

Application for
Water Right Instream Transfer
 Part 1 of 6 – Minimum Requirements Checklist



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900
 www.oregon.gov/OWRD

This transfer application will be returned if Parts 1 through 6 and all required attachments are not completed and included.
 For questions, please call (503) 986-0900, and ask for Transfer Section.

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FOR ALL INSTREAM TRANSFER APPLICATIONS

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

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Map Checklist.
- Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.

Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.

- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Completed Instream Use Information.
- Part 6 – Information about the Transferred Water Rights: **How many water rights are to be transferred?** 1 **List them here:** Certificate 86767
 Please include a separate Part 6 for each water right. (See instructions on page 8)

Attachments:

- Completed Instream 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.
- Land Use Notice - Notice of the intent to file an instream transfer application must be provided to each affected local government along the proposed reach. Copies of the notices must be enclosed with the instream transfer application.

(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- _____ Date: ____/____/____

Part 2 of 6 – Map Checklist

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

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- N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For list of CWREs see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/.
- OR**
- N/A Waiver of requirement that map be prepared by a CWRE. Completed map waiver form is signed by the Department's Regional Manager and included in the application. The map **must** still meet Department mapping requirements described below.
- N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- Permanent quality printed with dark ink on good quality paper.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- Township, Range, Section, quarter-quarter, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right, priority date and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- Existing diversion point(s) with distance and bearing or coordinates from a recognized survey corner. This information can generally be found in your water right certificate or permit.

Part 3 of 6 – Fee Worksheet

FEE WORKSHEET for INSTREAM TRANSFER			
1	Base Fee (includes Place of Use and Character of Use to Instream changes to one water right for up to 1 cfs)	1	\$2,450
2	Number of water rights included in transfer <u>1 (2a)</u> Subtract 1 from the number in 2a above: <u>0 (2b)</u> <i>If only one water right, this will be 0</i> Multiply line 2b by \$610 and enter » » » » » » » » » » » » » » » »	2	\$0
3	Enter the cfs for the portions of the rights to be transferred (see example below*): <u>8.4 (3a)</u> Subtract 1.0 from the number in 3a above: <u>7.4 (3b)</u> If 3b is 0, enter 0 on line 3 » » » » » » » » » » » » » » » » If 3b is greater than 0, round up to the nearest whole number: <u>8 (3c)</u> and multiply 3c by \$410, then enter on line 3 » » » » » » » »	3	\$3,280
4	Add entries on lines 1 through 3 above » » » » » » » » » » Subtotal:	4	\$5,730
5	Multiply line 4 by 0.5 and enter on line 5 » » » » » » » » » » » » » » » »	5	\$2,865
6	Subtract line 5 from line 4 » » » » » » » » » » » » » » » » Transfer Fee:	6	\$2,865

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

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

Part 4 of 6 – Applicant Information and Signature

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

Applicant Information

APPLICANT/BUSINESS NAME Robert Russell		PHONE NO. (503) 880-2147	ADDITIONAL CONTACT NO.
ADDRESS PO Box 1		FAX NO.	
CITY Eagle Point	STATE OR	ZIP 97524	E-MAIL russell1950@aol.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.

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

AGENT/BUSINESS NAME Chrysten Rivard, Oregon Director Trout Unlimited		PHONE NO. (541) 973-4431	ADDITIONAL CONTACT NO.
ADDRESS 633 Iowa St.		FAX NO.	
CITY Ashland	STATE OR	ZIP 97520	E-MAIL chrysten.rivard@tu.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.

Explain in your own words what you propose to accomplish with this transfer application, and why:
We propose to transfer instream the portion of Certificate 86767 that exceeds 16cfs, which will be retained for the current purpose of power development. We propose to protect the water instream at the Point of Diversion.

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

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

Check one box

- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); OR
- I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; OR
- I affirm that the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

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

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

 Applicant Signature Applicant Signature	 Robert Russell	2/4/22 Date
	Chrysten Rivard, OR Director	2/10/22 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.*

Application for Water Right Transfer



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

Consent by Deeded Landowner

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State of Oregon)
)ss
County of Jackson)

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I Jay O'Neil in my/our capacity as President, Butte Creek Mill Foundation
mailing address PO Box 957, Eagle Point, OR 97524

telephone number (541) 690-5356, duly sworn depose and say that I/We
consent to the proposed change(s) to Water Right Certificate Number 86767

described in a Water Right Transfer Application (T-),
(transfer number, if known)

submitted by Robert Russell

on the property in tax lot number(s) 361W03AA Lot 4501

Section 3 Township 36S North, South Range 1W East, West W.M.

located at 402 North Royal Ave., Eagle Point, OR 97524
(site address)

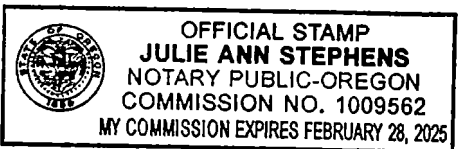
Jay O'Neil
Signature of Affiant

8 February 2022
Date

Signature of Affiant

Date

Subscribed and Sworn to before me this 8th day of February, 2022.



Julie Ann Stephens
Notary Public for Oregon

My commission expires February 28, 2025

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Check the following boxes that apply:

- Check here if any of the water rights proposed for transfer are located within or served by an irrigation district or other water district before the transfer. (Tip: Complete and attach Supplemental Form D.)

QWRD

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

- Check here if water for any of the rights is supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction the proposed instream reach will be located.

ENTITY NAME City of Eagle Point, Public Works	ADDRESS P.O. Box 779	
CITY Eagle Point	STATE OR	ZIP 97524

ENTITY NAME Jackson County	ADDRESS 10 South Oakdale Ave.	
CITY Medford	STATE OR	ZIP 97501

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



Chrysten Rivard
Oregon Director

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February 10, 2022

Jackson County Planning Department
10 S. Oakdale Ave. Room #100
Medford, OR 97501

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Re: Proposed Instream Transfer Application in Your Jurisdiction

To Whom It May Concern,

We are notifying you of our intent to transfer water rights to instream use. We have submitted an application to the Oregon Water Resources Department changing the type of use to instream flow for a portion of water right Certificate 86767. The water right is from Little Butte Creek, a tributary to the Rogue River. If successful, our application will protect this water instream at the point of diversion.

We propose to transfer a seasonably variable rate of 6.63 to 8.4 cfs instream while maintaining 16cfs for power generation by the Butte Creek Mill. If you have any questions regarding the proposed application, or are interested in receiving additional information, please call me at 541-973-4431.

Sincerely,

Chrysten Rivard



Chrysten Rivard
Oregon Director

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February 10, 2022

City of Eagle Point, Public Works
PO Box 779
Eagle Point, OR 97524

OWRD

Re: Proposed Instream Transfer Application in Your Jurisdiction

To Whom It May Concern,

We are notifying you of our intent to transfer water rights to instream use. We have submitted an application to the Oregon Water Resources Department changing the type of use to instream flow for a portion of water right Certificate 86767. The water right is from Little Butte Creek, a tributary to the Rogue River. If successful, our application will protect this water instream at the point of diversion.

We propose to transfer a seasonably variable rate of 6.63 to 8.4 cfs instream while maintaining 16cfs for power generation by the Butte Creek Mill. If you have any questions regarding the proposed application, or are interested in receiving additional information, please call me at 541-973-4431.

Sincerely,

Chrysten Rivard

Part 5 of 6 – Proposed Instream Use Information

Identify the Public Use for which the instream right is requested (check at least one box):

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
- Recreation
- Navigation
- Pollution Abatement

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Instream use proposed to be created by the instream transfer:

Originating Water Right Number (as identified in Part 5)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
Certificate 86767	1872	Little Butte Creek	November 1 through March 31	8.4	2,515.83
Certificate 86767	1872	Little Butte Creek	April 1 through October 31	6.63	2,814.19
TOTAL VOLUME					5330.02

***Tip:** To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or

****Tip:** To calculate volume, multiply the rate by the number of days in the instream period and then multiply by 1.983471.

Note: The instream rate may not exceed the max rate allowed by the existing right(s) and the total volume may not exceed to max volume or duty allowed by the existing right(s).

Additional Information: _____

Identify the location of the proposed instream water right.

- Water is requested to be protected at a point.
Location (i.e. the point of diversion (POD) – use the POD Name or Number from Table 1): _____.
- Water is requested to be protected within a reach:
Location of proposed reach (If an instream water right reach is requested, identify the upstream and downstream extent of the reach): _____.

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

- None
- Other (such conditions may include, but are not limited to, reductions in the instream flow levels in cfs per month or total ac-ft, the effective reach(es) or lake levels of the instream flow, measuring locations and the strategy for monitoring the instream flow or lake levels): _____.

Are there any existing instream water rights on the same point or within the same requested reach(es) or lake, or on a portion thereof?

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No Yes (identify other instream water rights): IS 88945

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Note: New instream water rights are generally (but not always) additive to instream water rights established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of instream water rights established under ORS 537.341 (state agency application process) or ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date.

Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 and ORS 537.470 and replace a portion of any instream water right established under ORS 537.341 and ORS 537.346 with an earlier priority date?

Yes No. If no, please explain your intent: _____

If the proposed conversion would add to the amounts of an existing instream water right(s) established under ORS 537.341 or 537.346, provide documentation demonstrating why additional instream flows are necessary. Supporting documentation should include information from the Oregon Dept. of Fish and Wildlife (ODFW) (fish life), Dept. of Environmental Quality (DEQ) (pollution abatement), and/or Parks and Recreation Dept. (recreation).

Is the requested instream flow intended to exceed the estimated average natural flow or level occurring from the drainage system?

- No; OR
- Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); OR
- Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:
 - The requested flow does not exceed the maximum amount of any instream water right application applied for under ORS 537.341 (state agency instream water right application process) for the same reach or portion thereof, and the requested public use is for the same public use as the afore mentioned instream water right application, and
 - For the specified time period that flows are requested to exceed the estimated average natural flow or lake level, the stream is in an ODFW flow restoration priority watershed. A copy of the priority watershed map indicating the specific watershed involved should be included with the application. Priority watershed maps may be found on the OWRD web page; or
 - The stream is listed as water quality limited and DEQ has provided scientific information that demonstrates that increased flows would improve water quality. The scientific information provided by DEQ should be included with the transfer application.

For a Time Limited Instream Transfer, please answer the following:

- The time-limited instream transfer is for a specific number of years:
_____ Begin Year to _____ End Year
- Time-limited instream transfer is to terminate based upon other conditions:
Conditions: _____

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INSTRUCTIONS for editing the Application Form**OWRD**

To add additional lines to tables within the forms or to copy and paste additional Part 6 pages, please **save the application form to your computer**. Unlock the document by using one of the following instructions for your Microsoft Word software version:

Microsoft Word 2003

Unlock the document by one of the following:

- Using the **Tools** menu => click **Unprotect Document**;
- OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

To relock the document to enable the checkboxes to work, you will need to:

- Using the **Tools** menu => click **Protect Document**;
- OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

Microsoft Word 2007

- Unlock the document by clicking the **Review** tab, then click **Protect Document**, then click **Stop Protect**
- To relock the document, click **Editing Restrictions**, then click **Allow Only This Type of Editing**, select **Filling In Forms** from the drop-down menu, then check **Yes, Start Enforcing Protection**.

Microsoft Word 2010

- Unlock the document by clicking the **Review** tab, toggle the **Restrict Editing** icon at the upper right, then click **Stop Protect** at the bottom right. Then uncheck the "**Allow only this type of editing** in the document: **Filling in forms**" in the "Editing restrictions" section on the right-hand list of options.
- To relock the document, check the **Editing Restrictions/Allow Only This Type of Editing/Filling In Forms** box from the drop-down menu, then check **Yes, Start Enforcing Protection**. You do not need to assign a password for the editing restrictions.

Other Alternatives:

- Photocopy pages or tables in Part 6, ~~mark through~~ any non-applicable information, insert/attach photocopied pages to document in the appropriate location, and manually amend page numbers as necessary (e.g. Page 5 6 of 9 10).
- You may refer to additional attachments that you may include, such as separately produced tables or spreadsheets to convey large numbers of rows of place of use listings, owner/property parcels, etc. You may contact the Department at 503-986-0900 and ask for Transfer Staff if you have questions.

Once the application has been unlocked, you may:

- add additional rows to tables using the **Table** tools, and
- select and copy the pages of Part 6 and paste as many additional sets of Part 6 pages as needed at the end of the application.

After editing, re-lock the document to enable checkboxes to work.

Please use additional pages of Table 2 as needed. See page 8 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Change to Water Right Certificate # 86767

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

Twp		Rng		Sec	¼¼		Tax Lot	Gov't Lot or DLC	Acres if Applicable	Type of USE listed on Certificate	Priority Date (if not the same for all acres or type of use)	POD(s) (name or number from Table 1)
2	S	9	E	14	NE	NW	100		15.0	Irrigation	4/1/1900	POD #1 POD #2
"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
TOTAL ACRES												

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Additional remarks: This is a power development water right, with a single POD and a single POU (located in the NE NE QQ of Section 3, T36S R1W). The application proposes to use 16cfs of the water right for power generation, and transfer the remaining water right instream. The water right is not consumptive in use, and all water returns to Little Butte Creek.

Water Right Transfer Supplemental Form
Waiver of Mapping Requirements



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900
www.oregon.gov/OWRD

The Director may waive or assist a transfer applicant in satisfying the mapping requirements (OAR 690-380-3100) for certain transfers if the criteria described in this form are met pursuant to OAR 690-380-3410.

This form must be prepared by the transfer applicant and the appropriate Regional Manager for the Oregon Water Resources Department. To prepare the form, a copy of the complete transfer application, including a description of the water rights to be transferred, must be provided to the Regional Manager.

This map waiver form must be signed by the Regional Manager and submitted with the transfer application.

Transfer Applicant: Trout Unlimited

Water Right(s) to be transferred: 86767

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1. The transfer **must** be one of the following. Please check the appropriate box.

- An instream transfer application filed pursuant to ORS 537.348.
- A transfer application necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.375; or
- The transfer application is determined and endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat.

2. For an **instream transfer application filed pursuant to ORS 537.348**, a map waiver shall only be approved if the application meets one of the following additional criteria. Please check the appropriate box.

- The entirety of the right is being transferred to an instream water right and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream; or
- A map meeting the requirements of the transfer rules (OAR 690-380-3100) is available showing the lands not included in the transfer and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream. (Please include copy of map(s) with transfer application.)

3. For a **transfer application meeting any one of the criteria identified in #1** (including an instream transfer application), a waiver may also be approved if other circumstances are present that make an application map unnecessary. If #2 does not apply, but circumstances are present that make an application map unnecessary, describe those circumstances below:

The water proposed for instream transfer is used for power generation. Although only a portion of the water right is proposed for instream transfer, there is a single point of diversion that is clearly marked on existing maps, and it is not necessary to identify lands for irrigation.

The water right is nonconsumptive and the proposed protection instream is solely for a point at the POD.

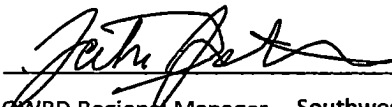
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4. For any transfer application meeting one or more of the criteria identified in #1 that does not meet the criteria for a waiver as described in #2 or #3, the Department may assist the applicant in development of the application map. The Department (through the regional office) may provide this assistance at the discretion of the appropriate Regional Manager. Please check the appropriate box below if the Department has provided assistance in development of the transfer application map:

- A map meeting the requirements of OAR 690-380-3100 has been prepared by Department staff and is included with the transfer application.
- The map provided with the transfer application has been developed with assistance from Department staff and meets the requirements of OAR 690-380-3100.

Signature:  Date: 1/14/2022
OWRD Regional Manager, Southwest Region



Chrysten Rivard
Oregon Director

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February 10, 2022

FEB 14 2022

Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

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Re: Proposed Instream Transfer Application Certificate 86767

To Whom It May Concern,

Enclosed is an application to transfer instream a portion of Certificate 86767. Payment of the application fee should come from the Trout Unlimited Customer Account. A paper check for these funds was mailed from Arlington, VA on February 7 and should be received by the Department very shortly, if not already.

If you have any questions regarding the proposed application, or are interested in receiving additional information, please call me at 541-973-4431, or email me at chrysten.rivard@tu.org.

Sincerely,

Chrysten Rivard