

Instream Transfer

Name James & Jean Verheyden

Address 18160 Bull Springs Rd.
Bend, OR 97103

Change in POU, Use
Date Filed 7-16-2021
Initial notice date 7-13-2021
DPD issued date 1/11/2022
PD issued date 3/21/2022
PD notice date 3/22/2022
Date of FO _____ Vol _____ Page _____

C-Date _____
COBU due date _____
COBU Received date _____
Certificate issued _____

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Little Deschutes River

Trib. of Deschutes River

Use Irrigation County Deschutes; Klamath

Quantity of water (CFS) _____ No. of Acres _____

Name of ditch _____

App#	Per #	Cert #	PR Date
<u>Decree</u>	<u>v. 8 pg. 405</u>	<u>95746</u>	<u>1897</u>
<u>"</u>	<u>"</u>	<u>"</u>	<u>1900</u>
<u>"</u>	<u>"</u>	<u>"</u>	<u>1902</u>
<u>"</u>	<u>"</u>	<u>"</u>	<u>"</u>
<u>"</u>	<u>"</u>	<u>"</u>	<u>"</u>

FEES PAID		
Date	Amount	Receipt #
<u>7-16-2021</u>	<u>\$1045.⁰⁰</u>	<u>135765</u>

FEES REFUNDED		
Date	Amount	Receipt #

Assignments: _____

Irrigation District La Pine Cooperative Water Association

Agent John A. Short - johnshort@usa.com

CWRE _____
CC's list Klamath County; Deschutes County; Jefferson County; City of La Pine;
City of Bend; Confederated Tribes of Warm Springs

- Oversized map - Location _____



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

DATE: JUN 01 2022

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

Re: Instream Transfer T-13764 & Mitigation Credit Project MP-276

Thank you for participating in the Instream Transfer and Deschutes Mitigation Credit programs. I want to express appreciation for your participation in these programs and cooperation in helping to improve streamflows for fish and aquatic life and to provide mitigation water to groundwater users in the Deschutes Groundwater Study Area.

As identified in the attached Final Order, this Instream Transfer has been approved and awarded mitigation credits. Mitigation credits awarded to this project have been assigned to the **James R. & Jean S. Verheyden**.

These mitigation credits may be used to satisfy the mitigation obligation of a groundwater permit or application or may be assigned to any person or mitigation bank. The **36.0** mitigation credits awarded to this project are valid upon issuance of the instream certificate and until used to fulfill the mitigation obligation of a groundwater permit application(s) and/or an existing groundwater right(s). The **36.0** mitigation credits may be used in the **Little Deschutes and General Zones of Impact** and up to **33.5** credits may also be used in the **Upper Deschutes, Middle Deschutes Zones of Impact**. A groundwater user wanting to demonstrate that mitigation credits are being used to satisfy a mitigation obligation needs to submit documentary evidence to the Department showing that mitigation credits have been obtained and assigned to them.

Mitigation credit transactions should be reported to the Water Resources Department. The Department has a Documentary Evidence form, copy enclosed (along with an example), available for your use or any subsequent mitigation credit holder, to assign the credits to a groundwater user. The Department's Documentary Evidence form contains pertinent information needed by the Department to evaluate the use and validity of the mitigation credits.

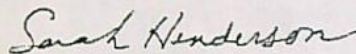
If you decide to assign the mitigation credits to someone other than a groundwater user, the Department would like to suggest that the enclosed Assignment of Mitigation Credits form (chain-of-custody) be used to assign credits to another party. An additional Assignment of

Mitigation Credit form is also enclosed. Assignment forms will help establish a chain-of-custody for the ownership of the mitigation credits. Please provide a copy of the complete assignment record (from original credit holder to current credit holder) and a blank assignment form to any new credit holders so that they may continue the mitigation credit assignment record as well. A general example is enclosed for your reference.

Once the mitigation credits are assigned to a groundwater user, the groundwater user will need to submit documentary evidence that valid mitigation credits have been obtained to satisfy their mitigation obligation. If credits have changed hands beyond the original credit holder, the Department will ask the groundwater user to demonstrate that the credits they are intending to use are indeed valid. A complete assignment record will help demonstrate the validity of the credits being used.

Also enclosed is a copy of the final order and new instream water right certificate. If you have any questions regarding the instream transfer and new certificate or the award of mitigation credits, please call me at (503) 979-9872 or email at sarah.a.henderson@water.oregon.gov.

Sincerely,



Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-13764 (MP-276)
Jeremy Giffin, District 11 Watermaster (via e-mail)
John Short, Agent for the applicant (via e-mail) (johnshort@usa.com)
Bryce Withers, Water Right Services, LLC (via e-mail) (brycewrs@gmail.com)

encs

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Instream Transfer)	FINAL ORDER APPROVING A CHANGE IN
Application T-13764, AND MITIGATION)	PLACE OF USE AND CHARACTER OF USE
PROJECT MP-276, DESCHUTES and)	AND FINAL AWARD OF MITIGATION
KLAMATH Counties)	CREDITS

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

Findings of Fact

1. On July 6, 2021, James R. & Jean S. Verheyden, filed an application to change a portion of the place of use and character of use under Certificate 90239 to instream use. The Department assigned the application number T-13764.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, 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.

2. On June 14, 2021, Certificate 90239 was cancelled by Special Order Volume 120, pages 807-816, which approved T-13456, and was superseded by Certificate 95746.
3. On September 9, 2021, the applicant's agent provided a revised map and application page clarifying the acreage being transferred instream as requested by the Watermaster.
4. On August 23, 2021, Transfer Application T-13806 was filed, and on October 22, 2021, Transfer Application T-13857 was filed. These transfers modify the same right, described by Certificate 95746, that has been proposed to be modified in T-13764. Certificate 95746 shall be canceled after all transfer applications are processed and one remaining right certificate will be issued describing the lands not involved in the three transfer applications.
5. Notice of the application for transfer was published on July 13, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the proposed action to the City of La Pine, Deschutes County, Jefferson County, Klamath County, the City of Bend and the Confederated Tribes of Warm Springs. Additionally, the Department provided notice of the proposed action to these local governments and the Tribe upon processing of Transfer Application T-13764.
7. On January 11, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Instream Transfer Application T-13764 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of February 9, 2022, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. On March 21, 2022, the Department issued a Preliminary Determination proposing to approve Transfer T-13764 and mailed a copy to the applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on March 22, 2022, and in the Bend Bulletin newspaper on March 24, 2022 and March 31, 2022 pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
9. The portion of the right to be transferred is as follows:
 - Certificate:** 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION (confirmed by Deschutes River decree of record at Salem, in the Order Record of the Water Resources Director in Volume 16, at Page 185)
 - Use:** IRRIGATION of 20.0 ACRES
 - Priority Date:** 1897
 - Rate:** April 1 to May 23 and August 20 to November 1: 0.25 cubic foot per second (cfs)

May 23 to August 20: 0.50 cfs

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM MAY 23 TO AUGUST 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM APRIL 1 TO MAY 23 AND FROM AUGUST 20 TO NOVEMBER 1, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LITTLE DESCHUTES RIVER, a tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
22 S	10 E	WM	34	SE NW	2803	15.1
22 S	10 E	WM	34	NE SW	2803	4.9
Total Acres						20.0

10. A total of 80.0 Acre-Feet (AF) of water may be beneficially used annually under the portion of existing Certificate 95746 proposed for transfer.
11. Transfer Application T-13764 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and to establish mitigation credits in the Deschutes Ground Water Study Area.
12. Transfer Application T-13764 proposes to change the place of use of the portion of the water right to create an instream reach from the POD on the Little Deschutes River, into the mainstem Deschutes River and down to Lake Billy Chinook.
13. The applicant proposed the quantities of water to be transferred instream be protected as follows:

Period	Rate (cfs)	Volume (acre-feet)
April 1 to May 23	0.25	80.0
May 23 to August 20	0.50	
August 20 to November 1	0.25	

14. The applicant has requested that any instream water right established as a result of this instream transfer be additive to existing instream water rights for the same reach

established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant has also requested that any instream water rights established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

15. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13764.
17. A portion of the water diverted at the POD returns to the Little Deschutes River below the POD and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification to account for both surface and subsurface return flows.

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

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

A portion of the water diverted to the place of use returns to the Little Deschutes River through Long Prairie Slough. Remaining return flows take the form of subsurface return flows. Subsurface returns would also return to the river system in the area of the confluence of Long Prairie Slough and the Little Deschutes River, at approximately River Mile 28.6.

The instream flows at River Mile 28.6 have been reduced to the consumptive portion of the right to account for both surface and subsurface return flows.

18. The transfer application requests to protect water instream from the Little Deschutes River into the mainstem Deschutes River. An instream reach is generally from the point of diversion to the mouth of the source stream (Little Deschutes River) but may be protected

further if measurable in the receiving stream (the Deschutes River) (OAR 690-077-0015 (8)). The quantity that may be leased instream from the Little Deschutes River is measurable into the Deschutes River and may be protected instream in the Deschutes River.

19. Also, the segment of the reach on the mainstem Deschutes River between the confluence with the Little Deschutes River and Bend is a losing reach and loses approximately 7% of its flows. The quantity of water that may be protected instream in the mainstem Deschutes River requires additional modification to prevent injury and enlargement.
20. Based on Findings of Fact No. 17 through No. 19, the Department proposes to modify the quantities to be transferred and protected instream as follows:

Instream Reach 1: From POD (as described in Finding of Fact No. 9) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

21. The proposed changes, as modified, would not result in enlargement of the right.
22. The proposed changes, as modified, would not result in injury to other water rights.
23. The amount and timing of the proposed instream flow, as modified, is allowable within the limits and use of the original water right.
24. The protection of flows as modified, within the proposed reach is appropriate, considering:
 - a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion and channel losses have been accounted for within Reach No. 3; and

- d) Return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of diversion and within the reach of the instream water right. Return flows have been accounted for at River Mile 28.6 on the Little Deschutes River.
25. Within the proposed instream reaches on the Little Deschutes River, there is an existing instream water right, Certificate 73226, established under ORS 537.341 (state agency application process), for the purpose of fish migration, spawning, egg incubation, fry emergence and juvenile rearing. There are also existing instream water rights established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) for the purpose of conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation.
26. The Little Deschutes River is also on the Oregon Department of Environmental Quality's (DEQ) 303d list of water quality limited streams for a variety of water quality concerns and a TMDL (Total Maximum Daily Load) study is underway.
27. Within the proposed instream reach on the mainstem Deschutes River, there are several existing instream water rights. There is one instream water right, Certificate 59777, established under ORS 537.346 (minimum streamflow conversion) for the purpose of supporting aquatic life and minimizing pollution, from the confluence of the Little Deschutes River to the confluence with Spring River. There is another instream water right, Certificate 59778, also established under ORS 537.346 for the purpose of supporting aquatic life and minimizing pollution, from the confluence with Spring River to the Central Oregon Irrigation District (COID) North Canal Dam. There is also a pending instream water right application, IS-70695, filed by the ODFW pursuant to ORS 537.341 (state agency application process), with the Department to establish an instream water right from the COID North Canal Dam to Lake Billy Chinook. The remaining instream water rights were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) and are generally located between the Central Oregon Canal and Lake Billy Chinook.

This portion of the Deschutes River is a designated State Scenic Waterway. The State Scenic Waterway designation provides for protection of flows necessary to maintain the free flowing character of the Deschutes River for fish and wildlife habitat, and recreation, which is a matter of statutory policy. In addition to flows for the designated Scenic Waterway, which are not always met during requested period for instream protection, this segment of the Deschutes River is on DEQ's 303d list of water quality limited streams and a TMDL (Total Maximum Daily Load) study is underway.

28. The existing instream water rights, established under ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency application process), within the proposed reach on the Little Deschutes River are sufficient to protect the monthly quantities of water

necessary for various fishlife stages, supporting aquatic life, and minimizing pollution, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for various fishlife stages, supporting aquatic life, and minimizing pollution under an earlier priority date.

29. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process), located within the proposed reach, any new instream water right established by this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and pollution abatement.
30. During the period July 7 through October 31, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.
31. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Preliminary Award of Deschutes Basin Mitigation Credits

32. James R. & Jean S. Verheyden (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to James R. & Jean S. Verheyden.
33. The Department assigned this mitigation credit project number MP-276.
34. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on July 13, 2021. No comments were received in response to this notice.
35. The Department consulted with representatives from Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality (DEQ), Oregon Parks and Recreation Department, Oregon Department of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on July 12, 2021. Comments were received by DEQ in response to this notice and in favor of the application.
36. As part of the public notice of the mitigation project, the Department identified that the project may result in 36.0 mitigation credits. This preliminary determination was based upon the proposal to transfer 20.0 acres of irrigation use to instream use with a priority date of 1897. The Watermaster has identified that any mitigation credits established by

this project with the 1897 priority date will likely be 100% available. Irrigation of 20.0 acres has an average consumptive use of 36.0 acre-feet. However, this volume may only be protected instream to the mouth of the Little Deschutes River, the lower boundary of the Little Deschutes Zone of Impact.

37. As part of the public notice of the mitigation project, the Department also identified that mitigation credits may be available for use in the Little Deschutes, Upper Deschutes, Middle Deschutes, and General Zones of Impact.
38. Up to 33.5 AF may be protected instream in the mainstem Deschutes River, as identified in Finding of Fact No. 20. The reach of the instream use described in Finding of Fact No. 20 extends through the lower portion of the Upper Deschutes Zone of Impact and then into the Middle Deschutes Zone of Impact and ending at the General Zone of Impact.
39. Therefore, a maximum of **36.0** mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the **Little Deschutes and General Zone of Impact**. Of the **36.0** mitigation credits that may be awarded to this mitigation project, up to **33.5** of those mitigation credits may also be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**.
40. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate for the proposed instream water right shall result in completion of the project and verification that the project is complete.
41. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

Conclusions of Law

The changes in character of use and place of use to instream use proposed in application T-13764 are consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075.

This mitigation project does result in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

Now, therefore, it is ORDERED:

1. The changes in character of use and place of use to instream use proposed in application T-13764 are approved.

2. Water right certificate 95746 is modified. Certificate 95746 shall be cancelled upon approval or denial of Transfer Applications T-13806 and T-13857. A new certificate will be issued describing that portion of the right not affected by this transfer and transfer applications T-13806 and T-13857.
3. A new certificate confirming the instream water right shall be issued.
4. The instream water right shall provide for the protection of streamflows from the authorized point of diversion on the Little Deschutes to Lake Billy Chinook on the mainstem Deschutes River. The quantities to be protected under the instream water right are:

Instream Reach 1: From POD (as described in Finding of Fact No. 9) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

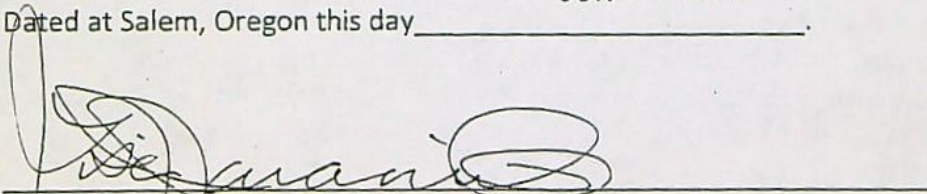
Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

5. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
6. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
7. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
8. 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 Certificate 95746 and any related decree.

9. The former place of use of the transferred water shall no longer receive water as part of this right.
10. **Preliminary Award of Mitigation Credits:** Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as described herein, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of **36.0 credits**, as described herein, may be awarded to this mitigation project and assigned to James R. & Jean S. Verheyden. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Little Deschutes and General Zone of Impacts**. Of the 36.0 mitigation credits awarded to this project, up to **33.5 credits** may also be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**. Mitigation credits generated by this project will be available for use as mitigation beginning the first calendar year that water will be protected instream under a new instream water right.
11. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
12. The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project for a ground water permit applicant and/or ground water permit/certificate holder. As set forth in #4 and #10 above, the instream certificate shall specify the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits.

JUN 0 1 2022

Dated at Salem, Oregon this day _____.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Tom M. Byler, Director, Oregon Water Resources Department

JUN 0 2 2022

Mailing date: _____

STATE OF OREGON

COUNTIES OF DESCHUTES AND KLAMATH

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON
WATER RESOURCES DEPARTMENT

confirms the right to use the waters of the Little Deschutes River, tributary to the Deschutes River, for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; and pollution abatement.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Deschutes County. The decree is of record at Salem in the Order Record of the Water Resources Director, in Volume 16, at Page 185. The date of priority is 1897.

The location of the diversion authorized previously under Certificate 95746 is located approximately at:

Twp	Rng	Mer	Sec	Q Q	Measured Distance
23 S	9 E	W.M.	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

The description of the stream reaches in which flows are to be maintained is as follows:

Instream Reach 1: From authorized point of diversion for Certificate 95746 to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

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.

Mitigation Credit Award

Mitigation Project: MP-276
Mitigation Credits Awarded: 36.0
Zone of Impact: These mitigation credits may be used to satisfy a mitigation obligation within the Little Deschutes and General Zones of Impact. Of the 36.0 credits awarded, 33.5 credits may be used within the Upper Deschutes, Middle Deschutes, and General Zones of Impact.

Each mitigation credit equals 1.0 AF of mitigation water, as determined by the Department.

The number of mitigation credits awarded is a portion of the total volume transferred instream, being up to 80.0 AF. The remaining balance of water dedicated to instream use and not used to satisfy the mitigation obligation of a ground water permit (and subsequent certificate(s)), will benefit instream flows.

The mitigation credits or mitigation water established by this instream water right may be used to satisfy a mitigation obligation of a ground water permit application(s) and/or a ground water permit(s)/certificate(s) within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules.

Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder.

Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.

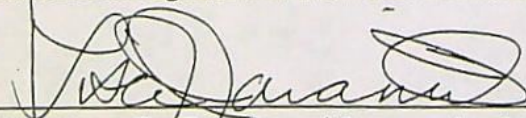
Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of water by senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.

The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by a subsequent order establishing a new instream water right.

The right is subject to all other terms and conditions of Certificate 95746, and any related decree.

This certificate is issued to confirm a change in use and place of use approved by an order of the Water Resources Director recorded in Special Order Volume 125, Page 175, approving Instream Transfer T-13764, and modifies a portion of Certificate 95746, State Record of Water Right Certificates.

WITNESS the signature of the Water Resources Director, affixed JUN 01 2022.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
THOMAS M. BYLER, Director
Oregon Water Resources Department



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

**OREGON WATER RESOURCES DEPARTMENT
ASSIGNMENT RECORD FOR MITIGATION CREDITS
CHAIN-OF-CUSTODY**

Mitigation Credit Project: MP-276 Mitigation Credits: 36.0

Mitigation Credit Holder: James R. & Jean S. Verheyden, 18660 Bull Springs Road, Bend, OR 97703

___ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date

Mitigation Credit Holder: _____

___ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date

Mitigation Credit Holder: _____

___ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

**ASSIGNMENT RECORD FOR MITIGATION CREDITS
CHAIN OF CUSTODY (Additional Form)**

Mitigation Credit Project: MP-276 Mitigation Credits: (# held by current credit holder)

Mitigation Credit Holder: _____

Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature _____
Date

New Mitigation Credit Holder Signature _____
Date

Mitigation Credit Holder: _____

Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature _____
Date

New Mitigation Credit Holder Signature _____
Date

Mitigation Credit Holder: _____

Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature _____
Date

New Mitigation Credit Holder Signature _____
Date



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

DESCHUTES BASIN MITIGATION CREDIT DOCUMENTARY EVIDENCE FORM

This form is to be completed when mitigation credits are obtained from a mitigation credit holder, other than a mitigation bank, by a ground water application/permit/certificate holder to satisfy a mitigation obligation under the Deschutes Ground Water Mitigation rules. Please print in ink or type all information. If there any questions about this form, please contact the Department.

Phone: (503) 986-0884

Ground Water User Information:

Name: _____

Mailing Address (Street, City, State, Zip): _____

Phone Number (Home and Work-including area code): _____ E-Mail (optional): _____

Ground Water Application, Permit, or Certificate #: _____

Mitigation Obligation (amount) (see Notice of Mitigation Obligation or Initial Review for this information): _____

Zone of Impact (see Notice of Mitigation Obligation or Initial Review for this information): _____

Mitigation Credit Holder Information:

Mitigation Credit Holder Name: _____

Mailing Address: _____

Phone Number (including area code): _____ E-Mail (optional): _____

If mitigation credits have changed hands beyond the original credit holder, a complete assignment record should be included with this documentary evidence form to help demonstrate that the credits are valid. This information may be obtained from the mitigation credit holder.

Mitigation Credit Information:

In the following table, identify the mitigation project identification number(s), the number of credits assigned from each mitigation project, the zone of impact in which the credits are to be used (note - many credits may be used within more than one zone of impact) and the type of mitigation project upon which the credits are based.

Project Type Codes: Allocation of Conserved Water = ACW Permanent Instream Transfers = PT Storage Release = SR
Aquifer Recharge = AR Other = Other (if other, please describe under project type in space provided below)

Mitigation Project ID # Mitigation Credits Assigned Zone of Impact Mitigation Project Type Code (see above)

MP- _____

Add additional mitigation projects and credits, using above format, by attaching additional pages if necessary.

Mitigation Project Operator (if other than original credit holder): _____ (for example, name of storage project or aquifer recharge project operator)

Mailing Address: _____

Phone Number (including area code): _____

For Stored Water Releases (if applicable):

Name of Reservoir: _____

Reservoir Permit/Certificate: _____ Contract Number(s): _____

The above described mitigation credits have been transferred from _____, mitigation credit holder, to _____, ground water application/permit/certificate holder.

Mitigation Credit Holder Signature

Date

Ground Water Application/Permit/Certificate Holder Signature

Date



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

EXAMPLE ONLY - DESCHUTES BASIN MITIGATION CREDIT DOCUMENTARY EVIDENCE FORM

This form is to be completed when mitigation credits are obtained from a mitigation credit holder, other than a mitigation bank, by a ground water application/permit/certificate holder to satisfy a mitigation obligation under the Deschutes Ground Water Mitigation rules. Please print in ink or type all information. If there any questions about this form, please contact the Department.

Ground Water User Information:

Name: Ken Smith

Mailing Address (Street, City, State, Zip): 967 Fairmont Drive, Bend, OR 97701

Phone Number (Home and Work - including area code): (541) 388-0000 (Home) (541) 389-0000 (work) _____ (other)

E-Mail (optional): _____

Ground Water Application, Permit, or Certificate #: G-99999

Mitigation Obligation (amount) (see Notice of Mitigation Obligation or Initial Review for this information): 5.0 acre-feet

Zone of Impact (see Notice of Mitigation Obligation or Initial Review for this information): General Zone of Impact

Mitigation Credit Holder Information:

Mitigation Credit Holder Name: Tom Cooper

Mailing Address: 9090 Perfect Loop, Bend, Oregon 97709

Phone Number (including area code): _____ (Home) (541) 777-9999 (work) _____ (other)

E-Mail (optional): _____

If mitigation credits have changed hands beyond the original credit holder, a complete assignment record (chain-of-custody) for the mitigation credits should be included with this documentary evidence form to help demonstrate that the credits are valid. This information may be obtained from the mitigation credit holder.

Mitigation Credit Information:

In the following table, identify the mitigation project identification number(s), the number of credits assigned from each mitigation project, the zone of impact in which the credits are to be used (note - many credits may be used within more than one zone of impact) and the type of mitigation project upon which the credits are based.

Project Type Codes: Allocation of Conserved Water = ACW Permanent Instream Transfers = PT Storage Release = SR
Aquifer Recharge = AR Other = Other (if other, please describe under project type in space provided below)

Mitigation Project ID # Mitigation Credits Assigned Zone of Impact Mitigation Project Type Code (see above)

MP-99 5.0 General PT

Add additional mitigation projects and credits by attaching additional forms or additional pages, using above format, if necessary.

Mitigation Project Operator (if other than original credit holder): _____ (for example, name of storage project or aquifer recharge project operator)

Mailing Address: _____

Phone Number (including area code): _____

For Stored Water Releases (if applicable):

Name of Reservoir: _____

Reservoir Permit/Certificate: _____ Contract Number(s): _____

The above described mitigation credits have been transferred from _____, mitigation credit holder, to _____, ground water application/permit/certificate holder.

signature of Tom Cooper
Mitigation Credit Holder Signature

8-15-2006
Date

signature of Ken Smith
Ground Water Application/Permit/Certificate Holder Signature

8-15-2006
Date

Attached is a check for \$578.98 (PCA #46118) for Newspaper Notice for Transfer T-13764 made out to Oregon Water Resources Department (or WRD)

- "for T-13764 NOTICE" written on front of check

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

Caseworker: Sarah

RECEIVED

MAR 02 2022

OWRD

STATE OF OREGON
WATER RESOURCES DEPARTMENT
725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **137598** INVOICE # _____

RECEIVED FROM: Millwood LLC APPLICATION _____
BY: _____ PERMIT _____
TRANSFER T-13764

CASH: CHECK: # 6004 OTHER: (IDENTIFY) _____
TOTAL REC'D \$ 578.98

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$ _____
0307 OTHER: (IDENTIFY) Newspaper Notice \$ 578.98

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407	COPY & TAPE FEES	\$
0410	RESEARCH FEES	\$
0408	MISC REVENUE: (IDENTIFY)	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	\$
0240	EXTENSION OF TIME	\$

WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$	0202 \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	

WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD#
0210	MONITORING WELLS	\$	CARD#

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)	\$
0231	HYDRO LICENSE FEE (FW/WRD)	\$
	HYDRO APPLICATION	\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ \$ _____

RECEIPT: **137598** DATED: 3-2-2022 BY: Mindy Carlson
Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

STATE OF OREGON
WATER RESOURCES DEPARTMENT
725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **137598** INVOICE # _____

RECEIVED FROM: Millwood LLC APPLICATION _____
BY: _____ PERMIT _____
TRANSFER T-13764

CASH: CHECK: # 6004 OTHER: (IDENTIFY) _____
TOTAL REC'D \$ 578.98

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$ _____
0307 OTHER: (IDENTIFY) Newspaper Notice \$ 578.98

0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407	COPY & TAPE FEES	\$
0410	RESEARCH FEES	\$
0408	MISC REVENUE: (IDENTIFY)	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	\$
0240	EXTENSION OF TIME	\$

WATER RIGHTS:		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$	0202 \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	

WELL CONSTRUCTION		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD#
0210	MONITORING WELLS	\$	CARD#

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FW/WRD)	\$
0231	HYDRO LICENSE FEE (FW/WRD)	\$
	HYDRO APPLICATION	\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
OBJ. CODE _____ VENDOR # _____
DESCRIPTION _____ \$ _____

RECEIPT: **137598** DATED: 3-2-2022 BY: Mindy Carlson
Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

Millwood LLC 2015
Oregon Water Resources Department
Wells Fargo 9698
For "T-143764 NOTICE"
Water Rights for Property
2/22/2022
578.98

RECEIVED
MAR 02 2022
OWRD

6004
578.98

Affidavit of Publication

STATE OF OREGON, COUNTY OF DESCHUTES

I, **Julius Black**, a citizen of the United State and a resident of the county aforesaid; I am over the age of eighteen years, and not part to or interested in the above-entitled matter. I am the principal clerk of the printer of

The Bulletin

PO Box 6020, Bend, Oregon 97708

a daily newspaper of general circulation, published in the aforesaid county and state as defined by ORS 192.010 and ORS 192.020, that

Acct Name: OREGON WATER RESOURCE DEPARTMENT

PO Number:

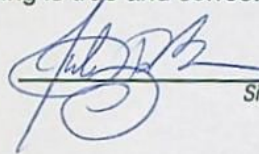
Legal Description: Public Notice

Notice of Preliminary Determination for
Water Right Transfer T-13764 (Mitigation Credit Project MP-276)
T-13764 filed by James R. & Jean S. Verheyden, 18660 Bull Springs Road,
Bend, Oregon 97703, proposes to change the place of use and chara

a printed copy of which is hereto affixed was published in each regular and entire issue of the said newspaper and not in any supplement thereof on the following dates to wit:

03/24/2022, 03/31/2022

I certify (or declare) under penalty of perjury that the foregoing is true and correct.



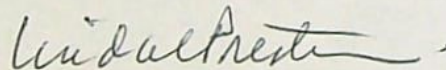
Signature

Dated at Bend, Oregon, this 31st day of March, 2022

AdName: 153987

State of Oregon, County of Deschutes

Subscribed and Sworn to before me this 31ST day of MARCH, 2022 by



Notary Public for Oregon



1001 Legal Notices & Public Notices	1001 Legal Notices & Public Notices
<p>a result of Federal or Federally-assisted programs or projects. Federal and State laws also provide relocation benefits for displaced persons, businesses, farms, and non-profit organizations. You may be eligible for relocation benefits and assistance. The State will not require you to vacate the property being acquired earlier than ninety (90) days from the date of the first publication of this notice. You will not be required to vacate the property earlier than 5/03/2022.</p> <p><u>For security purposes, access to the site is now by appointment only.</u></p> <p>Please contact the ODOT Region 4 Right of Way office at 541.388.6198 for access information, and to receive an explanation of relocation benefits and assistance for which you may be eligible.</p> <p>Reference File: 9296-001</p> <p>Project: US97 and Cooley Road (Bend) Midterm Improvements</p>	<p>proposes to create an instream use in the Little Deschutes River from the point of diversion to Lake Billy Chinook on the Deschutes River at a maximum of 0.50 cfs, and to establish mitigation credits in the Deschutes Groundwater Study Area. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540, OAR 690-380-5000 and OAR 690-077-0075. The Department has also concluded that the proposed transfer appears to result in mitigation credits pursuant to OAR 690-521-0300 & OAR 690-521-0400.</p> <p>Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice 3/31/2022. Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above. Call (503) 986-0815 to obtain additional information. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.</p>

**Garage Sales
Garage Sales
Garage Sales**

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in
*The Bulletin
Classifieds*
541-385-5809

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APR 04 2022

OWRD

No. _____
In the _____ Court of the

STATE OF OREGON
for the
COUNTY OF DESCHUTES

AFFIDAVIT OF PUBLICATION

Filed _____

By _____

From the office of _____

Attorney for _____

Oregon

Water Resources Department
Transfers and Conservation Section (TACS)
725 Summer St NE Ste A
Salem, OR 97301-1266

Handwritten signature

ADDRESS SERVICE REQUESTED

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<input type="checkbox"/> Adult Signature Required	\$
<input type="checkbox"/> Adult Signature Restricted Delivery	\$

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Handwritten: NSN

JAMES & JEAN VERHEYDEN
18660 BULL SPRINGS RD
BEND, OR 97703

RECEIVED

MAR 29 2022

OWRD

JAMES & JEAN VERHEYDEN
18660 BULL SPRINGS RD
BEND, OR 97703

NIXIE 971 FE 1 0003/27/22

RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTF

97301>1266

BC: 97301126673 *1579-04060-27-16

7021 0950 0000 7384 1614



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

SENT VIA CERTIFIED MAIL

DATE: MAR 21 2022

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

SUBJECT: Water Right Transfer Application T-13764 (MP-276)

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve instream transfer application T-13764 and mitigation project MP-276. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication and in the Bend Bulletin newspaper, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the last date of newspaper publication.

If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

IMPORTANT: Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above.

Please do not hesitate to contact me at 503-979-9872 or Sarah.A.Henderson@water.oregon.gov if I may be of assistance.

Sincerely,



Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-13764 (MP-276)
Jeremy Giffin, District 11 Watermaster (*via e-mail*)
John Short, Agent for the applicant (*via e-mail*) (johnshort@usa.com)
Bryce Withers, Water Right Services, LLC (*via e-mail*) (brycewrs@gmail.com)

encs

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Instream Transfer)	PRELIMINARY DETERMINATION
Application T-13764, AND MITIGATION)	PROPOSING APPROVAL OF A CHANGE IN
PROJECT MP-276, DESCHUTES and)	PLACE OF USE AND CHARACTER OF USE
KLAMATH Counties)	AND PRELIMINARY AWARD OF
)	MITIGATION CREDITS

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

Findings of Fact

1. On July 6, 2021, James R. & Jean S. Verheyden, filed an application to change a portion of the place of use and character of use under Certificate 90239 to instream use. The Department assigned the application number T-13764.
2. On June 14, 2021, Certificate 90239 was cancelled by Special Order Volume 120, pages 807-816, which approved T-13456, and was superseded by Certificate 95746.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

3. On September 9, 2021, the applicant's agent provided a revised map and application page removing the areas identified by the Watermaster that could not be transferred instream.
4. On August 23, 2021, Transfer Application T-13806 was filed, and on October 22, 2021, Transfer Application T-13857 was filed. These transfers modify the same right, described by Certificate 95746, that has been proposed to be modified in T-13764. Certificate 95746 shall be canceled after all transfer applications are processed and one remaining right certificate will be issued describing the lands not involved in the three transfer applications.
5. Notice of the application for transfer was published on July 13, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the proposed action to the City of La Pine, Deschutes County, Jefferson County, Klamath County, the City of Bend and the Confederated Tribes of Warm Springs. Additionally, the Department provided notice of the proposed action to these local governments and the Tribe upon processing of Transfer Application T-13764.
7. On January 11, 2022, the Department mailed a copy of the draft Preliminary Determination proposing to approve Instream Transfer Application T-13764 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of February 9, 2022, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
8. The portion of the right to be transferred is as follows:

Certificate: 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION (confirmed by Deschutes River decree of record at Salem, in the Order Record of the Water Resources Director in Volume 16, at Page 185)

Use: IRRIGATION of 20.0 ACRES

Priority Date: 1897

Rate: April 1 to May 23 and August 20 to November 1: 0.25 cubic foot per second (cfs)
May 23 to August 20: 0.50 cfs

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM MAY 23 TO AUGUST 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM APRIL 1 TO MAY 23 AND FROM AUGUST 20 TO NOVEMBER 1, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LITTLE DESCHUTES RIVER, a tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
22 S	10 E	WM	34	SE NW	2803	15.1
22 S	10 E	WM	34	NE SW	2803	4.9
Total Acres						20.0

9. A total of 80.0 Acre-Feet (AF) of water may be beneficially used annually under the portion of existing Certificate 95746 proposed for transfer.
10. Transfer Application T-13764 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and to establish mitigation credits in the Deschutes Ground Water Study Area.
11. Transfer Application T-13764 proposes to change the place of use of the portion of the water right to create an instream reach from the POD on the Little Deschutes River, into the mainstem Deschutes River and down to Lake Billy Chinook.
12. The applicant proposed the quantities of water to be transferred instream be protected as follows:

Period	Rate (cfs)	Volume (acre-feet)
April 1 to May 23	0.25	80.0
May 23 to August 20	0.50	
August 20 to November 1	0.25	

13. The applicant has requested that any instream water right established as a result of this instream transfer be additive to existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant has also requested that any instream water rights established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

14. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
15. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13764.
16. A portion of the water diverted at the POD returns to the Little Deschutes River below the POD and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification to account for both surface and subsurface return flows.

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

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

A portion of the water diverted to the place of use returns to the Little Deschutes River through Long Prairie Slough. Remaining return flows take the form of subsurface return flows. Subsurface returns would also return to the river system in the area of the confluence of Long Prairie Slough and the Little Deschutes River, at approximately River Mile 28.6.

The instream flows at River Mile 28.6 have been reduced to the consumptive portion of the right to account for both surface and subsurface return flows.

17. The transfer application requests to protect water instream from the Little Deschutes River into the mainstem Deschutes River. An instream reach is generally from the point of diversion to the mouth of the source stream (Little Deschutes River) but may be protected further if measurable in the receiving stream (the Deschutes River) (OAR 690-077-0015 (8)). The quantity that may be leased instream from the Little Deschutes River is measurable into the Deschutes River and may be protected instream in the Deschutes River.
18. Also, the segment of the reach on the mainstem Deschutes River between the confluence with the Little Deschutes River and Bend is a losing reach and loses approximately 7% of its

flows. The quantity of water that may be protected instream in the mainstem Deschutes River requires additional modification to prevent injury and enlargement.

19. Based on Findings of Fact No. 16 through No. 18, the Department proposes to modify the quantities to be transferred and protected instream as follows:

Instream Reach 1: From POD (as described in Finding of Fact No. 8) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

20. The proposed changes, as modified, would not result in enlargement of the right.
21. The proposed changes, as modified, would not result in injury to other water rights.
22. The amount and timing of the proposed instream flow, as modified, is allowable within the limits and use of the original water right.
23. The protection of flows as modified, within the proposed reach is appropriate, considering:
- a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion and channel losses have been accounted for within Reach No. 3; and
 - d) Return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of diversion and within the reach of the instream water right. Return flows have been accounted for at River Mile 28.6 on the Little Deschutes River.

24. Within the proposed instream reaches on the Little Deschutes River, there is an existing instream water right, Certificate 73226, established under ORS 537.341 (state agency application process), for the purpose of fish migration, spawning, egg incubation, fry emergence and juvenile rearing. There are also existing instream water rights established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) for the purpose of conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation.
25. The Little Deschutes River is also on the Oregon Department of Environmental Quality's (DEQ) 303d list of water quality limited streams for a variety of water quality concerns and a TMDL (Total Maximum Daily Load) study is underway.
26. Within the proposed instream reach on the mainstem Deschutes River, there are several existing instream water rights. There is one instream water right, Certificate 59777, established under ORS 537.346 (minimum streamflow conversion) for the purpose of supporting aquatic life and minimizing pollution, from the confluence of the Little Deschutes River to the confluence with Spring River. There is another instream water right, Certificate 59778, also established under ORS 537.346 for the purpose of supporting aquatic life and minimizing pollution, from the confluence with Spring River to the Central Oregon Irrigation District (COID) North Canal Dam. There is also a pending instream water right application, IS-70695, filed by the ODFW pursuant to ORS 537.341 (state agency application process), with the Department to establish an instream water right from the COID North Canal Dam to Lake Billy Chinook. The remaining instream water rights were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) and are generally located between the Central Oregon Canal and Lake Billy Chinook.

This portion of the Deschutes River is a designated State Scenic Waterway. The State Scenic Waterway designation provides for protection of flows necessary to maintain the free flowing character of the Deschutes River for fish and wildlife habitat, and recreation, which is a matter of statutory policy. In addition to flows for the designated Scenic Waterway, which are not always met during requested period for instream protection, this segment of the Deschutes River is on DEQ's 303d list of water quality limited streams and a TMDL (Total Maximum Daily Load) study is underway.

27. The existing instream water rights, established under ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency application process), within the proposed reach on the Little Deschutes River are sufficient to protect the monthly quantities of water necessary for various fishlife stages, supporting aquatic life, and minimizing pollution, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for various fishlife stages, supporting aquatic life, and minimizing pollution under an earlier priority date.

28. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process), located within the proposed reach, any new instream water right established by this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and pollution abatement.
29. During the period July 7 through October 31, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.
30. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Preliminary Award of Deschutes Basin Mitigation Credits

31. James R. & Jean S. Verheyden (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to James R. & Jean S. Verheyden.
32. The Department assigned this mitigation credit project number MP-276.
33. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on July 13, 2021. No comments were received in response to this notice.
34. The Department consulted with representatives from Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality (DEQ), Oregon Parks and Recreation Department, Oregon Department of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on July 12, 2021. Comments were received by DEQ in response to this notice and in favor of the application.
35. As part of the revised public notice of the mitigation project, the Department identified that the project may result in 36.0 mitigation credits. This preliminary determination was based upon the proposal to transfer 20.0 acres of irrigation use to instream use with a priority date of 1897. The Watermaster has identified that any mitigation credits established by this project with the 1897 priority date will likely be 100% available. Irrigation of 20.0 acres has an average consumptive use of 36.0 acre-feet. However, this volume may only be protected instream to the mouth of the Little Deschutes River, the lower boundary of the Little Deschutes Zone of Impact.

36. As part of the public notice of the mitigation project, the Department also identified that mitigation credits may be available for use in the Little Deschutes, Upper Deschutes, Middle Deschutes, and General Zones of Impact.
37. Up to 33.5 AF may be protected instream in the mainstem Deschutes River, as identified in Finding of Fact No. 19. The reach of the instream use described in Finding of Fact No. 19 extends through the lower portion of the Upper Deschutes Zone of Impact and then into the Middle Deschutes Zone of Impact and ending at the General Zone of Impact.
38. Therefore, a maximum of **36.0** mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Little Deschutes and General Zone of Impact. Of the **36.0** mitigation credits that may be awarded to this mitigation project, up to **33.5** of those mitigation credits may also be used in the Upper Deschutes, Middle Deschutes, and General Zones of Impact.
39. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate for the proposed instream water right shall result in completion of the project and verification that the project is complete.
40. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-13764 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

This mitigation project appears to result in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

If Transfer Application T-13764 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-13764 are approved.*
2. *Water right certificate 95746 is modified. Certificate 95746 shall be cancelled upon approval or denial of Transfer Applications T-13806 and T-13857. A new certificate will be issued describing that portion of the right not affected by this transfer and transfer applications T-13806 and T-13857.*

3. A new certificate confirming the instream water right shall be issued.
4. The instream water right shall provide for the protection of streamflows from the authorized point of diversion on the Little Deschutes to Lake Billy Chinook on the mainstem Deschutes River. The quantities to be protected under the instream water right are:

Instream Reach 1: From POD (as described in Finding of Fact No. 8) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

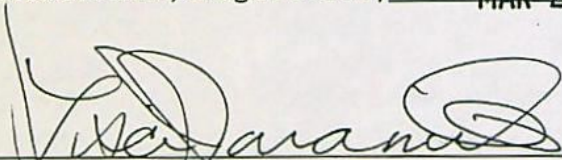
Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

5. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
6. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
7. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
8. 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 Certificate 95746 and any related decree.
9. The former place of use of the transferred water shall no longer receive water as part of this right.

10. **Preliminary Award of Mitigation Credits:** Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as described herein, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of **36.0 credits**, as described herein, may be awarded to this mitigation project and assigned to James R. & Jean S. Verheyden. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Little Deschutes Zone of Impact**. Of the 36.0 mitigation credits awarded to this project, up to **33.5 credits** may also be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**. Mitigation credits generated by this project will be available for use as mitigation beginning the first calendar year that water will be protected instream under a new instream water right.
11. Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.
12. The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project for a ground water permit applicant and/or ground water permit/certificate holder. As set forth in #4 and #10 above, the instream certificate shall specify the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits.

Dated at Salem, Oregon this day MAR 21 2022.



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Tom M. Byler, Director, Oregon Water Resources Department

This Preliminary Determination was prepared by Sarah Henderson. If you have any questions about the information in this document, you may reach me at (503) 979-9872. Or sarah.a.henderson@water.oregon.gov.

Protests should be addressed to the attention of Water Rights Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

IMPORTANT: *Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. Mail. Please consider mailing early to ensure the Department receives the protest by the deadline.*

Notice Regarding Service Members: Active duty servicemembers have a right to stay these proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 503-584-3571, or the nearest United States Armed Forces Legal Assistance Office through .The Oregon Military Department does not have a toll free number.

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 13764

Transfer Specialist: *Sarah*

Transfer Type: Instream Transfer

Applicant: JAMES R. AND JEAN VERHEYDEN 18660 BULL SPRINGS RD BEND, OR 97703 Email: _____ Phone: _____	Agent: <input type="checkbox"/> N/A JOHN A. SHORT PO BOX 1830 BEND, OR 97709 Email: _____ Phone: _____
Irrigation District: <input type="checkbox"/> N/A Email: _____	CWRE: <input type="checkbox"/> N/A Email: _____
Affected Local Gov'ts: <input type="checkbox"/> N/A La Pine Cooperative Water Association; Klamath County; Deschutes County; Jefferson County; City of La Pine; City of Bend Email: _____	Affected Tribal Gov't: <input type="checkbox"/> N/A Confederated Tribes of Warm Springs Email: _____
Current Landowner if other than Applicant: <input type="checkbox"/> N/A Email: _____	Receiving Landowner: <input type="checkbox"/> N/A Email: _____

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
<input type="checkbox"/>	Decree	v. 8 pg. 405	95746	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions:

Rec'd: July 6, 2021	Proposed Action(s): PLACE OF USE; USE	
Fees Pd: 1045.99	WM District: 11	ODFW District:
Initial Public Notice: July 13, 2021	WM Review sent:	ODFW Review sent:
Acknowledgement Letter Sent <input checked="" type="checkbox"/>		GW Review sent: <input checked="" type="checkbox"/> N/A
County sent cc: of Ack Letter <input checked="" type="checkbox"/>	BOR notified (date): <input checked="" type="checkbox"/> N/A	
Newspaper quote requested:	Request for news \$ sent:	News \$ received:
Request to publish sent:	Affidavit of publication received:	Last day of publication:

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: <i>Corey</i>	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: _____	CW Sent: <i>1/11/22</i>	N/A
PD	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: <i>Corey</i>	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: <i>Sarah</i>	Date: _____ Initials: <i>Sarah</i>	Date: <i>3/14/22</i>	Date: <i>3/21/2022</i>
FO	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____	Date: _____

Special Issues: _____

Special Order Volume: Vol. _____ Pages _____



Oregon

Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

January 27, 2022

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

SUBJECT: Water Right Transfer Application T-13764 (MP-276)

Your water right transfer is ready for issuance of the Preliminary Determination, once the Department receives payment for publication of the newspaper notice.

Items needed before the next phase of processing...

At this time you need to:

1. submit a check for \$578.98 (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. **write "for T-13764 NOTICE" on the front of your check, and**
3. submit it with the tracking stub at the bottom of this letter.

Mail the check to 725 Summer St. NE, Suite A, Salem, OR 97301-1266, **no later than** February 25, 2022.

What happens next...

Shortly after receiving payment, the Department will issue the Preliminary Determination, initiate publication in the Bend Bulletin newspaper, and also publish the notice on the Department's weekly notice. Publication of the notice will initiate a protest period during which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

If we do not receive payment for newspaper notice by February 25, 2022, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-979-9872 or sarah.a.henderson@water.oregon.gov. If I may be of assistance.

Sincerely,

Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

X-----
Attached is a check for \$578.98 (PCA #46118) for Newspaper Notice for Transfer T-13764 made out to Oregon Water Resources Department (or WRD)

- **"for T-13764 NOTICE" written on front of check**

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

Caseworker: Sarah

cc: Transfer Application file T-13764 (MP-276)
John Short, Agent for the applicant (*via e-mail*) (johnshort@usa.com)
Bryce Withers, Water Right Services, LLC (*via e-mail*) (brycewrs@gmail.com)



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

January 11, 2022

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

Reference: Water Right Transfer Application T-13764 / Mitigation Credit Project MP-276

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Instream Transfer Application T-13764 and Mitigation Credit Project MP-276. The document reflects the Department's conclusion that, based on the information currently available, the instream transfer and mitigation project will be approved.

Required items needing your immediate attention:

1. Please carefully review the Draft Preliminary Determination to verify that it accurately reflects the changes you intend to make and to become familiar with the proposed conditions.
2. **Respond in writing** by February 9, 2022, with acknowledgement that you agree to the proposed action and conditions.
3. If you find any errors, please let me know.
4. **REQUIRED:** You must submit a **Report of Ownership** for the lands where the water right(s) are currently located (i.e., the FROM lands). This report:
 - a) Must be prepared by a title company;
 - b) Shall include a "prepared by" statement and the date the title company prepared the report printed on the cover sheet;
 - c) Must be:
 - i. Prepared within 3 months of the Draft Preliminary Determination showing current ownership; **OR**
 - ii. Prepared within 3 months of recording of a water right conveyance agreement; **OR**
 - iii. Have a prepared date showing ownership at the time a water right conveyance agreement was recorded.

If water right conveyance agreements are involved, it is helpful to provide copies of those agreements along with the Report of Ownership.

IMPORTANT: In order for the Department to clearly understand the date that the title company prepared the Report of Ownership, the title company must indicate/state the date that they prepared the report on the coversheet and/or first page of the report.

- d) Must include a list of owners at the time the report was generated; **AND**

- e) Must include a legal description of the property where the water right to be transferred is currently located (i.e., the FROM lands).
- 5. You must provide a notarized statement of consent signed by any landowner listed in the Report of Ownership who is not already included in the transfer application. The Department's statement of consent form (**Consent By Deeded Landowner**) is available at:
[https://www.oregon.gov/OWRD/WRDFormsPDF/consent to transfer form.pdf](https://www.oregon.gov/OWRD/WRDFormsPDF/consent%20to%20transfer%20form.pdf)
- 6. Notice of this transfer will need to be published in a newspaper with general circulation in the area where the water rights are currently located. You will be responsible for the charges.

What happens next...

Once the Preliminary Determination is issued a publication period is required. Because of a change in character of use, the Department will publish notice of the transfer in a local newspaper having a general circulation in the area of the water right at least once per week for two consecutive weeks. You are responsible for sending a check to cover the cost of publication prior to the issuance of the Preliminary Determination and publication of notice. As outlined in OAR 690-380-4020(3), publication costs include both the direct cost of the notice and indirect processing costs (not to exceed 20% of the direct costs) for processing.

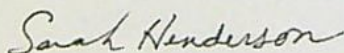
Issuance of the Preliminary Determination will occur shortly after we receive:

1. Your written response to the conditions and proposed action in the draft Preliminary Determination (e-mail is acceptable); and
2. Report of ownership, and affidavits of consent from any landowners shown in the ownership report who have not signed the transfer application or already signed affidavits of consent; and

If we do not receive the items listed above by February 9, 2022, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-979-9872 or sarah.a.henderson@water.oregon.gov if I may be of assistance.

Sincerely,



Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-13764 (MP-276)
Jeremy Giffin, District 11 Watermaster (via e-mail)
John Short, Agent for the applicant (via e-mail) (johnshort@usa.com)
Bryce Withers, Water Right Services, LLC (via e-mail) (brycewrs@gmail.com)

encs

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

In the Matter of Instream Transfer)	D R A F T PRELIMINARY
Application T-13764, AND MITIGATION)	
PROJECT MP-276, DESCHUTES and)	
KLAMATH Counties)	
)	
)	DETERMINATION PROPOSING APPROVAL OF A CHANGE IN PLACE OF USE AND CHARACTER OF USE AND PRELIMINARY AWARD OF MITIGATION CREDITS

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications. OAR Chapter 690, Division 077 provides additional criteria for evaluating transfers to instream water rights.

OAR 690-521-0100 to 690-521-0600 establishes the process in which anyone may submit a ground water mitigation project to the Department for the purpose of establishing mitigation credits in the Deschutes Ground Water Study Area.

Pursuant to OAR 690-521-0400 (2), any mitigation credits awarded to a mitigation project are valid until used to fulfill a mitigation obligation of a ground water use in the Deschutes Ground Water Study Area. Valid mitigation credits may be assigned by any person or recognized mitigation bank to any person or other mitigation bank. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.

Applicant

JAMES R. & JEAN S. VERHEYDEN
18660 BULL SPRINGS ROAD
BEND, OREGON 97703

Findings of Fact

1. On July 6, 2021, James R. & Jean S. Verheyden, filed an application to change a portion of the place of use and character of use under Certificate 90239 to instream use. The Department assigned the application number T-13764.
2. On June 14, 2021, Certificate 90239 was cancelled by Special Order Volume 120, pages 807-816, which approved T-13456, and was superseded by Certificate 95746.

3. On September 9, 2021, the applicant's agent provided a revised map and application page removing the areas identified by the Watermaster that could not be transferred instream.
4. On August 23, 2021, Transfer Application T-13806 was filed, and on October 22, 2021, Transfer Application T-13857 was filed. These transfers modify the same right, described by Certificate 95746, that has been proposed to be modified in T-13764. Certificate 95746 shall be canceled after all transfer applications are processed and one remaining right certificate will be issued describing the lands not involved in the three transfer applications.
5. Notice of the application for transfer was published on July 13, 2021, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the proposed action to the City of La Pine, Deschutes County, Jefferson County, Klamath County, the City of Bend and the Confederated Tribes of Warm Springs. Additionally, the Department provided notice of the proposed action to these local governments and the Tribe upon processing of Transfer Application T-13764.
7. The portion of the right to be transferred is as follows:

Certificate: 95746 in the name of LA PINE COOPERATIVE WATER ASSOCIATION (confirmed by Deschutes River decree of record at Salem, in the Order Record of the Water Resources Director in Volume 16, at Page 185)

Use: IRRIGATION of 20.0 ACRES

Priority Date: 1897

Rate: April 1 to May 23 and August 20 to November 1: 0.25 cubic foot per second (cfs)
May 23 to August 20: 0.50 cfs

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM MAY 23 TO AUGUST 20, and ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, FROM APRIL 1 TO MAY 23 AND FROM AUGUST 20 TO NOVEMBER 1, and shall be further limited to a diversion of not to exceed 4.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: LITTLE DESCHUTES RIVER, a tributary to the DESCHUTES RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	9 E	WM	34	SW SW	550 FEET NORTH AND 1150 FEET EAST FROM THE SW CORNER OF SECTION 34

Authorized Place of Use:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	Tax Lot	Acres
22 S	10 E	WM	34	SE NW	2803	15.1
22 S	10 E	WM	34	NE SW	2803	4.9
Total Acres						20.0

8. A total of 80.0 Acre-Feet (AF) of water may be beneficially used annually under the portion of existing Certificate 95746 proposed for transfer.
9. Transfer Application T-13764 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; pollution abatement; and to establish mitigation credits in the Deschutes Ground Water Study Area.
10. Transfer Application T-13764 proposes to change the place of use of the portion of the water right to create an instream reach from the POD on the Little Deschutes River, into the mainstem Deschutes River and down to Lake Billy Chinook.
11. The applicant proposed the quantities of water to be transferred instream be protected as follows:

Period	Rate (cfs)	Volume (acre-feet)
April 1 to May 23	0.25	80.0
May 23 to August 20	0.50	
August 20 to November 1	0.25	

12. The applicant has requested that any instream water right established as a result of this instream transfer be additive to existing instream water rights for the same reach established pursuant to ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process). The applicant has also requested that any instream water rights established as a result of this instream transfer replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

Instream Transfer Review Criteria (OAR 690-77-0075 and 690-380-4010)

13. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

14. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13764.
15. A portion of the water diverted at the POD returns to the Little Deschutes River below the POD and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification to account for both surface and subsurface return flows.

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

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

A portion of the water diverted to the place of use returns to the Little Deschutes River through Long Prairie Slough. Remaining return flows take the form of subsurface return flows. Subsurface returns would also return to the river system in the area of the confluence of Long Prairie Slough and the Little Deschutes River, at approximately River Mile 28.6.

The instream flows at River Mile 28.6 have been reduced to the consumptive portion of the right to account for both surface and subsurface return flows.

16. The transfer application requests to protect water instream from the Little Deschutes River into the mainstem Deschutes River. An instream reach is generally from the point of diversion to the mouth of the source stream (Little Deschutes River) but may be protected further if measurable in the receiving stream (the Deschutes River) (OAR 690-077-0015 (8)). The quantity that may be leased instream from the Little Deschutes River is measurable into the Deschutes River and may be protected instream in the Deschutes River.
17. Also, the segment of the reach on the mainstem Deschutes River between the confluence with the Little Deschutes River and Bend is a losing reach and loses approximately 7% of its flows. The quantity of water that may be protected instream in the mainstem Deschutes River requires additional modification to prevent injury and enlargement.

18. Based on Findings of Fact No. 15 through No. 17, the Department proposes to modify the quantities to be transferred and protected instream as follows:

Instream Reach 1: From POD (as described in Finding of Fact No. 7) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

Priority Date	Instream Rate (cfs)	Instream Volume (AF)	Period Protected Instream
1897	0.14	33.5	July 7 through October 31

19. The proposed changes, as modified, would not result in enlargement of the right.
20. The proposed changes, as modified, would not result in injury to other water rights.
21. The amount and timing of the proposed instream flow, as modified, is allowable within the limits and use of the original water right.
22. The protection of flows as modified, within the proposed reach is appropriate, considering:
- The instream water right begins at the recorded point of diversion;
 - The location of confluences with other streams downstream of the point of diversion;
 - There are known areas of natural loss of streamflow to the river bed downstream from the point of diversion and channel losses have been accounted for within Reach No. 3; and
 - Return flows resulting from the exercise of the existing water right would re-enter the river downstream of the point of diversion and within the reach of the instream water right. Return flows have been accounted for at River Mile 28.6 on the Little Deschutes River.
23. Within the proposed instream reaches on the Little Deschutes River, there is an existing instream water right, Certificate 73226, established under ORS 537.341 (state agency application process), for the purpose of fish migration, spawning, egg incubation, fry emergence and juvenile rearing. There are also existing instream water rights established

under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) for the purpose of conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values; pollution abatement; and recreation.

24. The Little Deschutes River is also on the Oregon Department of Environmental Quality's (DEQ) 303d list of water quality limited streams for a variety of water quality concerns and a TMDL (Total Maximum Daily Load) study is underway.
25. Within the proposed instream reach on the mainstem Deschutes River, there are several existing instream water rights. There is one instream water right, Certificate 59777, established under ORS 537.346 (minimum streamflow conversion) for the purpose of supporting aquatic life and minimizing pollution, from the confluence of the Little Deschutes River to the confluence with Spring River. There is another instream water right, Certificate 59778, also established under ORS 537.346 for the purpose of supporting aquatic life and minimizing pollution, from the confluence with Spring River to the Central Oregon Irrigation District (COID) North Canal Dam. There is also a pending instream water right application, IS-70695, filed by the ODFW pursuant to ORS 537.341 (state agency application process), with the Department to establish an instream water right from the COID North Canal Dam to Lake Billy Chinook. The remaining instream water rights were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process) and are generally located between the Central Oregon Canal and Lake Billy Chinook.

This portion of the Deschutes River is a designated State Scenic Waterway. The State Scenic Waterway designation provides for protection of flows necessary to maintain the free flowing character of the Deschutes River for fish and wildlife habitat, and recreation, which is a matter of statutory policy. In addition to flows for the designated Scenic Waterway, which are not always met during requested period for instream protection, this segment of the Deschutes River is on DEQ's 303d list of water quality limited streams and a TMDL (Total Maximum Daily Load) study is underway.

26. The existing instream water rights, established under ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency application process), within the proposed reach on the Little Deschutes River are sufficient to protect the monthly quantities of water necessary for various fishlife stages, supporting aquatic life, and minimizing pollution, but are not always met. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for various fishlife stages, supporting aquatic life, and minimizing pollution under an earlier priority date.
27. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process), located within the proposed reach, any new instream water right established by

this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and pollution abatement.

28. During the period July 7 through October 31, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.
29. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Preliminary Award of Deschutes Basin Mitigation Credits

30. James R. & Jean S. Verheyden (the Applicant) has requested this instream transfer application be used to establish mitigation credits in the Deschutes Ground Water Study Area. The Applicant has requested that any mitigation credits generated from this project be assigned to James R. & Jean S. Verheyden.
31. The Department assigned this mitigation credit project number MP-276.
32. The Department provided notice of the mitigation credit project pursuant to OAR 690-521-0300 (6) on July 13, 2021. No comments were received in response to this notice.
33. The Department consulted with representatives from Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality (DEQ), Oregon Parks and Recreation Department, Oregon Department of State Lands, the Oregon Department of Agriculture, and the Department's Watermaster pursuant to OAR 690-521-0300 (7) and OAR 690-505-0630 (2) on July 12, 2021. Comments were received by DEQ in response to this notice and in favor of the application.
34. As part of the revised public notice of the mitigation project, the Department identified that the project may result in 36.0 mitigation credits. This preliminary determination was based upon the proposal to transfer 20.0 acres of irrigation use to instream use with a priority date of 1897. The Watermaster has identified that any mitigation credits established by this project with the 1897 priority date will likely be 100% available. Irrigation of 20.0 acres has an average consumptive use of 36.0 acre-feet. However, this volume may only be protected instream to the mouth of the Little Deschutes River, the lower boundary of the Little Deschutes Zone of Impact.
35. As part of the public notice of the mitigation project, the Department also identified that mitigation credits may be available for use in the Little Deschutes, Upper Deschutes, Middle Deschutes, and General Zones of Impact.

36. Up to 33.5 AF may be protected instream in the mainstem Deschutes River, as identified in Finding of Fact No. 18. The reach of the instream use described in Finding of Fact No. 18 extends through the lower portion of the Upper Deschutes Zone of Impact and then into the Middle Deschutes Zone of Impact and ending at the General Zone of Impact.
37. Therefore, a maximum of **36.0** mitigation credits (1.0 mitigation credit = 1.0 AF of mitigation water) may be awarded to this mitigation credit project. The mitigation credits may be used to mitigate for ground water permit applications and existing conditioned ground water permits and certificates, providing mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505, within the Little Deschutes and General Zone of Impact. Of the **36.0** mitigation credits that may be awarded to this mitigation project, up to **33.5** of those mitigation credits may also be used in the Upper Deschutes, Middle Deschutes, and General Zones of Impact.
38. The Department shall award final mitigation credits upon completion of the approved project by the applicant and verification by the Department that the project is complete. The issuance of a certificate for the proposed instream water right shall result in completion of the project and verification that the project is complete.
39. Mitigation credits awarded to this mitigation credit project will be valid beginning the first calendar year that water will be protected instream under any new instream water right created as a result of this instream transfer application.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-13764 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

This mitigation project appears to result in mitigation credits pursuant to ORS 537.746 and OAR 690-521-0300 and 690-521-0400.

If Transfer Application T-13764 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-13764 are approved.*
2. *Water right certificate 95746 is cancelled. A new certificate confirming the instream water right shall be issued.*
3. *A new certificate will be issued describing that portion of the right not affected by this transfer and transfer applications T-13806 and T-13857.*

4. *The instream water right shall provide for the protection of streamflows from the authorized point of diversion on the Little Deschutes to Lake Billy Chinook on the mainstem Deschutes River. The quantities to be protected under the instream water right are:*

Instream Reach 1: From POD (as described in Finding of Fact No. 7) to the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6)

<i>Priority Date</i>	<i>Instream Rate (cfs)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected Instream</i>
1897	0.50	80.0	July 7 through August 19
	0.25		August 20 through October 31

Instream Reach 2: From the confluence of the Little Deschutes River and Long Prairie Slough (approximately River Mile 28.6) to the mouth of the Little Deschutes River

<i>Priority Date</i>	<i>Instream Rate (cfs)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected Instream</i>
1897	0.16	36.0	July 7 through October 31

Instream Reach 3: In the Deschutes River from the confluence with the Little Deschutes River to Lake Billy Chinook (approximately River Mile 120.0)

<i>Priority Date</i>	<i>Instream Rate (cfs)</i>	<i>Instream Volume (AF)</i>	<i>Period Protected Instream</i>
1897	0.14	33.5	July 7 through October 31

5. *Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.*
6. *Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.*
7. *The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.*
8. *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 Certificate 95746 and any related decree.*
9. *The former place of use of the transferred water shall no longer receive water as part of this right.*
10. ***Preliminary Award of Mitigation Credits: Final Award of Mitigation Credits may be made upon completion of the project and verification by the Department that the project has been completed as proposed. Issuance of a new instream water right certificate, as***

*described herein, will result in completion of the project and verification by the Department that the project is complete. If completed as proposed, mitigation credits, in the amount of 36.0 credits, as described herein, may be awarded to this mitigation project and assigned to James R. & Jean S. Verheyden. Mitigation credits awarded may be used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder in the **Little Deschutes Zone of Impact**. Of the 36.0 mitigation credits awarded to this project, up to 33.5 credits may also be used in the **Upper Deschutes, Middle Deschutes, and General Zones of Impact**. Mitigation credits generated by this project will be available for use as mitigation beginning the first calendar year that water will be protected instream under a new instream water right.*

11. *Mitigation credits are valid until used to satisfy a mitigation obligation of a ground water permit applicant and/or ground water permit/certificate holder within the Deschutes Ground Water Study Area pursuant to the Deschutes Ground Water Mitigation Rules. Mitigation credits are used when a person submits to the Department documentary evidence that valid credits have been obtained and assigned to satisfy a mitigation obligation.*
12. *The instream certificate created as a result of the approval of this transfer shall be identified as a mitigation credit project for a ground water permit applicant and/or ground water permit/certificate holder. As set forth in #4 and #10 above, the instream certificate shall specify the number of mitigation credits, the zone of impact in which the mitigation credits were generated and may be used, and the volume of water dedicated instream solely for instream benefits.*

Dated at Salem, Oregon this day _____.

D R A F T

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
Tom M. Byler, Director, Oregon Water Resources Department

This draft Preliminary Determination was prepared by Sarah Henderson. If you have any questions about the information in this document, you may reach me at (503) 979-9872. Or sarah.a.henderson@water.oregon.gov.

Done on
12/21/21

ALBIN Leona M * WRD

From: HENDERSON Sarah A * WRD
Sent: Tuesday, December 21, 2021 9:42 AM
To: ALBIN Leona M * WRD
Subject: Favor? print and send
Attachments: T-13764 Ack Ltr.pdf

Hi Leona, would you be able to do me a favor?? This is not urgent... if you do not have time that is ok 😊 just let me know 😊

I need the attached letter sent to the 7 people below (they were supposed to of received a copy of this letter when the application was submitted but I do not believe that happened, and I have to be sure).

CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION
PO BOX C
WARM SPRINGS, OR 97761

LA PINE COOPERATIVE WATER ASSOCIATION
PO BOX 97
LA PINE, OR 97739

COUNTY OF KLAMATH
305 MAIN ST
KLAMATH FALLS, OR 97601

COUNTY OF DESCHUTES
PLANNING DIRECTOR
117 NW LAYFAYETTE STREET
BEND, OR 97701

JEFFERSON COUNTY
85 SE D STREET
MADRAS, OR 97741

CITY OF LA PINE
PO BOX 2460
LA PINE, OR 97739

CITY OF BEND
710 NW WALL ST
BEND, OR 97701

Please note email address update: sarah.a.henderson@water.oregon.gov

Sarah A. Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section
725 Summer St. NE, Suite A |Salem, OR 97301



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

July 12, 2021

JAMES AND JEAN VERHEYDEN
18660 BULL SPRINGS RD
BEND, OR 97703

Reference: Instream Transfer T-13764

On July 6, 2021, we received your water right Transfer application. The application was accompanied by \$1045.99. Our receipt number 135765 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change.

This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water for the new use or in the new place of use until a final order approving the transfer application has been issued by the Department.

In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

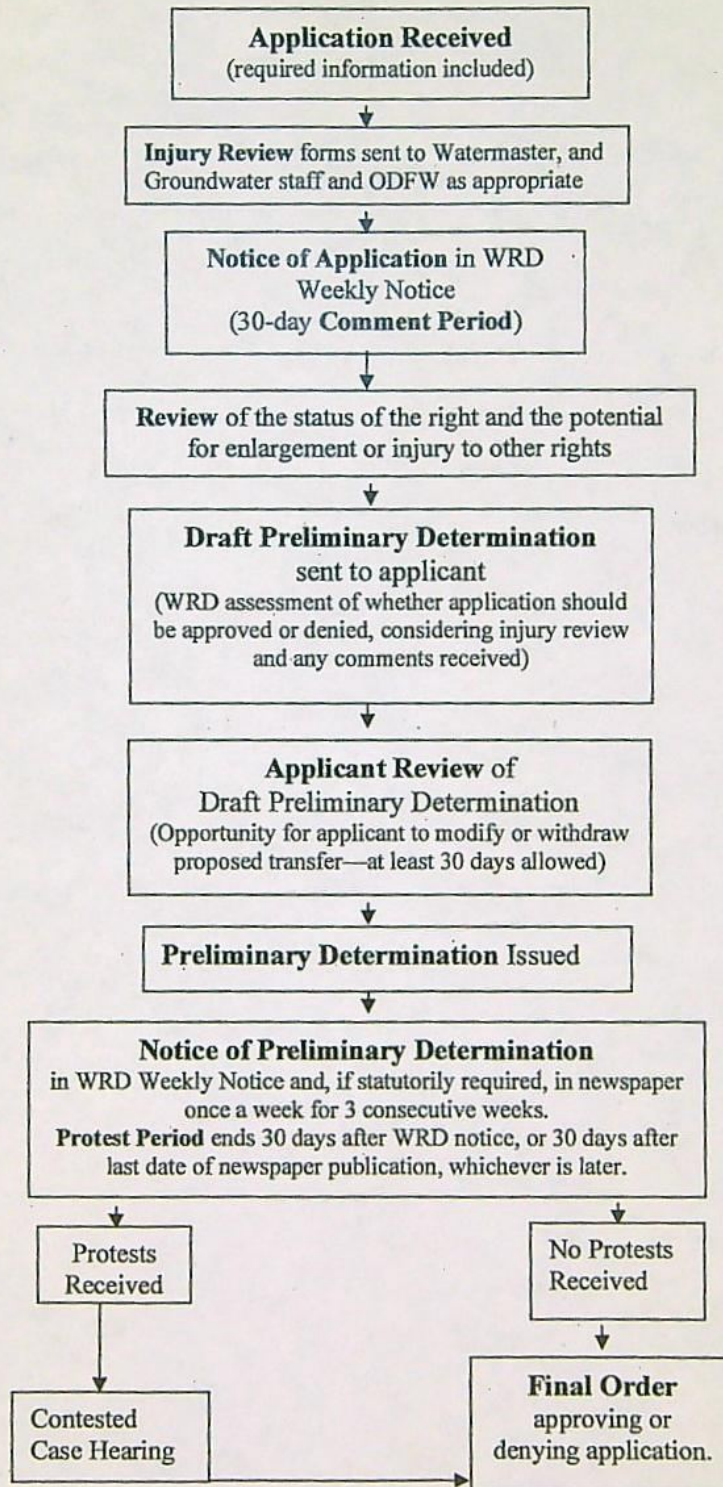
If you have any questions, please contact the Transfer Section at (503) 979-9931.

Cc: Watermaster Dist. #11 (via email)
John A. Short, Agent
Bureau of Reclamation

Enclosure

Instream Transfer Process

OAR 690 Divisions 380 and 077



Oregon

Water Resources Department
Transfers and Conservation Section (TACS)
725 Summer St NE Ste A
Salem, OR 97301-1266

ADDRESS SERVICE REQUESTED

PRESORTED
FIRST CLASS



U.S. POSTAGE PITNEY BOWES



ZIP 97301 \$ 000.39⁸
02 4W
0000361889 JUL 14 2021

NSN

JAMES AND JEAN VERHEYDEN
18660 BULL SPRINGS RD
BEND, OR 97703

RECEIVED

JUL 20 2021

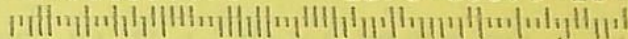
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RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD

UTF
97301>1266

BC: 97301126673 *1579-03373-18-23





Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

July 12, 2021

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18660 BULL SPRINGS RD
BEND, OR 97703

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Cc: Watermaster Dist. #11 (via email)
John A. Short, Agent
Bureau of Reclamation

Enclosure

STATE OF OREGON
WATER RESOURCES DEPARTMENT

725 Summer St. N.E. Ste. A
 SALEM, OR 97301-4172

RECEIPT # **135765**

(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIVED FROM: Millwood LLC
 BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>1-13764</u>

CASH: CHECK # 2030 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 1045.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	\$
_____	OTHER: (IDENTIFY)	\$
0243	I/S Lease _____	
0244	Muni Water Mgmt. Plan _____	
0245	Cons. Water _____	

4270 WRD OPERATING ACCT

MISCELLANEOUS		<u>46110</u>	
0407	COPY & TAPE FEES	\$	
0410	RESEARCH FEES	\$	
0408	MISC REVENUE: (IDENTIFY)	\$	
TC162	DEPOSIT LIAB. (IDENTIFY)	\$	
0240	EXTENSION OF TIME	\$	
WATER RIGHTS:			
0201	SURFACE WATER	EXAM FEE \$	0202 RECORD FEE \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$ <u>1045.00</u>	
WELL CONSTRUCTION			
0218	WELL DRILL CONSTRUCTOR	EXAM FEE \$	0219 LICENSE FEE \$
	LANDOWNER'S PERMIT		0220 \$
_____	OTHER (IDENTIFY)		

0536 TREASURY 0437 WELL CONST. START FEE

0211	WELL CONST START FEE	\$	CARD#
0210	MONITORING WELLS	\$	CARD#
_____	OTHER (IDENTIFY)		

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233	POWER LICENSE FEE (FWWRD)	\$
0231	HYDRO LICENSE FEE (FWWRD)	\$
_____	HYDRO APPLICATION	\$

TREASURY OTHER / RDX

FUND _____ TITLE _____
 OBJ. CODE _____ VENDOR # _____
 DESCRIPTION _____ \$ _____

RECEIPT: **135765**

DATED: 7-6-2001 BY: Mindy Carlson



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

Application for Water Right Instream Transfer

Part 1 of 6 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 6 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

RECEIVED
 JUL 06 2021
 OWRD

FOR ALL INSTREAM TRANSFER APPLICATIONS

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

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Map Checklist.
- Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
 Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Completed Instream Use Information.
- Part 6 – Information about the Transferred Water Rights: **How many water rights are to be transferred? 1 List them here: C-90239 95746**
 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: _____ 503-986-0_____

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.

RECEIVED
JUL 06 2021

- 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.

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Part 3 of 6 – Fee Worksheet

FEE WORKSHEET for INSTREAM TRANSFER			
1	Base Fee (includes Place of Use and Character of Use to Instream changes to one water right for up to 1 cfs)	1	\$2,090
2	Number of water rights included in transfer 1 (2a) 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 \$520 and enter » » » » » » » » » » » » » » » »	2	\$0
3	Enter the cfs for the portions of the rights to be transferred (see example below*): <u>0.50 (3a)</u> Subtract 1.0 from the number in 3a above: <u>-0.50 (3b)</u> If 3b is 0, enter 0 on line 3 » » » » » » » » » » » » » » » » If 3b is greater than 0, round up to the nearest whole number: _____ (3c) and multiply 3c by \$350, then enter on line 3 » » » » » » » » » »	3	\$0
4	Add entries on lines 1 through 3 above » » » » » » » » » » Subtotal:	4	\$2,090
5	Multiply line 4 by 0.5 and enter on line 5 » » » » » » » » » » » » » » » »	5	\$1,045
6	Subtract line 5 from line 4 » » » » » » » » » » » » » » » » Transfer Fee:	6	\$1,045

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

Part 4 of 6 – Applicant Information and Signature

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

Applicant Information

APPLICANT/BUSINESS NAME JAMES R. & JEAN S. VERHEYDEN		PHONE NO. 541-280-4155	ADDITIONAL CONTACT NO.
ADDRESS 18660 BULL SPRINGS RD		FAX NO. RECEIVED JUL 06 2021	
CITY BEND	STATE OR	ZIP 97703	E-MAIL OWRD
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

AGENT/BUSINESS NAME JOHN A. SHORT / WATER RIGHT SERVICES, LLC		PHONE NO. 541-389-2837	ADDITIONAL CONTACT NO.
ADDRESS PO BOX 1830		FAX NO.	
CITY BEND	STATE OR	ZIP 97709	E-MAIL JOHNSHORT@USA.COM
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:

The applicant proposes to change the current use of a portion of Certificate 90239 use to instream use to create mitigation credits in the Little Deschutes, Upper Deschutes, Middle Deschutes, and General Zones of Impact. Additionally, the intent of the applicant is to apply any credits resulting from this transfer to pending Groundwater Application G-19069.

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: Bend Bulletin.

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

	<u>James Verheyden</u>	<u>6/30/21</u>
Applicant Signature	Print Name (and Title if applicable)	Date
	<u>Jean S Verheyden</u>	<u>6/30/21</u>
Applicant Signature	Print Name (and Title if applicable)	Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? Yes No *If NO, include signatures of all deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.*

Check the following boxes that apply:

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

IRRIGATION DISTRICT NAME N/A	ADDRESS	
CITY	STATE	ZIP

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

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ENTITY NAME LA PINE COOPERATIVE WATER ASSOCIATION	ADDRESS PO BOX 97	
CITY LA PINE	STATE OR	ZIP 97739

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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 KLAMATH COUNTY COMMUNITY DEV.	ADDRESS 305 MAIN ST. #1	
CITY KLAMATH FALLS	STATE OR	ZIP 97601

ENTITY NAME DESCHUTES COUNTY COMMUNITY DEV.	ADDRESS 117 NW LAFAYETTE AVE.	
CITY BEND	STATE OR	ZIP 97703

ENTITY NAME CITY OF LA PINE	ADDRESS PO BOX 3055, 51340 HWY 97	
CITY LA PINE	STATE OR	ZIP 97739

ENTITY NAME JEFFERSON COUNTY COMMUNITY DEV.	ADDRESS 85 SE "D" STREET	
CITY MADRAS	STATE OR	ZIP 97741

ENTITY NAME CITY OF BEND, PLANNING DEPARTMENT	ADDRESS 710 NW WALL ST	
CITY BEND	STATE OR	ZIP 97701

ENTITY NAME CONFEDERATED TRIBES OF WARM SPRINGS	ADDRESS PO BOX C, 1233 VETERANS STREET	
CITY WARM SPRINGS	STATE OR	ZIP 97761

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:

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Originating Water Right Number (as identified in Part 5)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
90239	1897	LITTLE DESCHUTES RIVER	APRIL 1 – NOVEMBER 1	0.50 CFS @ 1/40 TH ; 0.25 CFS @ 1/80 TH	80.0 AF
TOTAL VOLUME					80.0 AF

***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: The water right is 0.50 cfs (at 1/40th) from May 23 to August 20 and 0.25 cfs (at 1/80th) from April 1 to May 22 and August 21 to November 1.

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): **From the authorized POD in the SWSW, Section 34, T23S R9E, WM to the mouth of the Little Deschutes River, into the Deschutes River and down to Lake Billy Chinook (~River Mile 120).**

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

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

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

- No Yes (identify other instream water rights): There are many; including Certificate 73226, Certificate 83652, IL-1059. See OWRD maintained list of all instream water rights for the identified reach.

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

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

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

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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: N/A

- 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: _____.

Part 6 of 6 – Water Right Information

Please use a separate Part 6 for each water right being changed. See instructions on page 8, to copy and paste additional Part 6s, or to add additional rows to tables within the form.

CERTIFICATE # 90239

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Name on Certificate: LA PINE COOPERATIVE WATER ASSOCIATION

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Date(s) of Priority: 1897

Source(s) of Water to be Affected by the Transfer: LITTE DESCHUTES RIVER

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Description of Water Delivery System

System capacity: 26.9 cubic feet per second (cfs) **OR**
 _____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. The Authorized POD is located in the SWSW, Section 34, T23S R9E, WM, and has a capacity to divert the entire water right in Certificate 90239, which can reach 26.9 during the peak irrigation season.

Other Water Rights

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

If YES, list the certificate, water use permit, or ground water registration numbers: _____.



Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

Table 1. Location of Authorized Point(s) of Diversion (POD)

(Note: If the POD name is not specified on the certificate, assign it a name or number here. Also, if the POD is not described in the Certificate, provide a description below)

POD Name or Number	Priority Date (if different between PODs)	Twp		Rng		Sec	¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD	1897	23	S	9	E	34	SW	SW	3400	550' N, 1150' W of SW Cor Sec 34

Will the proposed instream transfer affect the entire water right?

- Yes Then Table 2 on Page 10 does not need to be completed.
 No Then complete all of Table 2 to describe the portion of the water right to be changed.

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.

State of Oregon)
) ss
 County of DESCHUTES)

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I, JOHN A. SHORT / WATER RIGHT SERVICES, LLC, in my capacity as WATER RIGHT SPECIALIST,
 mailing address P.O. BOX 1830, BEND, OR 97709
 telephone number (541)389-2837, 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 #; **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)
90239	22	S	10	E	WM	34	SE	NW		20.0

OR

- Confirming Certificate # _____ 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
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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[Signature]
Signature of Affiant

APRIL 26, 2021
Date

Signed and sworn to (or affirmed) before me this 26 day of APRIL, 2021.



[Signature]
Notary Public for Oregon

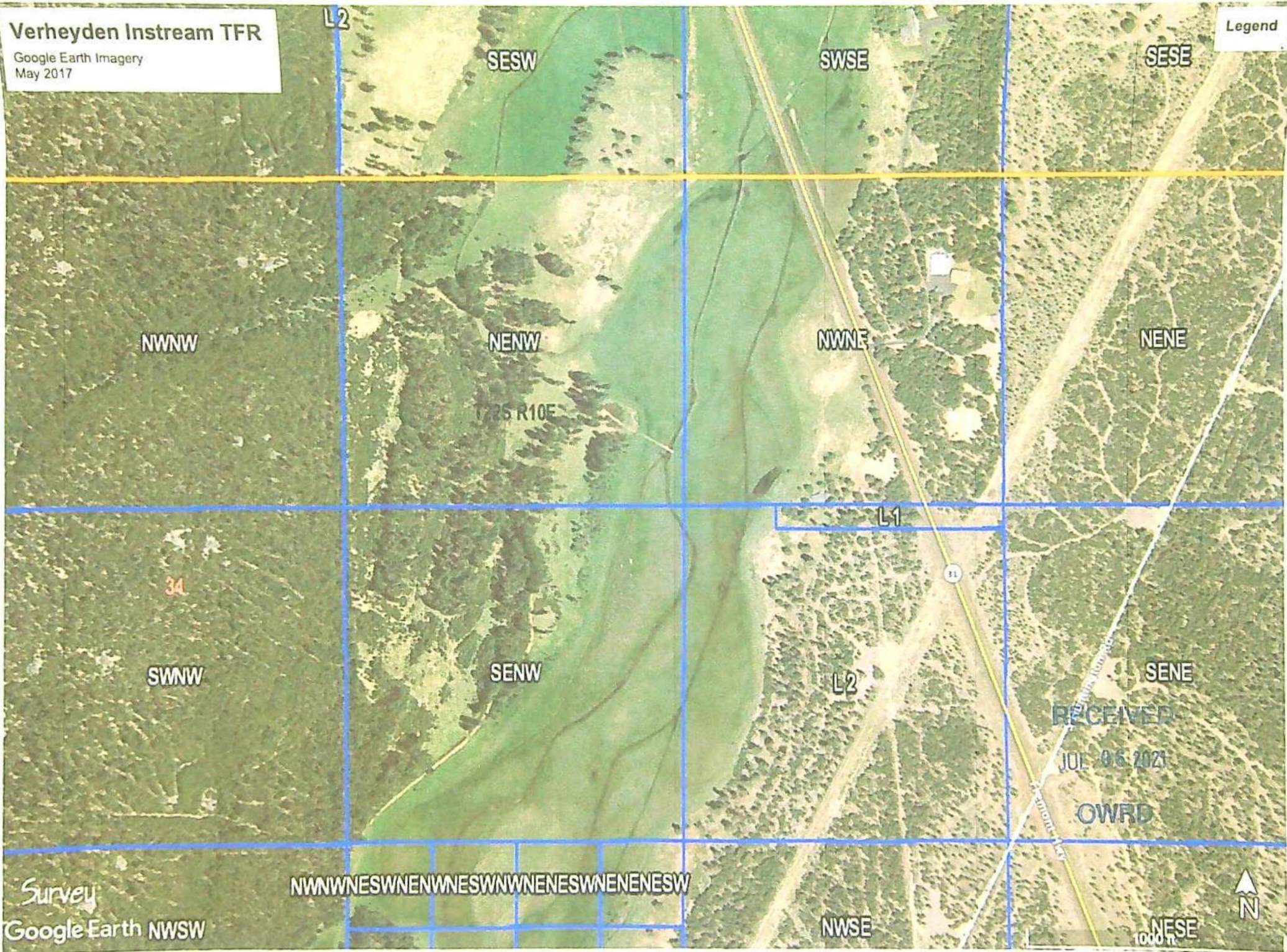
My Commission Expires: August 30, 2021

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming 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"> • Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
<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"> • District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
<input checked="" 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 – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terra-server.com</p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

Verheyden Instream TFR

Google Earth Imagery
May 2017

Legend



Survey
Google Earth NWSW

NWNW NESWN ENWN ESWN WNW NESW NENESW NENENESW

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1000 ft



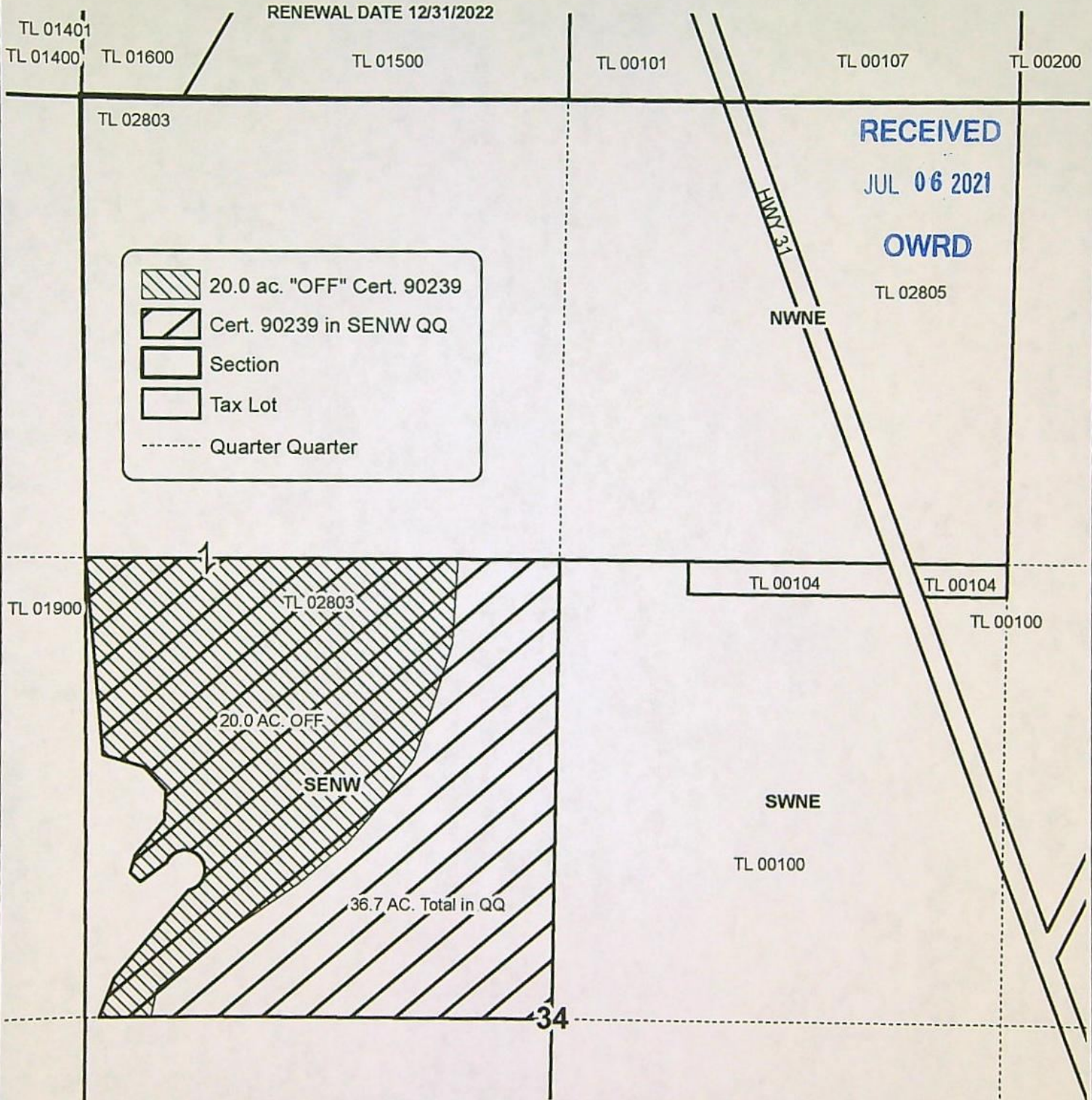
DESCHUTES COUNTY, OR
RECEIVED T22S R10E, WM

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0 400 Feet
1" = 400'



	20.0 ac. "OFF" Cert. 90239
	Cert. 90239 in SENW QQ
	Section
	Tax Lot
	Quarter Quarter

INSTREAM TRANSFER OFF MAP
James & Jean Verheyden

This map is not intended to provide legal dimensions or locations of property ownership lines.

WATER RIGHT SERVICES, LLC

PO BOX 1830, BEND, OR 97709

WWW.OREGONWATER.US 541-389-2837

johnshort@usa.com

CCB # 197121

Date: 4/25/2021

C-90239



RENEWAL DATE 12/31/2022

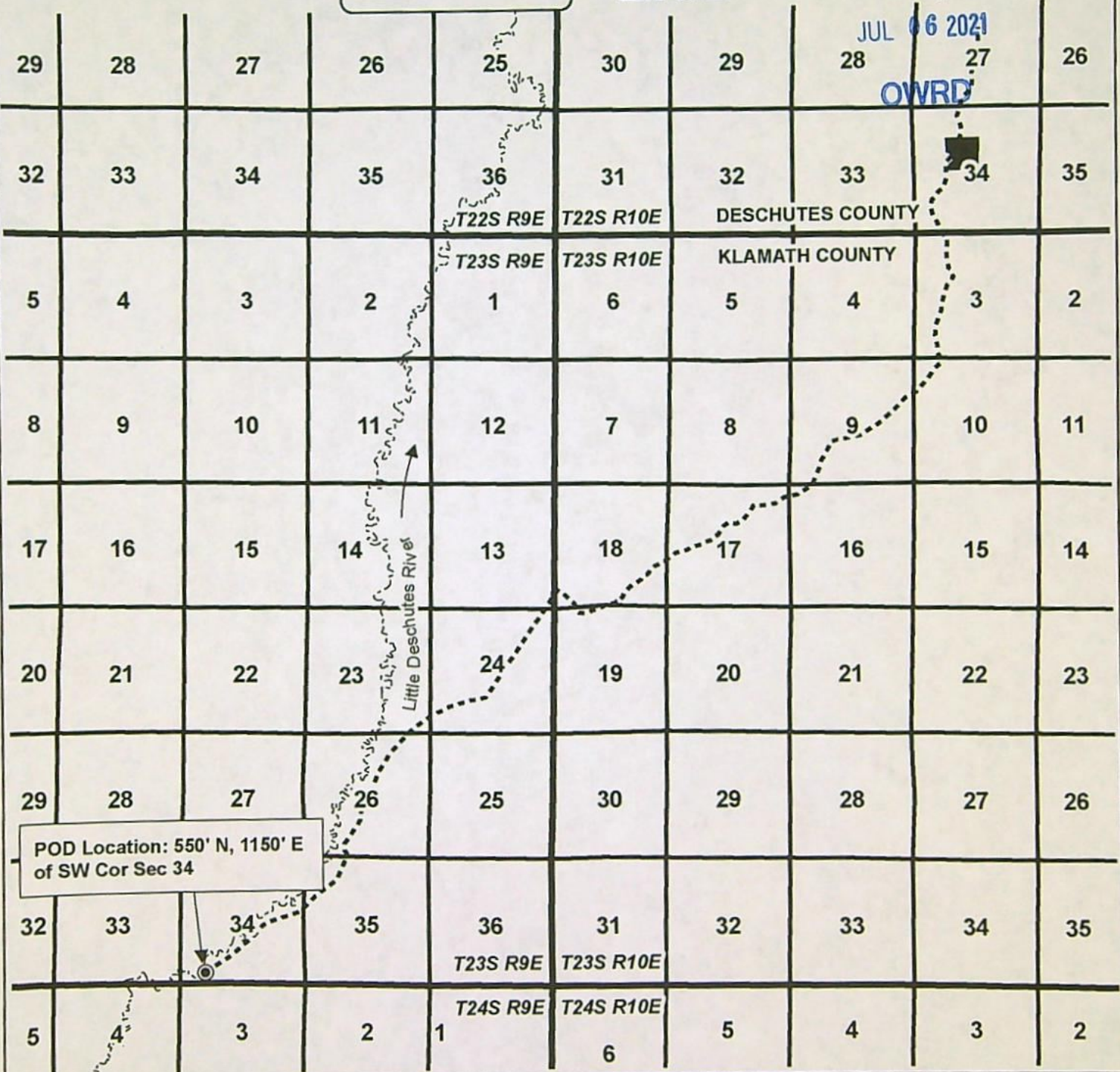
- POD
- Canal
- River
- Place of Use
- Township
- Section

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T22S R10E, WM,
DESCHUTES COUNTY, OR &
T23S R10E & T23S R9E, WM
KLAMATH COUNTY, OR

0 6,000 Feet W
1" = 6000'
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POD Location: 550' N, 1150' E
of SW Cor Sec 34

INSTREAM TRANSFER OFF MAP
James & Jean Verheyden

This map is not intended
to provide legal dimensions
or locations of property
ownership lines.

WATER RIGHT SERVICES, LLC
PO BOX 1830, BEND, OR 97709
WWW.OREGONWATER.US 541-389-2837
johnshort@usa.com CCB # 197121

Date: 4/25/2021

C-90239

April 25, 2021

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

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Re: Proposed Instream Water Right Transfer

To Whom it May Concern:

Please accept the enclosed Application for Water Right Instream Transfer. It is the intent of the applicant to apply any resulting credits to pending Groundwater Application G-19069. Also enclosed is a check for \$1,045 for the Transfer Fee.

If you have any questions regarding the enclosed materials, please contact me at 541-408-1400 or brycewrs@gmail.com; or John Short at 541-389-2837 or johnshort@usa.com.

Sincerely,



Bryce Withers
Water Right Services, LLC
PO Box 1830
Bend, OR 97709

Water Right Services, LLC

John A. Short CCB# 197121
541-389-2837

P.O. Box 1830
Bend, OR 97709

johnshort@usa.com
www.oregonwater.us

PHILLIPS Stacy H * WRD

From: HENDERSON Sarah A * WRD
Sent: Thursday, July 08, 2021 11:47 AM
To: PHILLIPS Stacy H * WRD
Cc: HENDERSON Sarah A * WRD
Subject: FW: Instream Transfer Pink Slip
Attachments: Instream Transfer Pink Slip 7-6-2021.pdf; Certificate needs pushed please

Categories: Project T-13764 | MP-276

Hi Stacy,

Ok... this transfer application is ok to be accepted, however the certificate that this needs to be pushed off of is Cert 95746 (NOT 90239). Also this Cert 95746 is not in WRIS yes so I have sent an email to Duff to ask that it be pushed asap (attached email).

Also, this application will be a MP project, so we will need a MP number with this T 😊

Once we have a T# and MP# I will need those so I can also do pub notice for mitigation project (will you/Julie let me know when this T will be on pub notice and I will do MP notice at same time?)

So I'm not sure how we do this, process pink and wait for Duff?

Sarah

Sarah A. Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section
725 Summer St. NE, Suite A | Salem, OR 97301
Work Cell 503-979-9872
Email: sarah.a.henderson@oregon.gov



From: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Sent: Thursday, July 8, 2021 8:46 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Subject: Instream Transfer Pink Slip

Good Morning Sarah,

There is a Pink Slip for an Instream Transfer in my inbox. Receipt #135765 in the amount of \$1,045.00. Please review the application and let me know if you want me to accept it and issue a T-number.

Thanks,

PHILLIPS Stacy H * WRD

From: HENDERSON Sarah A * WRD
Sent: Thursday, July 08, 2021 11:38 AM
To: MARTIN Duff A * WRD
Cc: HENDERSON Sarah A * WRD
Subject: Certificate needs pushed please
Attachments: ISWR.pdf

Hi Duff,

I hate to bug you, but we have a new instream transfer application that was submitted 7/6/21 and it involves a rr cert that was issued on June 14, 2021.

Attached is a copy of the final order and cf cert and rr cert (with other information that went that you don't need, but this is the copy I have..) that was issued.

RR Cert 95746 is the certificate that I need pushed, so this new transfer can be put into wris and processed.

Let me know if I should send this email to someone else, or if you need more information also.

Thank you for the help.

Sarah

Sarah A. Henderson

Flow Restoration Program Coordinator
Transfer and Conservation Section
725 Summer St. NE, Suite A | Salem, OR 97301
Work Cell 503-979-9872
Email: sarah.a.henderson@oregon.gov

