



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

Application for  
**Surface Water**  
**Allocation of Conserved Water**  
 Part 1 of 4 – Minimum Requirements Checklist

**This application will be returned if Parts 1 through 4 and all required attachments are not completed and included.**

For questions, please call (503) 986-0900, and ask for Allocation of Conserved Water Section.

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

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- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Applicant Information and Signature.
- Part 3 – Completed Water Right Information and Conservation Measures. Please include a separate Part 3 for each water right. List all water right certificates involved in this application here: **93295 and 93296**.
- Part 4 – Completed Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation.

**Attachments:**

- Fees – Amount enclosed: \$ **1570** (From last page of application).
- Application Map. Must have sufficient detail to locate and describe the facilities and areas involved in the conservation measures. Must show the place of use where water is being used if the rate or duty are changing.
- Land Use Information Form with approval and signature. (Not required if 100% of Conserved Water is being transferred instream.) **or**  
 Land Use Notice - Notice of the intent to create an instream water right must be provided to each affected county, city, municipal corporation, or tribal government along the proposed instream reach.
- Completed Evidence of Use Affidavit and Supporting Documentation.
- N/A Affidavit(s) of Consent.
- N/A Letter of approval from Irrigation or Water Control District. For water rights served by or issued in the name of a District; this must be provided when the applicant is not the District.
- N/A Irrigation or Water Control District's adopted policy on allocation of conserved water.
- N/A If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organizations who have asked to be consulted regarding the allocation of conserved water.
- N/A Evidence for Fee Waiver.
- N/A Notice of Completion.
- N/A Request for Finalization. (The entire conservation project listed on the application must be complete. No partial finalization will be recognized.)

## Part 2 of 4 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>James B. Darby</b>		PHONE NO.	ADDITIONAL CONTACT NO.	
ADDRESS 10250 JAMESTOWN DR. APT.8			FAX NO.	
CITY ANCHORAGE	STATE AK	ZIP 99507	E-MAIL BRANTDARBY@YAHOO.COM	

The applicant is an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553. The District's OAR 690-018-0025 allocation of conserved water policy was adopted: \_\_\_\_ / \_\_\_\_ / 20 \_\_\_\_.

OR

The applicant is the sole owner of the land on which the water right, or portion thereof, proposed for conservation measures is located?  Yes  No

If NO, include signatures of all landowners (and mailing address if different than the applicant's) or attach affidavits of consent (and mailing addresses) from all landowners or individuals/entities to which the water right(s) has been conveyed.

LANDOWNER NAME		PHONE NO.		
ADDRESS				
CITY	STATE	ZIP	E-MAIL	

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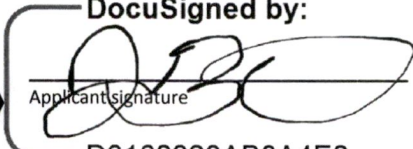
**Representative Information** – The person(s) listed below is/are authorized to represent the applicant in all matters relating to this application.

REPRESENTATIVE/BUSINESS NAME SCOTT FEIN WATER RIGHTS		PHONE NO. 541-842-0795	ADDITIONAL CONTACT NO.	
ADDRESS 600 TYLER CREEK RD.			FAX NO.	
CITY ASHLAND	STATE OR	ZIP 97520	E-MAIL SFEINSURVEYOR@GMAIL.COM	

I understand that I will 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 paper: \_\_\_\_\_.

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

DocuSigned by:

  
Applicant signature  
D8162928AB0A4E2...

12/6/2020

**James B. Darby**  
Print Name (and Title if applicable)


\_\_\_\_\_  
Date

\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Print Name (and Title if applicable)

\_\_\_\_\_  
Date

**In your own words tell us what physical conservations measures you have made or propose to make and the reason for the change(s): Reduce volume per acre used through conversion to drip irrigatin and high pressure springklers. Utilize efficiency in irrigation methods to expand pou and provide more Jimmy Crk. water to Illinois River instream flow.**

 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 conservation project and/or proposed instream reach will be located.

ENTITY NAME JOSEPHINE COUNTY	ADDRESS 500 NW 6 <sup>TH</sup> ST.	
CITY GRANTS PASS	STATE OR	ZIP 97526

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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**Part 3 of 4 – Water Right Information and Conservation Measures**

Please use a separate Part 3 for **each** water right involved in the proposed allocation of conserved water.

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**WATER RIGHT INFORMATION:**

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

<input checked="" type="checkbox"/> Certificated Right	93296 <small>Certificate Number</small>	Illinois River (F) <small>Permit Number or Decree Name</small>
<input type="checkbox"/> Adjudicated, Un-certificated Right	 <small>Name of Decree</small>	 <small>Page Number</small>
<input type="checkbox"/> Permit for which Proof has been Approved	 <small>Permit Number</small>	 <small>Special Order Volume _____, Page _____</small>
<input type="checkbox"/> Transferred Right for which Proper Proof of the change has been filed	 <small>Previous Certificate / Transfer Number</small>	 <small>Date Claim of Beneficial Use Submitted</small>

County: Josephine

Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail for the Department to determine the system capacity.*  
POD 1 small log dam with 12" diam pvc pipe outlet to small ditch, POD 2 water diverted to ditch with fishscreen into pond. Small ditches for flood irrigation from main ditch and pond.

**Table 1: Pre-Project Description**

List: A) the maximum rate and annual duty (volume) of water that may be diverted **as stated on the water right of record**; and B) the maximum amount of water that can be diverted using the pre-project facilities ("**system capacity**"). If there are multiple priority dates on the water right, list the rate and duty associated with each priority date. *(If the water right is only limited by rate, do not list a duty. Conversely, if the water is only limited by duty, do not list a rate).*

PRE-PROJECT DESCRIPTION										
			Column A Water Right of Record				Column B System Capacity			
			Rate		Duty		Rate		Duty	
Originating Water Right #	Priority	Acres	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC
93296	1888	6.0	0.12	0.02			0.12	0.02		
<b>Totals</b>										

**Note:** 1 miner's inch = 1/40 cfs;      1 cfs = 448.8 gpm      1 cfs = 1.983471 ac-ft/day

**CONSERVATION MEASURES:**

Describe the type of conservation measures, check all that apply:

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

Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, you must meet the ODFW fish screen and bypass requirements pursuant to ORS 540.525. *Please include a description and details of how the estimate of water conserved was determined. Please provide sufficient detail for the Department to provide notice of the project.* Pump and sprinkler system to replace flood irrigation

**Existing Point(s) of Diversion:**

Twp	Rng	Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Measured Distances or Latitude and Longitude
39	S	8	W	17	NE	SW	730 FEET SOUTH AND 15 FEET WEST FROM THE C1/4 SECTION 17
39	S	8	W	17	NW	SW	1050 FEET SOUTH AND 1500 FEET EAST FROM THE C1/4 CORNER SECTION 17

**Place of Use Involved in Conservation Measures:**

List only the part of the right that will be affected. If the entire right is being affected, just state "entire Certificate."

Twp	Rng	Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Acres	Type of Use listed On Certificate	Priority Date		
2	S	9	E	15	NE	NW	200	43	153.0	EXAMPLE	1/1/1865
		ENTIR	E CER	TIFIC	ATE				6	IRRIG	1888
<b>Total</b>									6		

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Are there other water right certificates, water use permits, ground water registrations, or uncertificated decreed rights associated with the above lands?  Yes  No. If YES, list the certificates, water use permits, groundwater registrations, or uncertificated decree numbers: R-15216

Is the project within the boundaries of an irrigation district or water control district?  Yes  No. If YES, and applicant is not a District, you must provide a letter of approval from the District.

**Table 2: Conserved Water**

In Column A, list the smaller of A or B from Table 1 (Pre-Project Description). In Column B, list the amount of water that will be needed for the existing, authorized use(s) after implementing the conservation measures. In Column C, subtract Column B from Column A and enter the results (e.g., A – B = C). (If the water right is only limited by rate, do not list a duty; and conversely, if the water is only limited by duty, do not list a rate.)

Conserved Water Description											
	Column A				Column B				Column C		
	Table 1 – Smaller of A or B				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
Priority	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
1888	0.12	0.020			0.042	0.007			0.078		
<b>Totals</b>	0.12				0.042				0.078		

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**Table 3: Allocation of Conserved Water**

List the portions of the conserved water that will be allocated to the state and applicant. Note: Column A plus Column B should total Column C (e.g., A + B = C).

Conserved Water Allocation								
Column A			Column B			Column C		
State's Portion			Applicant's Portion			Conserved Water		
Percentage*	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)
25%	0.0195		75%	0.0585		100%	0.078	

\* must be at least 25%

The priority for the conserved water is requested to be:

- The same as the original right, or
- One minute junior to the original right.

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**Part 4 of 4 – Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation**

**MITIGATION:**

Describe any expected effects from the proposed allocation of conserved water on other water rights. Describe what currently happens to the water that is proposed to be conserved. NO EFFECT ON OTHER WATER RIGHTS. ONLY WATER RIGHT HOLDER ON JIMMY CREEK.

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

**PROPOSED USE:**

**New Out-of Stream Uses:**

N/A For new out-of-stream uses, describe the intended use and boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right will be located. This is land other than that to which this water right is appurtenant. Intended Use: IRRIGATION; Boundaries: NWSE, NESE SEC. 17 T39SR8W.

Will the new use require a change or additional point of diversion/appropriation?

Yes  No  Unknown at this time

**New Point of Diversion:**

Twp	Rng	Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Measured Distances or Latitude and Longitude

**New Instream Uses to be Created (State's Portion):**

Originating Surface Water Right (as identified in Part 3)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
93296	1888	JIMMY CREEK	APRIL-OCTOBER	.0195	
<b>TOTAL VOLUME</b>					

\* 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

\*\* 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 maximum rate conserved and the total volume may not exceed to maximum duty or volume conserved (Table 3, Column C).

**Location of the proposed instream water right.**

Water is requested to be protected within a reach. Location of the proposed reach (identify the extent of the reach): (e.g., from the upstream POD located at RM \_\_\_ to downstream location at the mouth at RM \_\_\_) At a point upstream of existing POD #1

OR

- Water is requested to be protected at a point at the following location (i.e. legal description of the point of diversion (POD)): 1

**Public Use for which conserved water right should be managed under an instream right (check at least one box):**

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
- Recreation and scenic attraction.
- Water Quality (e.g. pollution abatement).

**List any existing instream water rights at the same point or within the same requested reach(es):**

- None.
- Instream Water Right Certificates: \_\_\_\_\_

- N/A Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of any instream water right established under ORS 537.341 (state agency application process) and ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date?

- Yes       No. If no, please explain your intent below:

Is the requested instream flow intended to exceed the estimated average natural flow or natural lake 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 applied for under ORS 537.338 (state agency instream water right application process); the requested public use is for the same public use; and the requested reach covers a portion or same reach as the state agency instream water right; **and**
- The stream is in an ODFW flow restoration priority watershed during the requested instream period; **or**
- The stream is listed as water quality limited by DEQ.

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**PROJECT SCHEDULE:**

N/A For a project that has **not** been completed, please provide the dates on which the applicant intends to do the following:

Begin Construction	Complete Construction and File Notice of Completion	Request that Entire Conserved Water Allocation be Finalized
<i>Date: Upon receipt of permit</i>	<i>Date: 2 years from receipt of permit</i>	<i>*Date: 3 years of receipt of permit</i>

*\* Must be within 5 years from the date of filing the Notice of Completion.*

**Note:** If construction of the project has begun or has been completed, and if more than 25 percent of the project costs have been expended before submitting this application, you must submit evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organization who have asked to be consulted regarding the allocation of conserved water.

N/A For a project that has been completed, provide the dates when the conservation measures were implemented and the date by which the applicant intends to request the allocation be finalized. Complete and attach Notice of Completion form.

Conservation Measures Were Implemented	Request that Entire Conserved Water Allocation be Finalized
<i>*Date:</i>	<i>**Date:</i>

*\* Must be within 5 years prior to the date of filing this application.*

*\*\* Must be within 5 years from the date of filing this Application and Notice of Completion.*

**FUNDING**

N/A Federal or state public funds that are not subject to repayment are to be used for the project. Refer to OAR 690-018-0040(18)(a)-(d) for further information in completing this section.

Source of Funding:  Federal: \_\_\_\_\_  State: \_\_\_\_\_

Total cost for project engineering \$ \_\_\_\_\_  
Total cost for construction \$ \_\_\_\_\_

The present value of any incremental changes in the cost of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project is \$ \_\_\_\_\_.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment is \$ \_\_\_\_\_.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds is \$ \_\_\_\_\_.

N/A Enter the percentage from Table 3, Column B (Applicant's Portion of Conserved Water) \_\_\_\_\_%. If this is more than 25%, what portion of project funds (expressed as a percentage) come from federal or state public sources? \_\_\_\_\_%

N/A The Oregon Watershed Enhancement Board (OWEB) has a contractual interest in this project. The OWEB project number is \_\_\_\_\_.

**FEE CALCULATION**

Fee Schedule – ORS 536.050 <a href="https://www.oregon.gov/OWRD/Forms/Pages/default.aspx">https://www.oregon.gov/OWRD/Forms/Pages/default.aspx</a>	
\$1,160.00 - Base (1 <sup>st</sup> Water Right)	Add \$410.00 for each additional right
$\$1,160 + (\text{ } \times \$350) = \text{Total Fee } \$410$	

Fee Waiver Worksheet	
To qualify for a waiver of up to 50%, you must provide evidence to establish your application meets the following criteria:	
<input type="checkbox"/>	(a) Will be converted to an instream right pursuant to ORS 537.348; <b>or</b>
<input type="checkbox"/>	(b) Is necessary to complete a project funded under ORS 541.375 (OWEB); <b>or</b>
<input type="checkbox"/>	(c) Is approved by the Oregon Department of Fish and Wildlife as a project that will result in a net benefit to fish and wildlife habitat. See OAR 690-018-0040(25).
If the project meets one of the above standards, use the following formula to calculate the fees:	
<input type="checkbox"/>	(d) Enter Percentage from Table 3, Column A = _____ %
<input type="checkbox"/>	(e) Deduct 25% from percentage in (d) above = _____ %
<input type="checkbox"/>	(f) Enter the lesser of (e) above or 50% _____
<input type="checkbox"/>	(g) Total Fee x % waived (f) = Fee Waiver \$ _____
Example: (d) = 100% - 25% (e) = 75% (max 50% waived) = Fee x 50% = Fee Waiver	
<b>Total Fee \$1570 – Fee Waiver (g) \$ _____ = Amount Due \$1570</b>	

**Part 3 of 4 – Water Right Information and Conservation Measures**

Please use a separate Part 3 for **each** water right involved in the proposed allocation of conserved water.

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**WATER RIGHT INFORMATION:**

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

**OWRD**

<input checked="" type="checkbox"/> Certificated Right	93295 <small>Certificate Number</small>	S-4743 <small>Permit Number or Decree Name</small>
<input type="checkbox"/> Adjudicated, Un-certificated Right	_____ <small>Name of Decree</small>	_____ <small>Page Number</small>
<input type="checkbox"/> Permit for which Proof has been Approved	_____ <small>Permit Number</small>	_____ <small>Special Order Volume _____, Page _____</small>
<input type="checkbox"/> Transferred Right for which Proper Proof of the change has been filed	_____ <small>Previous Certificate / Transfer Number</small>	_____ <small>Date Claim of Beneficial Use Submitted</small>

County: JOSEPHINE

Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail for the Department to determine the system capacity.*  
POD 1 small log dam with 12" diam pvc pipe outlet to small ditch, POD 2 water diverted to ditch with fishscreen into pond. Small ditches for flood irrigation from main ditch and pond.

**Table 1: Pre-Project Description**

List: A) the maximum rate and annual duty (volume) of water that may be diverted **as stated on the water right of record**; and B) the maximum amount of water that can be diverted using the pre-project facilities ("**system capacity**"). If there are multiple priority dates on the water right, list the rate and duty associated with each priority date. *(If the water right is only limited by rate, do not list a duty. Conversely, if the water is only limited by duty, do not list a rate).*

PRE-PROJECT DESCRIPTION										
			Column A Water Right of Record				Column B System Capacity			
			Rate		Duty		Rate		Duty	
			Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC
Originating Water Right #	Priority	Acres								
93295	1920	10.0	0.13	0.013			0.13	0.013		
<b>Totals</b>										

**Note:** 1 miner's inch = 1/40 cfs;      1 cfs = 448.8 gpm      1 cfs = 1.983471 ac-ft/day

**CONSERVATION MEASURES:**

Describe the type of conservation measures, check all that apply:

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

Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, you must meet the ODFW fish screen and bypass requirements pursuant to ORS 540.525. *Please include a description and details of how the estimate of water conserved was determined. Please provide sufficient detail for the Department to provide notice of the project.* Pump and sprinkler/drip system to replace flood irrigation

**Existing Point(s) of Diversion:**

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Measured Distances or Latitude and Longitude
39	S	8	W	17	NW	SW			1050 FEET SOUTH AND 1500 FEET WEST FROM THE C 1/4 OF SECTION 17
39	S	8	W	17	NE	SW			730 FEET SOUTH AND 15 FEET WEST FROM THE C1/4 OF SECTION 17

**Place of Use Involved in Conservation Measures:**

List only the part of the right that will be affected. If the entire right is being affected, just state "entire Certificate."

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Acres	Type of Use listed On Certificate	Priority Date
2	S	9	E	15	NE	NW	200	43	153.0	EXAMPLE	1/1/1865
		ENTIR	E CER	TIFIC	ATE				10.0	IRRIG	8/18/1920
<b>Total</b>									10.0		

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Are there other water right certificates, water use permits, ground water registrations, or uncertificated decreed rights associated with the above lands?  Yes  No. If YES, list the certificates, water use permits, groundwater registrations, or uncertificated decree numbers: R-15216

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Is the project within the boundaries of an irrigation district or water control district?  Yes  No If YES, and applicant is not a District, you must provide a letter of approval from the District.

**Table 2: Conserved Water**

In Column A, list the smaller of A or B from Table 1 (Pre-Project Description). In Column B, list the amount of water that will be needed for the existing, authorized use(s) after implementing the conservation measures. In Column C, subtract Column B from Column A and enter the results (e.g., A – B = C). (If the water right is only limited by rate, do not list a duty; and conversely, if the water is only limited by duty, do not list a rate.)

Conserved Water Description											
	Column A				Column B				Column C		
	Table 1 – Smaller of A or B				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
Priority	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
1920	0.13	0.013			0.070	0.007			0.060		
<b>Totals</b>	0.13				0.070				0.060		

**Table 3: Allocation of Conserved Water**

List the portions of the conserved water that will be allocated to the state and applicant. Note: Column A plus Column B should total Column C (e.g., A + B = C).

Conserved Water Allocation								
Column A			Column B			Column C		
State's Portion			Applicant's Portion			Conserved Water		
Percentage*	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)
25%	0.015		75%	0.045		100%	0.060	

\* must be at least 25%

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The priority for the conserved water is requested to be:

- The same as the original right, or
- One minute junior to the original right.

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Part 4 of 4 – Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation

MITIGATION:

Describe any expected effects from the proposed allocation of conserved water on other water rights. Describe what currently happens to the water that is proposed to be conserved. NO EFFECT ON OTHER WATER RIGHTS. ONLY WATER RIGHT HODLER ON JIMMY CREEK.

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

PROPOSED USE:

New Out-of Stream Uses:

[X] [ ] N/A For new out-of-stream uses, describe the intended use and boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right will be located. This is land other than that to which this water right is appurtenant. Intended Use: IRRIGATION; Boundaries: NWSE, NESE SEC. 17 T39SR8W.

Will the new use require a change or additional point of diversion/appropriation?

[ ] Yes [X] No [ ] Unknown at this time

New Point of Diversion:

Table with 8 columns: Twp, Rng, Sec, 1/4, 1/4, Tax Lot, Gvt Lot or DLC, Measured Distances or Latitude and Longitude.

New Instream Uses to be Created (State's Portion):

Table with 6 columns: Originating Surface Water Right (as identified in Part 3), Priority Date, Source, Proposed Instream Period, Rate (cfs)\*, Volume (ac-ft)\*\*.

\* 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

\*\* 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 maximum rate conserved and the total volume may not exceed to maximum duty or volume conserved (Table 3, Column C).

Location of the proposed instream water right.

[X] Water is requested to be protected within a reach. Location of the proposed reach (identify the extent of the reach): (e.g., from the upstream POD located at RM \_\_\_ to downstream location at the mouth at RM \_\_\_) AT A POINT UPSTREAM OF POD 1

OR

# Application for Water Right Transfer

## Evidence of Use Affidavit



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

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

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 OWRD

State of Oregon )  
 ) ss  
 County of JOSEPHINE)

I, JAMES B. DARBY, in my capacity as FEE TITLE OWNER,  
 mailing address 10250 JAMESTOWN DR. APT. 8 ANCHORAGE AK 99507  
 telephone number (907)229-0629, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation       Professional expertise

2. I attest that:

- Water was used during the previous five years on the **entire** place of use for Certificate # 93295 & 93296; **OR**
- My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

**OR**

- Confirming Certificate # FINAL ORDER V107 P1022 has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: \_\_\_\_ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # \_\_\_\_ (For Historic POD/POA Transfers)

(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): PASTURE, CROPS, STOCK

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

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James Brant Darby  
Signature of Affiant

12/14/2020  
Date



Signed and sworn to (or affirmed) before me this 14<sup>TH</sup> day of DECEMBER 2020.

Alfred Medina  
Notary Public for ~~Oregon~~ ARIZONA

My Commission Expires: 10/15/2022

Supporting Documents	Examples
<input checked="" type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of <b>confirming</b> water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>
<input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos: OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a> OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a> Google Earth – <a href="http://earth.google.com">earth.google.com</a> TerraServer – <a href="http://www.terraserver.com">www.terraserver.com</a></p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number



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BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application ) FINAL ORDER APPROVING AN  
T-12495, Josephine County ) ADDITIONAL POINT OF DIVERSION TO  
) REFLECT HISTORIC USE

**Authority**

ORS 540.532 establishes the process in which a water right holder may submit a request for a change in point of diversion to reflect historical use under an existing water right. OAR Chapter 690-380-2120 implements the statute and provides the Department's procedures and criteria for evaluating historic point of diversion/appropriation transfer applications.

**Applicant**

JAMES B. AND JENNIFER DARBY  
10250 JAMESTOWN DR., APT 8  
ANCHORAGE, AK 99507

**Findings of Fact**

1. On September 30, 2016, JAMES B. AND JENNIFER DARBY filed a transfer application for an additional point of diversion, to reflect historic use, under Certificates 7166 and 13893. The Department assigned the application number T-12495.
2. Notice of the application for transfer was published on October 11, 2016, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

This is a final order in other than a 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 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.

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

**Certificate:** 7166 in the name of D.R. MORRISON (perfected under Permit S-4743)  
**Use:** IRRIGATION OF 10.0 ACRES  
**Priority Date:** AUGUST 18, 1920  
**Rate:** 0.13 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent in case of rotation.  
**Source:** JIMMY CREEK, tributary of ILLINOIS RIVER

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	17	SE SW	10.0

4. The portion of the second right to be transferred is as follows:

**Certificate:** 13893 in the name of D R MORRISON (confirmed by Illinois River Decree)  
**Use:** IRRIGATION OF 6.0 ACRES  
**Priority Date:** 1888  
**Rate:** The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed one cubic foot per second for each 50 acres of land irrigated during the irrigation season of April 1 to November 1 of each year, or its equivalent in case of rotation, measured at the point of diversion.  
**Source:** JIMMY CREEK, tributary of ILLINOIS RIVER

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	8 W	WM	17	NW SE	3.0
39 S	8 W	WM	17	SW SE	3.0
Total					6.0

5. The location of the original point of diversion was not described in certificates 7166 and 13893. The applicant describes the original point of diversion (POD 1) as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 W	WM	17	NW SW	POD 1 - 1050 FEET SOUTH AND 1500 FEET WEST FROM THE C¼ OF SECTION 17

6. Transfer Application T-12495 proposes an additional point of diversion (POD 2) to reflect historical use approximately 0.3 mile downstream located:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	8 W	WM	17	NE SW	POD 2 - 730 FEET SOUTH AND 15 FEET WEST FROM THE C¼ OF SECTION 17

7. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

***Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)***

8. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water rights in question, as described in Findings No. 5 and 6, has been in use for more than 10 years.
9. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to her knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
10. The Department did not identify any affected water rights pursuant to OAR 690-380-2120(3).
11. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
12. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing rights are present.
13. The proposed change would not result in enlargement of the rights.
14. The proposed change would not result in injury to other water rights.

**Conclusions of Law**

The proposed additional point of diversion to reflect historical use in Transfer Application T-12495 is consistent with the requirements of ORS 540.532 and OAR 690-380-2120.

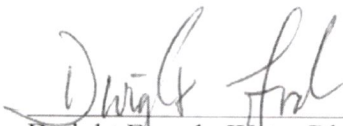
**Now, therefore, it is ORDERED:**

1. The additional point of diversion to reflect historic use proposed in T-12495 is approved and effective immediately.
2. 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 7166 and 13893 and any related decree.
3. Water right Certificates 7166 and 13893 are cancelled. Certificate 93295 will be issued to confirm the additional point of diversion to reflect historic use under Certificate 7166. Certificate 93296 will be issued to confirm the additional point of diversion to reflect historic use for the portion of Certificate 13893 included in T-12495. Certificate 93298 shall be issued to describe the portion of Certificate 13893 not modified by this order. Together, Certificates 93296 and 93298 shall supersede Certificate 13893.

4. The quantity of water diverted at the additional point of diversion, together with that diverted at the original point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.
5. Water use measurement conditions:
  - a. **Before water use may begin** under this order, the water user shall install a weir, or, with prior approval of the Director, another suitable measuring device, at the new point of diversion.
  - b. The water user shall maintain the meter or measuring device in good working order.
  - c. The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.
6. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

Dated at Salem, Oregon on APR 05 2018

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

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Date Mailed APR 09 2018



Application for Allocation of Conserved Water  
Consent by Deeded Landowner

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State of Oregon )  
 ) ss.  
County of JOSEPHINE )

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I/We, James B. Darby Jennifer A. Darby in our capacity as Fee Title Owner, mailing address, 10250 Jamestown Dr. Apt. 8 Anchorage AK 99507,

telephone number 907-229-0629, duly sworn depose and say,

I/We consent to the proposed change(s) to water right Certificate number(s) 93295 & 93296, in the conserved water application submitted by Scott Fein, Certified Water Rights Examiner, for the property located in tax lot number(s): 300 & 400, Section 17, Township 39S, Range 8W W.M., located at: 2561 Westside Rd. (site address). The change(s) is/are for: rate reduction and place of use.

James B. Darby  
Signature of Affiant

12/14/2020  
Date

Jennifer A. Darby  
Signature of Affiant

12/14/2020  
Date

Subscribed and Sworn to before me this 14 day of DECEMBER, 2020.



[Signature]  
Notary Public for ~~Oregon~~ ARIZONA

My commission expires: 10/15/2022

# Land Use Information Form

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

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IOCO - PLANNING

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**This form is NOT required if:**

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

# Land Use Information Form

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

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Applicant(s): James B. Darby

Mailing Address: 10250 Jamestown Dr. Apt. 8

IOCO - PLANNING

City: Anchorage

State: AK

Zip Code: 99507

Daytime Phone: 907-229-0629

## 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	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be			Proposed Land Use:
<u>39S</u>	<u>8W</u>	<u>17</u>	_____	<u>300 &amp; 400</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>FARMING</u>
_____	_____	_____	_____	_____	_____	<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:

JOSEPHINE

## 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) JIMMY CREEK

Estimated quantity of water needed: 0.5   
 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:

Irrigation efficiency project require applications with OWRD to document places of use.

**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. →

APR 14 2021

## 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): Section 19.65.020.B.5 (outright use)
- 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
		<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.

**Josephine County Planning  
700 NW Dimmick Street  
Suite C  
Grants Pass, OR 97526**

Name: Tami Smith Title: Assistant Planner  
 Signature: Tami Smith Phone: 541-474-5424 Date: 3-4-2021  
 Government Entity: Josephine 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: James Darby  
 City or County: Josephine Co. Staff contact: Annie Neumann  
 Signature: Neumann Phone: 541-474-5109 Date: 2-26-21