



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

Application for District Instream Lease

Part 1 of 4 – Minimum Requirements Checklist

This Application to be used for water rights in the name of or conveyed by an Irrigation District (or similar organization) Complete Parts 1 through 4 and any required attachments	OWRD #	IL-1837
	District #	

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

Yes N/A Pooled Lease-a lease with more than one Lessor (Landowner/water right interest holder)

Fee in the amount of:

<input type="checkbox"/> \$520.00 for a lease involving four or more landowners or four or more water rights	Or <input checked="" type="checkbox"/> \$350.00 for all other leases
<input type="checkbox"/> Check enclosed or	
<input checked="" type="checkbox"/> Fee Charged to customer account <u>Deschutes River Conservancy</u> (Account name)	

Part 1 –

Completed Minimum Requirements Checklist

Part 2 – Completed District and Other Party Signature Page

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Part 3 – Completed Place of Use and Lessor Signature Page

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(Include a separate Part 3 for each Lessor.)

Part 4 – Completed Water Right and Instream Use Information

Salem, OR

(Include a separate Part 4 for each Water Right.)

How many Water Rights are included in the lease application? 1 (# of rights)

List each water right to be leased instream here: 51229 storage (via 72279)

Yes N/A Other water rights, if any, appurtenant to the lands involved in the lease application and not proposed to be leased instream.

List those other water rights here: _____

Yes No Conservation Reserve Enhancement Program CREP – Are some or all of the lands to be leased part of CREP or another Federal program (list here: _____)?

Required Attachments:

Yes N/A Instream lease application map(s). More than one QQ and property may be included on each map. A map is **not** required if an entire right is being leased or if the right is for use of municipal or quasi-municipal water use. The map should include the following:

- A north arrow and map scale (no smaller than 1" = 1320').
- Label township, range, section and quarter-quarter (QQ).
- If an irrigation right, the numbers of acres to be leased in each quarter-quarter identify and hachure/shade to differentiate between the acreage being leased and any remaining. If the place of use has more than one priority date, source stream, and/or point of diversion you **must identify each with separate hachuring or shading** and label.
- Tax lot lines and numbers must be included on the map and should clearly identify the property(s) involved.

Yes N/A If the Lessor(s) is not the deeded land owner, include one of the following:

- A notarized statement from the land owner consenting to the lease and a copy of the recorded deed; or
- A water right conveyance agreement and a copy of the recorded deed for the landowner at the time the water right was conveyed; or
- Other documentation.

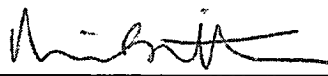
Yes N/A If the right has **not** been used in the last five years; provide supporting documentation indicating why a right (or portion thereof) is **not** subject to forfeiture.

Part 2 of 4 – District and other party Signature

Term of the Lease: The lease is requested to begin in: <u>month November year 2020</u> and end: <u>month March year 2025</u> .	
Public use: Check the public use(s) this lease will serve (as defined by ORS 537.332): <input checked="" type="checkbox"/> Conservation, maintenance and enhancement of aquatic, fish and wildlife, fish and wildlife habitat and any other ecological values. <input checked="" type="checkbox"/> Recreation <input checked="" type="checkbox"/> Pollution abatement <input type="checkbox"/> Navigation	Termination provision (for multiyear leases): The parties to the lease request (choose one): <input checked="" type="checkbox"/> a. The option of terminating the lease prior to expiration of the full term with written notice to the Department by the Lessor(s) and/or Lessee. <input type="checkbox"/> b. The option of terminating the lease prior to expiration of the full term, with consent by all parties to the lease. <input type="checkbox"/> c. The parties would not like to include a Termination Provision. (See instructions for limitations to this provision)
Additive/Replacing Relationship to other instream water rights: Instream leases are generally additive to other existing instream water rights created as a result of instream leases and transfers and/or allocations of conserved water. Since instream leases are also generally senior to other instream rights created through a state agency process or conversion of minimum flows, they generally replace a portion of these junior instream rights. If you would like this lease to relate to other instream water rights differently than described above, please check this box. <input type="checkbox"/> And attach an explanation of your intent.	
Precedent: If a right which has been leased is later proposed to be leased again or later transferred or become part of an allocation of conserved water project, a new injury review shall be required. An instream lease shall not set a precedent on a future transaction.	
Validity of the rights to be leased: <input checked="" type="checkbox"/> The water right(s) to be leased have been used under the terms and conditions of the right(s) during the last five years or have been leased instream; or <input type="checkbox"/> The water right(s) have not been used for the last five years according to the terms and conditions of the rights. However, the water right(s) is not subject to forfeiture under ORS 540.610(2). Documentation describing why the water right is not subject to forfeiture has been provided.	

SIGNATURES

The undersigned declare that the information contained in this application is true and accurate.



 Signature of Lessor

Date: 2/1/21

Printed name (and title): Mike Britton, Manager

Business/Organization name: North Unit Irrigation District

Mailing Address (with state and zip): 2024 NW Beech Street., Madras, OR 97741

Phone number (include area code): 541-475-3625 **E-mail address: mbritton@northunitid.com

 Signature of Co-Lessor

Date: _____

Printed name (and title): _____

Business/organization name: _____

Mailing Address (with state and zip): _____

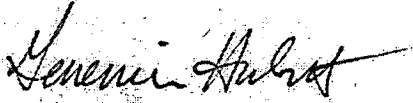
Phone number (include area code): _____ **E-mail address: _____

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See next page for additional signatures.



Date: 01/29/2021

Signature of Lessee

Printed name (and title): Genevieve Hubert, Program Manager

Business/organization name: Deschutes River Conservancy

Mailing Address (with state and zip): 700 NW Hill St., Ste 1, Bend, OR 97703

Phone number (include area code): 541-382-4077 **E-mail address: gen@deschutesriver.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 TO THE LESSOR**

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Part 3 of 4 – Place of Use – Lessor Information and Signatures

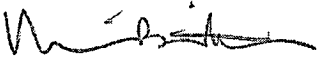
**Complete Table 1 Identify water right(s) proposed to be leased instream
Provide a separate Part 3 for each Lessor (water right interest holder/landowner)**

Table 1

Irrigation District or other Water Purveyor Name: North Unit Irrigation District													
Specify Water Right, Priority Date, point of diversion(s) (POD), place of use, tax lot, gov't lot/DLC, acres to be leased, original use type, certificate page number, and any previous lease. If not enough room below, you may add rows (see instructions) or create a spreadsheet/table (matching Table 1) and attach. Any attached table should include reference to the Lessor.													
Water Right #	Priority Date	POD #	Twp	Rng	Sec	Q-Q		Tax Lot	Gov't Lot/DLC #	Acres	Use	Page #	Previous Lease #
51229 via 72279	2/28/1913, plus one minute	Wickiup	22	S	9	E	7	SW	NE		storage		
<p>Any additional information about the right: <u>Instream lease of 457.5 acre-feet, a portion of conserved water (CW-102), from Wickiup Reservoir, per NUID-OWRD agreement from CW-102 final order attached. To be leased instream until relevant rules and statutes allow permanent istream protection, until the Request for Finalization and a Notice of Use and Disposition form are submitted. The instream lease of stored water from Wickiup Reservoir during the winter season is a key strategy under the Deschutes Basin Habitat Conservation Plan for meeting requirements of the Endangered Species Act.</u></p> <p>Farm Deferral Tax Status: Counties make the determination of whether a property qualifies for the farm use assessment without consideration of whether the lands have an associated water right which is leased instream. If you have questions regarding the farm use assessment you should contact your local county assessor. You should contact your County for any weed ordinance and management requirements.</p>													

The undersigned declare:

1. I/We agree during the term of this lease to suspend use of water allowed under the water right(s) involved in the lease as well as and any other appurtenant primary or supplemental water right(s); and
2. I/We certify are the lessor(s) (water right interest holder) of the water right(s) in Table 1. If not the deeded land owner, I/we have obtained consent from the deeded land owner and/or have provided documentation of authorization to pursue the instream lease; and
3. I/We affirm that the information in this application is true and accurate.



Signature of Lessor

Date: 2/1/21

Printed name (and title): Mike Britton, Manager Business name, if applicable: North Unit Irrigation District
Mailing Address (with state and zip): 2024 NW Beech Street., Madras, OR 97741

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Phone number (include area code): _____ **E-mail address: _____

_____ Date: _____

Signature of Lessor

Printed name (and title): _____ Business name, if applicable: _____

Mailing Address (with state and zip): _____

Phone number (include area code): _____ **E-mail address: _____

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Part 4 of 4 – Water Right and Instream Use Information

Salem, OR Use a separate Part 4 for each water right to be leased instream

Table 2

Use Table 2 to illustrate the totals for the water right proposed to be leased instream (based on Part 3 of 4) **Water Right # 51229 (via 72279)**

Total rate and volume by priority date, POD, use and acreage as appropriate considering the right to be leased. If not enough room below, you may add rows (see instructions) or create a spreadsheet (matching Table 2 and clearly labeled) and attach. (cfs = cubic feet per second and af = acre-feet)

Priority Date	POD	Use	Acre	Other Information (such as conditions/limitations on the right)	Rate (cfs)	Volume (af)
2/28/1913, plus one minute	Wicki up	Storage		Lease right to store water, state's portion of CW-102 (multi use storage)	1.01	301.95
2/28/1913, plus one minute	Wicki up	Storage		Lease right to store water, applicant's portion of CW-102 (multi use storage)	0.52	155.55
Total af from storage, if applicable: 457.5 AF or <input type="checkbox"/> N/A						
If the POD is not described on the certificate or, if there is more than one POD listed on the certificate, then the specific POD must be described: Wickiup						

Table 3

Instream Use created by the lease	River Basin: <u>Deschutes</u>	River/Stream Name: <u>Deschutes, tributary to Columbia</u>				
Proposed Instream Reach: <input checked="" type="checkbox"/> A reach typically begins at the POD and ends at the mouth of the source stream: From the POD <u>Wickiup-RM 227</u> to <u>Lake Billy Chinook-RM 120</u>		Or Proposed Instream Point: <input type="checkbox"/> Instream use protected at the POD				
OR <input type="checkbox"/> Please check this box if you are not sure of the proposed reach and want water to be protected within a reach below the POD, if possible. If no reach is identified or the above box is not checked, and there is only one POD listed on the water right, the lease may be processed to be protected at the POD.)						
Instream Portion: May not exceed the maximum rate/volume for the right (identified in Table 2) Use the table 3 to illustrate the instream rate, volume and instream period by priority date, POD, Use and acreage, as appropriate. If not enough room below, you may add rows (see instructions) or create a spreadsheet (clearly labeled and matching the below portion of Table 3) and attach.						
Priority date	POD	Use	Acre	Proposed Instream Period	Instream Rate (cfs)	Total instream volume (af)
2/28/1913, plus one minute	Wick	<u>Storage</u>		November 2 - March 31 (state's portion of CW-102)	1.01	301.95
2/28/1913, plus one minute	Wick	<u>Storage</u>		November 2 - March 31 (applicant's portion of CW-102)	0.52	155.55
OR <input type="checkbox"/> Please check this box if you are not sure of the proposed rate, volume and instream period. As part of its review process, the Department will identify the appropriate instream rate, volume and period considering the water right(s) being leased and instream benefits.						

Yes N/A **Conditions to avoid enlargement or injury to other water rights, if any, or other limitations:** list here See NUID-OWRD agreement from CW-102, attached.

Note: The Department may identify additional conditions to prevent injury and/or enlargement.

Any additional information about the proposed instream use: Water will be measured at OWRD gage # 14056500 below Wickiup, early termination allowed if it conforms to the requirements in the NUID-OWRD agreement attached to the final order for CW-102 (copy attached to lease application) and must be pre-approved by OWRD.

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**DESCHUTES COUNTY
SEC.07 T22S R09E**

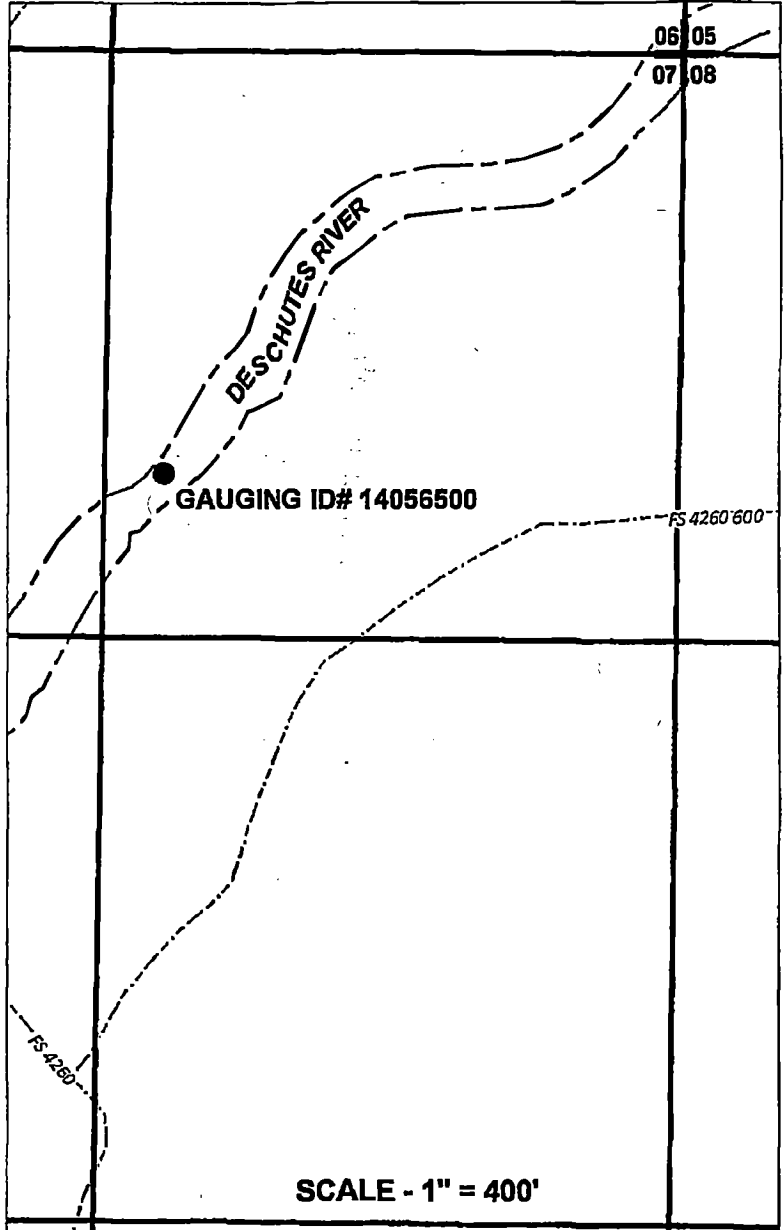
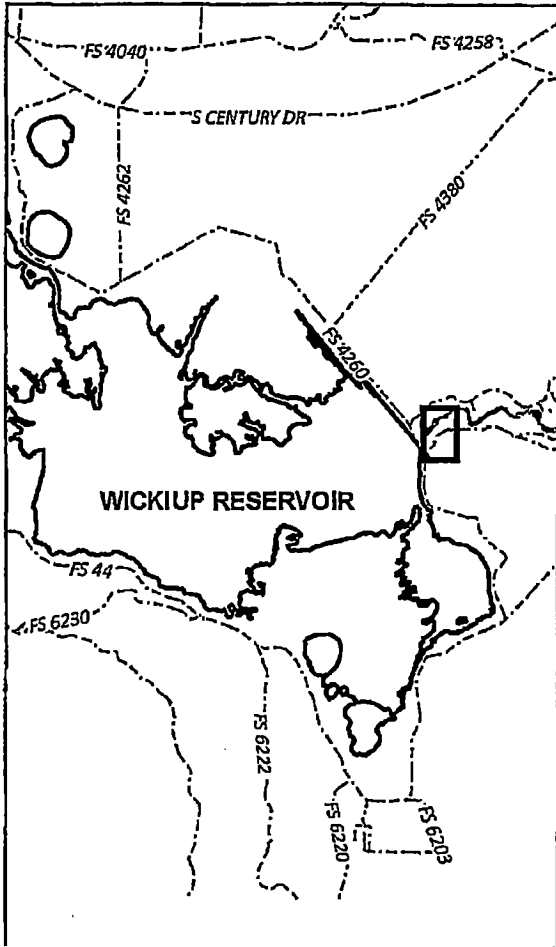
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Salem, OR



NE 1/4 OF THE NE 1/4



	DESCHUTES RIVER
	WICKIUP RESERVOIR
	GAUGING STATION

APPLICATION FOR 5 YEAR INSTREAM LEASE

NAME: N.U.I.D

CERTIFICATE # 51229

1.53 C.F.S

DATE: 01/29/2021

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**MEMORANDUM OF AGREEMENT
TO PERPETUALLY LEASE WATER TO INSTREAM USE**

Salem, OR

This AGREEMENT TO PERPETUALLY LEASE WATER TO INSTREAM USE (this "Agreement") is made this 19th day of January, 2021 (the "Effective Date"), by and between the NORTH UNIT IRRIGATION DISTRICT ("NUID") and the Oregon Water Resources Department ("OWRD") (collectively, the "Parties").

RECITALS

A. NUID is the holder of Water Right Certificates 72279 and 90177. Certificate 72279 is for the use of natural flow water from the Deschutes River and stored water from Wickiup Reservoir and Haystack Reservoir. Certificate 90177 is for the use of natural flow water from the Crooked River.

B. On February 12, 2018, NUID filed an Allocation of Conserved Water Application (designated as application number CW-102), requesting an Allocation of Conserved Water under Certificates 72279 and 90177. As documented in CW-102, NUID proposed to conserve approximately 137 acre-feet (AF) of Crooked River water and 610 AF of Deschutes River water by lining approximately 2.2 miles of NUID's 58-11 irrigation lateral, and improving the overall efficiency of the delivery system. The project was completed by March 2019.

C. On October 5, 2020, OWRD issued an Amended Preliminary Determination, proposing to approve CW-102. In particular, paragraph 16 of the Amended Preliminary Determination (pp. 17-18) provides as follows:

"Until such time as the statutes and rules are updated regarding reservoir storage rights, NUID shall lease a like quantity of the State's portion of conserved water from Wickiup Reservoir. The lease shall provide for the conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, and pollution abatement. The lease shall be from Certificate 51229 as follows:

"Source: Wickiup Reservoir located in the SWNE of Section 7, Township 22 South, Range 9 East, W.M. at approximately River Mile 227.0:

Originating Certificate	Priority Date	Period of Use	Rate (CFS)	Volume (AF)
72279	2/28/1913, plus one minute	November 2 through March 31	1.01	301.95

To Lake Billy Chinook at approximately River Mile 120.0."

"Until such time as the statutes and rules are updated regarding reservoir storage rights, an equivalent quantity to the Applicant's portion from the storage component shall be leased instream under Certificate 51229 until a Notice of Use and Disposition form is submitted as required by OAR 690-0018-0062(3)(b). NUID will obtain the necessary contract with the BOR, if any, for the release of stored water from Certificate 51229 as follows:

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Source: Wickiup Reservoir located in the SWNE of Section 7. Township 22 South, Range 9 East, W.M. at approximately River Mile 227.0

Originating Certificate	Priority Date	Period of Use	Rate (CFS)	Volume (AF)
72279	2/28/1913, plus one minute	November 2 through March 31	0.52	155.55

To Lake Billy Chinook at approximately River Mile 120.0.”

Consistent with and pursuant to the above requirements, the Parties desire to memorialize NUID’s commitment to perpetually lease water under Certificate 51229, until such time as the relevant statutes and rules are updated regarding reservoir storage rights, under the terms and conditions set forth below.

AGREEMENT

1. Instream Lease of State’s Portion of Conserved Water from Wickiup Reservoir.

Consistent with OWRD’s approval of CW-102, NUID agrees to apply to OWRD to lease water under Certificate 51229 for the maximum five-year term, from the following source, in the following quantity, and for the following purposes:

Source: Wickiup Reservoir located in the SWNE of Section 7, Township 22 South, Range 9 East, W.M. at approximately River Mile 227.0:

Originating Certificate	Priority Date	Period of Use	Rate (CFS)	Volume (AF)
72279	2/28/1913, plus one minute	November 2 through March 31	1.01	301.95

Purpose: Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, and pollution abatement

Prior to the expiration of the lease, NUID shall apply to OWRD to renew the lease for an additional five-year term, and shall do so perpetually until such time as the statutes and rules are updated regarding reservoir storage rights. At such time that the statutes and rules are updated regarding reservoir storage rights, NUID shall coordinate with OWRD to have the leased water making up the State’s portion of conserved water from Wickiup Reservoir under CW-102 incorporated into a permanent instream water right.

NUID agrees to abide by any terms and conditions included in OWRD’s approval of the lease application, and OWRD’s approval of any renewal application.

2. Instream Lease of NUID’s Portion of Conserved Water from Wickiup Reservoir.

Consistent with OWRD’s approval of CW-102, NUID agrees to apply to OWRD to lease water

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under Certificate 51229 for the maximum five-year term, from the following source, in the following quantity, and for the following purposes:

Salem, OR

Source: Wickiup Reservoir located in the SWNE of Section 7, Township 22 South, Range 9 East, W.M. at approximately River Mile 227.0:

Originating Certificate	Priority Date	Period of Use	Rate (CFS)	Volume (AF)
72279	2/28/1913, plus one minute	November 2 through March 31	0.52	155.55

Purpose: Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, and pollution abatement

Prior to the expiration of the lease, NUID shall apply to OWRD to renew the lease for an additional five-year term, and shall do so perpetually until such time as the statutes and rules are updated regarding reservoir storage rights, or until a Notice of Use and Disposition form is submitted as required by OAR 690-0018-0062(3)(b). In the event of such a submittal to OWRD, NUID shall request OWRD approval to terminate the lease of NUID's portion of conserved water from Wickiup Reservoir in conjunction with approval of the submittal.

NUID agrees to abide by any terms and conditions included in OWRD's approval of the lease application, and OWRD's approval of any renewal application.

3. **Fees and Assessments.** NUID shall be solely responsible for any fees or assessments associated with the instream lease applications or renewal applications set forth in Paragraphs 1 and 2 above. NUID agrees to submit both initial instream lease applications within 14 days of the Final Determination approving CW-102.

4. **OWRD Consideration and Approval of Lease Applications.** OWRD will process and review the lease applications and any renewal applications described in Paragraphs 1 and 2 above consistent with the statutes and rules governing such applications and renewal applications. If approved, OWRD agrees that the applications and any renewal applications shall satisfy the requirements set forth in paragraph 16 of the Amended Preliminary Determination (pp. 17-18).


5. **General Provisions.**

5.1 **Termination.** This Agreement may be terminated at any time by mutual consent of the Parties, provided that such consent to terminate is in writing and is signed by each of the Parties.

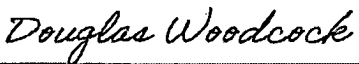
5.2 **Execution.** Each Party to this Agreement represents, warrants, and agrees that the person who executed this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to these terms. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, NUID and OWRD have executed this Agreement as of the date first written above.

North Unit Irrigation District:


By: Mike Britton
Manager, North Unit Irrigation District

Oregon Water Resources Department:


By: Douglas E. Woodcock
Deputy Director

Received by OWRD

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Salem, OR