: Crooked River, tributary to the Deschutes River
Authorized Point of Diversion (POD): Not described in Certificate.

RECEIVED BY OWRD

NOV 29 2017

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
14S	14E	WM	22	NW NW	14.3

SALEM, OR

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.

4. Certificate 2734 does not specify the irrigation season. However, the irrigation season consistent with the Crooked River Decree is February 1 to December 1.
5. Certificate 2734 also does not specify a duty limit. The duty limit for the area, consistent with the Crooked River Decree, is 4.0 acre-feet (AF) per acre. This would allow the use of up to 57.2 AF during the irrigation season.
6. Certificate 2734 does not identify a point of diversion. However, information provided with the lease application identifies that the point of diversion may be the same point as described in Finding of Fact #7 for Certificate 87331.
7. The portion of the second right to be leased is as follows:

Certificate: 87331 in the name of Claude Butler (perfected under Permit S-17167)
Use: Irrigation of 21.7 acres
Priority Date: July 23, 1946
Quantity: **Limit:** One-fortieth CFS per acre, not to exceed 4.0 AF per acre per year
Source: Crooked River, tributary to the Deschutes River

Authorized Point of Diversion (POD):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14S	14E	WM	22	NE NE	Not described on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
14S	14E	WM	15	NE SE	2.2
14S	14E	WM	15	NW SE	0.8
14S	14E	WM	15	SE SE	16.6
14S	14E	WM	22	NW NW	2.1

RECEIVED BY OWRD

DEC 22 2017

SALEM, OR

8. Certificate 87331 does not specify the irrigation season. However, the irrigation season consistent with the Crooked River Decree is February 1 to December 1.
9. Certificate 87331 is a deficient water right. If water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rates and duty allowed (described in Finding of Fact #7), the total rate and duty for the right would be exceeded. In the event water were diverted simultaneously to all authorized lands and uses described in the right at the maximum rate and duty allowed at the POD (described in Finding of Fact #7), the portion of the right involved in this lease would be limited as described in the table below. This rate and duty are also the quantities by which Certificate 87331 shall be reduced, if this lease is approved.

Rate	Duty
0.41 CFS	86.8 AF

RECEIVED BY OWRD

NOV 29 2017

SALEM, OR

10. Certificate 87331 does not provide any measured distances for the location of the authorized point of diversion. However, based upon information provided with the lease application materials, the point of diversion is more accurately located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14S	14E	WM	22	NE NE	1300 FEET SOUTH FROM THE NE CORNER OF SECTION 22

11. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
12. A portion of the water diverted at the POD returns to the Crooked River below the POD and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification to account for both surface and subsurface return flows.

The hydrogeologic evaluation of where subsurface return flows occur is generally based on the following information: 1) the local shallow and regional ground water elevations, 2) the shallow and regional head gradient (i.e. ground water flow direction), 3) elevation of nearby streams, 4) elevation of closest gaining stream reaches, 5) distance from nearby streams and gaining stream reaches, and 6) local geologic information.

When evaluating for return flows, the Department generally considers the place of use as a whole and where the majority of return flows occur based upon the presence of surface return flows (overland flow) and the factors described above for any subsurface return flows.

A portion of the water diverted to the place of use returns to the Crooked River through subsurface return flows. Immediately below the point of diversion, return flows begin to shoe back up in the river system. Approximately 10% return just below the point of diversion and all return flows are back in the river system by River Mile 30.

Because the return flows do not occur at a definite point, all return flows will be accounted for below the point of diversion consistent with OAR 690-077-0075(2)(b)(A). The instream flows just below the point of diversion have been reduced to the consumptive portion of the right to account for return flows and prevent injury and enlargement.

13. The instream use has been modified from the lease application to prevent injury and enlargement and is as follows:
Crooked River, tributary to the Deschutes River

Instream Reach #1: At the POD (as described in Finding of Fact #10)

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
2734	8/24/1911	0.18	57.2	May 5 through October 15
87331	7/23/1946	0.41	86.8	July 1 through October 15

NOV 29 2017

DEC 22 2017

SALEM, OR

Instream Reach #2: From immediately below the POD (as described in Finding of Fact #10) to Lake Billy Chinook

Certificate	Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
2734	8/24/1911	0.08	25.7	May 5 through October 15
87331	7/23/1946	0.18	39.1	July 1 through October 15

14. A portion of Certificate 87331 is supplemental to the portion of Certificate 2734 proposed to be leased instream as described in Finding of Fact #3. The Lessor and Lessee have requested that the supplemental portion of Certificate 87331 not be included as part of this lease application. During the term of the lease, water use under this right will also be suspended.
15. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.
16. 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.
17. 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.
18. The Lessor has requested that the lease terminate on November 1, 2016. An instream lease generally terminates on the last day of the authorized period of allowed use. The irrigation season ends November 30. The lease may terminate on November 30, 2016. The lease will commence the date the final order is signed and on February 1 of each succeeding calendar year that the lease is in place.
19. The Lessor has requested the option of terminating the lease early with written notice to the Department.

Preliminary Award of Deschutes Basin Mitigation Credits

20. 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.
21. The Department assigned this mitigation credit project number MP-167.
22. 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 OPRD. These comments identified that additional streamflow may benefit aquatic resources and potentially improve recreational fishery resources in this area.

23. No modifications were made to the lease based on the comments received.
24. The lease of 36.0 acres of irrigation will generate 64.8 acre-feet of mitigation water. Therefore, the Department finds that 64.8 mitigation credits may be awarded to this mitigation credit project and assigned to the DRC 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 Crooked River and General Zones of Impact.
25. The mitigation credits expire on December 31, 2016.
26. The use and maintenance of the mitigation credits is subject to the terms and conditions of the DRC Mitigation Bank Charter.
27. 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.
28. 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.

CONCLUSIONS OF LAW

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

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

RECEIVED BY OWRD NOV 29 2017

ORDER

Therefore, it is ORDERED:

DEC 22 2017

SALEM, OR

1. That the Lease as described herein is APPROVED. SALEM, OR
2. The former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered water rights for irrigation use, including ground water registrations during the term of the lease.
3. The lease will terminate on November 30, 2016. For multiyear leases, the Lessor 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 lease may be terminated at any time during a calendar year. However, if the termination request is received less than 30-days prior to the period of allowed instream use (May 5 through October 15) or after the period of allowed use has begun for the water rights being leased, water may not be used under the rights leased until the following calendar year, unless the Director determines that enlargement would not occur.

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 64.8 credits, as described herein, are awarded to this mitigation project and assigned to the DRC 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 Crooked River 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, 2016.
7. The use and maintenance of the mitigation credits shall be subject to the terms and conditions of the DRC Mitigation Bank Charter.

Dated at Salem, Oregon this 28th day of June, 2012.

E. Timothy Wall for

Dwight French, Water Right Services Administrator, for
PHILLIP C. WARD, DIRECTOR

This document was prepared by Laura Wilke and if you have any questions, please call 503-986-0884.

Mailing date: JUL 02 2012

RECEIVED BY OWRD

DEC 22 2017

RECEIVED BY OWRD

SALEM, OR

NOV 29 2017

SALEM, OR