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File No. 12805.12126

May 21, 2025

**VIA E-MAIL: MWATSON@COID.ORG**

Mikaela Watson  
Water Rights Project Assistant  
Central Oregon Project Assistant  
1055 SW Lake Rd  
Redmond, OR 97756

Received by OWRD  
May 22, 2025  
Salem, OR

Re: COID Transfer Application 2025-012

Dear Ms. Waston:

We represent the Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe"). Central Oregon Irrigation District ("COID") has provided the Tribe with certain information concerning Transfer Application 2025-012, identified in **Appendix A** hereto (the "Application").

The Tribe has reviewed the information about the Application provided by COID. The Tribe is relying in good faith upon the information provided by COID. Based on that information, the Tribe does not object to the Department of Water Resources ("Department") processing the Application in accordance with applicable law, and the Department's customary practice. The Tribe, however, expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with the Application, including, but not limited to, whether the Application violates the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963, or the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended.

Sincerely,

Alison K. Toivola  
of BEST BEST & KRIEGER LLP

**VIA E-MAIL: MWATSON@COID.ORG**

Mikaela Watson

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AKT:akt

Attachment

cc: Robert A. Brunoe  
Austin Smith, Jr.  
Brad Houslet  
David Filippi, Esq.  
Josh Newton, Esq.  
Jeremy Giffin, Oregon Water Resources Department  
Jessi Talbott  
Gen Hubert

# Appendix A

## INSTRUCTIONS:

This checklist is intended to facilitate the Department of Water Resources' ("Department") processing of water rights transfer applications within the Deschutes Basin for the 2025 calendar year. The Confederated Tribes of the Warm Springs Reservation of Oregon ("Tribe") has reviewed this checklist. The Tribe does not object to the Department's processing of any water rights transfer applications that meets a "Yes" of all applicable checklist items, and therefore satisfies the "Meets Requirements" category at the top of this checklist. When the checklist is so satisfied, the Department may process the application in accordance with applicable law, and the Department's customary practice.

Water rights transfer applications that meet all of the checklist criteria appear to present a low risk of injury to the Tribal Reserved Water Right as defined in the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended. The Tribe does not waive its right to dispute or challenge any transfer application, whether or not they satisfy this checklist, on the basis that the transfer injures the Tribal Reserved Water Right or other federally-reserved water right held by the Tribe. The Tribe expressly reserves, and does not waive, all rights, claims, and defenses that it may possess in connection with the application, including, but not limited to, whether the application violates the Treaty of June 25, 1855, with the Tribes of Middle Oregon, 12 Stat. 963, or the Confederated Tribes of the Warm Springs Reservation Water Rights Settlement Agreement, dated November 17, 1997, as amended.

The Tribe further reserves the right to conduct additional analysis on any transfer that is submitted to the Department with a completed checklist. The Tribe reserves the right to consider, among other things, the risk of localized impacts, cumulative impacts, water quality, return flows, groundwater recharge, Habitat Conservation Plan flow augmentation agreements, water bank transactions, and additional analyses received from the Tribe's staff, Department, applicant, or third party.

A "temporary instream lease" is any instream lease lasting five (5) years or less.

This checklist applies to surface water transfers only. This checklist does not apply to groundwater transfers.

If you have any questions about this checklist, please contact:

Jessi Talbott or Mikaela Watson, on behalf of Central Oregon Irrigation District, via e-mail at:

[jtalbott@coid.org](mailto:jtalbott@coid.org)  
[mwatson@coid.org](mailto:mwatson@coid.org)

Alison K. Toivola or Josh Newton of Best Best & Krieger, LLP, on behalf of the Tribe, via e-mail at:

[Alison.Toivola@bbklaw.com](mailto:Alison.Toivola@bbklaw.com)  
[Josh.Newton@bbklaw.com](mailto:Josh.Newton@bbklaw.com)

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## CTWS Low-Risk Transfer Checklist Requirements

Patron Name/Applicant Name : COID / DRC

Transfer Type: Temporary Instream Lease

Transfer #: COID-2025-12

Review Date: 4/1/25

Meets Requirements: ☐

Does Not Meet Requirements: ☒

Checklist Completed By: M. Watson

### Water Right Transfer - Check Applicable Transfer Type

Own Lands Transfer ☐

Water Right Sale ☐

	YES	NO	Comments:
Transfer Within Same District Boundary	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Balance	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Within Five (5) Miles	<input type="checkbox"/>	<input type="checkbox"/>	
No Increase in Diversion Amount	<input type="checkbox"/>	<input type="checkbox"/>	
No Change in Type of use	<input type="checkbox"/>	<input type="checkbox"/>	
No Change in Point of Diversion or Appropriation	<input type="checkbox"/>	<input type="checkbox"/>	
On/Off Lands Served by Same Canal	<input type="checkbox"/>	<input type="checkbox"/>	Identify Canal: Pilot Butte & Central OR
NOT a Multi-Step Transfer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
NOT a Mitigation Credit	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Lease to be used for mitigation

Temporary Instream Lease	YES	NO	Comments:
Decrease in Diversion - Increased River Flows	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Transfer of Surface Water ONLY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Crooked River	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Whychus Creek	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
No Potential for Measurable Impact to Deschutes River	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

### Summary of Transfer:

Pooled instream lease water right transfer to be used for mitigation during the 2025, 2026 and 2027 irrigation season. Expires 10/31/27

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**District Instream Lease****Part 1 of 4 – Minimum Requirements Checklist**

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

This Application to be used for water rights in the name of or conveyed by an Irrigation District (or similar organization) Complete Parts 1 through 4 and any required attachments	OWRD #	IL - 2124/MP-339
	District #	COID 25- 12

Check all items included  
with this application. (N/A =  
Applicable)

Fee in the amount of:

<input checked="" type="checkbox"/> \$610.00 for a lease involving <b>four or more</b> landowners or <b>four or more</b> water rights	Or <input type="checkbox"/> \$410.00 for all other leases
<input type="checkbox"/> Check enclosed <u>or</u> <input checked="" type="checkbox"/> Fee Charged to customer account <u>Deschutes River Conservancy</u> (Account name)	

Not

### MITIGATION PROJECT

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

☒ **Part 1 – Completed Minimum Requirements Checklist**

☒ **Part 2 – Completed District and Other Party Signature Page**

☒ **Part 3 – Completed Place of Use and Lessor Signature Page**  
(Include a separate **Part 3** for **each Lessor**.)

☒ **Part 4 – Completed Water Right and Instream Use Information**  
(Include a separate **Part 4** for **each Water Right**.)

☒ **How many Water Rights are included in the lease application?** 1 (# of rights)  
**List each water right to be leased instream here:** 94956

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

**List those other water rights here:** 76714

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

#### Required Attachments:

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

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

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

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

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

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