

# Application for Water Right Instream Transfer

## Part 1 of 5 – Minimum Requirements Checklist



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

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

### 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.
- FEE** – Application Fee required by ORS 536.050, payable by check to the Oregon Water Resources Department, the online fee calculator is located:  
[http://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator/](http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator/).  
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 3 – Completed Applicant Information and Signature.
- Part 4 – Completed Instream Use Information.
- Part 5 – Information about the Transferred Water Rights: **How many water rights are to be transferred? 10 List them here: 75656; 80490; 80491; 80492; 88975; 89086; 89087; 89088; 91874; 91875**  
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):**

|  |   |
|--|---|
| <input type="checkbox"/> Application fee not enclosed/insufficient | <input type="checkbox"/> Map not included or incomplete |
| <input type="checkbox"/> Land Use Form not enclosed or incomplete  |   |
| <input type="checkbox"/> Additional signature(s) required          | <input type="checkbox"/> Part _____ is incomplete       |
| Other/Explanation _____  |   |
| Staff: _____   | Date: ____/____/____                                    |

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## Part 3 of 5 – Applicant Information and Signature

**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.**

- 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/](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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Is this a  Permanent Instream Transfer or  Time-Limited Instream Transfer?

**Applicant Information**

|  |                        |                                   |   |
|--|------------------------|-----------------------------------|---|
| APPLICANT/BUSINESS NAME<br><b>Jim Whitney / WhitWhit, LLC</b>  |                        | PHONE NO.<br><b>541) 601-4433</b> | ADDITIONAL CONTACT NO.                      |
| ADDRESS<br><b>101 S.E. 3rd St.</b>   |                        |                                   | FAX NO.                                     |
| CITY<br><b>Pendleton</b>   | STATE<br><b>Oregon</b> | ZIP<br><b>97801</b>               | E-MAIL<br><b>jim@whitneylandcompany.com</b> |
| <b>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.</b> |                        |                                   |   |

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

|  |                        |                                  |   |
|--|------------------------|----------------------------------|---|
| AGENT/BUSINESS NAME<br><b>Jessica Humphreys / Trout Unlimited</b>  |                        | PHONE NO.<br><b>541-913-3750</b> | ADDITIONAL CONTACT NO.                    |
| ADDRESS<br><b>401 NE 1st St.</b>   |                        |                                  | FAX NO.                                   |
| CITY<br><b>Enterprise</b>  | STATE<br><b>Oregon</b> | ZIP<br><b>97828</b>              | E-MAIL<br><b>jessica.humphreys@tu.org</b> |
| <b>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.</b> |                        |                                  |   |

Explain in your own words what you propose to accomplish with this transfer application, and why: Legally transfer ten surface irrigation water rights to instream water rights from 227.6 irrigated acres (3.525 cfs) for the conservation, maintenance and enhancement of fish and wildlife habitat and other ecological values in Birch Creek. The goal is to protect summer surface flows from the points of diversion to the mouth of Birch Creek into the Umatilla River. The transfer of the water rights listed in this application is consistent with the terms of a recently completed Conservation Easement facilitated by the Confederated Tribes of Umatilla Indian Resercation.  
If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

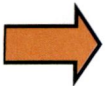
Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)


**Check one box**

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

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

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



  
 Applicant Signature                      Jim Whitney                      Date 2/10/26  
 Applicant Signature                      Print Name (and Title if applicable)                      Date

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Yes  No Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? *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.*

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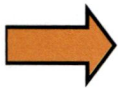
Check the following boxes that apply:

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

|                          |         |     |
|--------------------------|---------|-----|
| IRRIGATION DISTRICT NAME | ADDRESS |     |
| CITY                     | STATE   | ZIP |

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

|             |         |     |
|-------------|---------|-----|
| ENTITY NAME | ADDRESS |     |
| CITY        | STATE   | ZIP |



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

|  |                                    |                     |
|--|------------------------------------|---------------------|
| ENTITY NAME<br><b>Confederated Tribes of Umatilla Indian Reservation</b> | ADDRESS<br><b>46411 Timine Way</b> |                     |
| CITY<br><b>Pendleton</b>   | STATE<br><b>Oregon</b>             | ZIP<br><b>97801</b> |

|   |                                  |                     |
|---|----------------------------------|---------------------|
| ENTITY NAME<br><b>Umatilla County Community Development</b> | ADDRESS<br><b>216 SE 4th St.</b> |                     |
| CITY<br><b>Pendleton</b>                                    | STATE<br><b>Oregon</b>           | ZIP<br><b>97801</b> |

|   |                                      |                     |
|---|--------------------------------------|---------------------|
| ENTITY NAME<br><b>City of Pendleton Planning Department</b> | ADDRESS<br><b>500 SW Dorion Ave.</b> |                     |
| CITY<br><b>Pendleton</b>                                    | STATE<br><b>Oregon</b>               | ZIP<br><b>97801</b> |

|             |         |     |
|-------------|---------|-----|
| ENTITY NAME | ADDRESS |     |
| CITY        | STATE   | ZIP |

|             |         |     |
|-------------|---------|-----|
| ENTITY NAME | ADDRESS |     |
| CITY        | STATE   | ZIP |

**Part 4 of 5 – Proposed Instream Use Information**

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

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

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**Instream use proposed to be created by the instream transfer:**

| Originating Water Right Number (as identified in Part 5) | Priority Date | Source      | Proposed Instream Period | Rate (cfs)* | Volume (ac-ft)** |
|--|---------------|-------------|--------------------------|-------------|------------------|
| 75656  | 12/31/1880    | Birch Creek | April 1 - September 29   | 0.75        | 270              |
| 80490  | 12/31/1892    | Birch Creek | April 1 - September 27   | 0.12        | 42.75            |
| 80491  | 10/25/1935    | Birch Creek | April 1 - July 27        | 0.1         | 23.4             |
| 80492  | 4/5/1956      | Birch Creek | April 1 - July 16        | 0.01        | 2.11             |
| 88975  | 11/13/1967    | Birch Creek | April 1 - September 30   | 0.29        | 105.3            |
| 89086  | 10/31/1902    | Birch Creek | April 1 - September 29   | 0.81        | 292.5            |
| 89087  | 12/31/1892    | Birch Creek | April 1 - October 6      | 0.15        | 56.25            |
| 89088  | 5/31/1909     | Birch Creek | April 1 - September 29   | 0.03        | 9                |
| 91874  | 10/25/1935    | Birch Creek | April 1 - July 2         | 0.4         | 97.2             |
| 91875  | 10/25/1935    | Birch Creek | April 1 - June 31        | 0.865       | 207.6            |
| <b>TOTAL VOLUME</b>                                      |               |             |                          |             | <b>1,106.11</b>  |

**\*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: All of water rights in this transfer application have been leased in stream within the last five years and the POUs are now in a conservation easement. IL-1984: Certs: 80490, 80491, 80492, 89086, 89088, 91874 and portion of 91875; IL-1703: portion of Cert 75656); and IL-2042: 89087 and 88975.

**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): **Birch Creek from PODs to confluence with the Umatilla River.**

**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): \_\_\_\_\_.

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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): 59836.

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

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

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

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

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

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

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

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

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Please use a separate Part 5 for each water right being changed. See instructions on page 9, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # 75656

Name on Certificate: Clear Creek Cattle Company

Date(s) of Priority: 12/31/1880

Source(s) of Water to be Affected by the Transfer: Birch Creek

Description of Water Delivery System

System capacity: 1.06 cubic feet per second (cfs) OR  
 \_\_\_\_\_ gallons per minute (gpm)

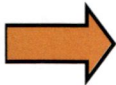
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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. Gravity system from a push-up dam to 3,000' long open ditch. POU was flood irrigated. Ditch abandoned since leasing of this Cert began in 2009.

**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) |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Peterson Dam       |   | 2   | N | 32  | E | 30  | SE  | NE | 1011                      | 45.630172 -118.851652                                |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.



**CERTIFICATE # 80490**

**Name on Certificate: Geo C. Sloan**

**Date(s) of Priority: 12/31/1880**

**Source(s) of Water to be Affected by the Transfer: Birch Creek**

**Description of Water Delivery System**

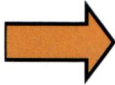
System capacity: .12 cubic feet per second (cfs) **OR**  
 \_\_\_\_\_ gallons per minute (gpm)

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. **40 hp submersible pump delivers water to a 6" 1,500 ft main line with 4" risers for wheel and hand lines..**

**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) |
|--------------------|---|----------|----------|-----------|----------|-----------|-----------|-----------|---------------------------|--|
|                    |   |          |          |           |          |           |           |           |                           |  |
| <b>1</b>           | <b>12/31/1880</b>                         | <b>2</b> | <b>N</b> | <b>32</b> | <b>E</b> | <b>19</b> | <b>NE</b> | <b>SW</b> | <b>400</b>                | <b>45.65185 -118.87884</b>                           |
|                    |   |          |          |           |          |           |           |           |                           |  |
|                    |   |          |          |           |          |           |           |           |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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**CERTIFICATE # 80491**

**Name on Certificate: State of Oregon, Eastern Oregon State Hospital**

**Date(s) of Priority: 10/25/1935**

**Source(s) of Water to be Affected by the Transfer: Birch Creek**

**Description of Water Delivery System**

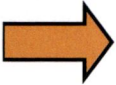
System capacity: **0.12** cubic feet per second (cfs) **OR**  
\_\_\_\_\_ gallons per minute (gpm)

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. **Two 40 hp electric pumps in Birch Cr. to a 10" dia mainline 50' to a t-valve. 2500' long 6" dia. pvc mainline with 4" dia risers to run handlines to place of use..**

**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) |
|--------------------|---|----------|----------|-----------|----------|-----------|-----------|-----------|---------------------------|--|
| <b>1</b>           | <b>12/31/1882</b>                         | <b>2</b> | <b>N</b> | <b>32</b> | <b>E</b> | <b>19</b> | <b>NE</b> | <b>SW</b> | <b>400</b>                | <b>45.636186 -118.862543</b>                         |
|                    |   |          |          |           |          |           |           |           |                           |  |
|                    |   |          |          |           |          |           |           |           |                           |  |

**Will the proposed instream transfer affect the entire water right?**

- Yes Then Table 2 on Page 8 does not need to be completed.
- No Then complete all of Table 2 to describe the portion of the water right to be changed.

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**CERTIFICATE # 80492**

Name on Certificate: State of Oregon, Eastern Oregon State Hospital

Date(s) of Priority: 04/05/1956

Source(s) of Water to be Affected by the Transfer: Birch Creek and Umatilla River

**Description of Water Delivery System**

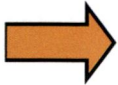
System capacity: .12 cubic feet per second (cfs) OR  
 \_\_\_\_\_ gallons per minute (gpm)

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. 25 hp submersible pump delivers water to a 6" 570 ft main line with 4" risers for wheel and hand lines..

**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) |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| 1                  | 04/05/1956                                | 2   | N | 31  | E | 13  | SW  | NE | 37                        | 45.65385 -118.87997                                  |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

- Yes Then Table 2 on Page 8 does not need to be completed.  
 No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|-----|----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE  | NW | 100     |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "   | "  | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
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|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |

Additional remarks: \_\_\_\_\_

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**CERTIFICATE # 88975**

**Name on Certificate: Warren and Vivian Taylor**

**Date(s) of Priority: 11/13/1967**

**Source(s) of Water to be Affected by the Transfer: Birch Creek**

**Description of Water Delivery System**

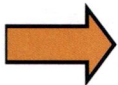
System capacity: .65 cubic feet per second (cfs) **OR**  
 \_\_\_\_\_ gallons per minute (gpm)

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. **Two 40 hp electric pumps in Birch Cr. with 50 ft of 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia aluminum mainline with 4" dia risers to run wheel lines with end guns to place of use.**

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       | 11/13/1967                                | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|-----|----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE  | NW | 100     |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "   | "  | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
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|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |

Additional remarks: Portion of supplemental irrigation water right 91877 in process of transfer to POU for Cert. 41258 and is not available for instream transfer.

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**CERTIFICATE # 89086**

**Name on Certificate:** Warren and Vivian Taylor

**Date(s) of Priority:** 10/31/1902

**Source(s) of Water to be Affected by the Transfer:** Birch Creek

**Description of Water Delivery System**

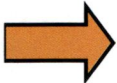
System capacity: .81 cubic feet per second (cfs) **OR**  
 \_\_\_\_\_ gallons per minute (gpm)

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. Two 40 hp electric pumps in Birch Cr. with 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia aluminum mainline with 4" dia risers to run wheel lines with end guns to place of use.

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       | 10/31/1902                                | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|-----|----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE  | NW | 100     |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "   | "  | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
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|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |

Additional remarks: Portions of supplemental irrigation water rights 88974 and 89089 are in process of transfer to POU for Cert. 41258 and are not available for instream transfer.

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**CERTIFICATE # 89087**

**Name on Certificate:** Warren and Vivian Taylor

**Date(s) of Priority:** 1892

**Source(s) of Water to be Affected by the Transfer:** Birch Creek

**Description of Water Delivery System**

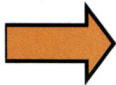
System capacity: .65 cubic feet per second (cfs) **OR**  
 \_\_\_\_\_ gallons per minute (gpm)

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. Two 40 hp electric pumps in Birch Cr. to a buried 10" dia. aluminum line 50' to a t-valve. 2,500' long 6" dia. pvc mainline with 4" dia risers to run handlines to place of use..

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       | 1892                                      | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|-----|----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE  | NW | 100     |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "   | "  | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
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|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |

Additional remarks: \_\_\_\_\_

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**CERTIFICATE # 89088**

**Name on Certificate:** Warren and Vivian Taylor

**Date(s) of Priority:** 05/31/1909

**Source(s) of Water to be Affected by the Transfer:** Birch Creek

**Description of Water Delivery System**

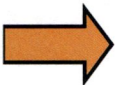
System capacity: .025 cubic feet per second (cfs) OR  
 \_\_\_\_\_ gallons per minute (gpm)

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. Two 40 hp electric pumps in Birch Cr. to a buried 10" dia. aluminum line 50' to a t-valve. 4,800' long 6" dia. pvc mainline with 4" dia risers to run handlines to place of use..

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       |   | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

- Yes Then Table 2 on Page 8 does not need to be completed.
- No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec |    | ¼ ¼ |     | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|----|-----|-----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE | NW  | 100 |         |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "  | "   | "   | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
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|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |

Additional remarks: \_\_\_\_\_

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**CERTIFICATE # 91874**

**Name on Certificate: Warren and Vivian Taylor**

**Date(s) of Priority: 10/25/1935**

**Source(s) of Water to be Affected by the Transfer: Birch Creek**

**Description of Water Delivery System**

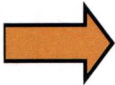
System capacity: .65 cubic feet per second (cfs) **OR**  
 \_\_\_\_\_ gallons per minute (gpm)

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. **Two 40 hp electric pumps in Birch Cr. to a buried 10" dia. aluminum line 50' to a t-valve. 1,200' long 6" dia. pvc mainline with 4" dia risers to run handlines to place of use..**

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       | 10/25/1935                                | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec |    | ¼ ¼ |     | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|----|-----|-----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE | NW  | 100 |         |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "  | "   | "   | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |    |     |     |         |                  |                     |                                   |  |                                      |

Additional remarks: Supplemental irrigation water right 91878 is in process of transfer to POU for Cert. 41258 and are not available for instream transfer.

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**CERTIFICATE # 91875**

**Name on Certificate: Warren and Vivian Taylor**

**Date(s) of Priority: 10/25/1935**

**Source(s) of Water to be Affected by the Transfer: Birch Creek**

**Description of Water Delivery System**

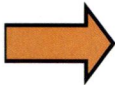
System capacity: .81 cubic feet per second (cfs) OR  
 \_\_\_\_\_ gallons per minute (gpm)

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. **Two 40 hp electric pumps in Birch Cr. with 50 ft of 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia. aluminum mainline with 4" dia. risers to run wheel lines with end guns to place of use.**

**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)   |
|--------------------|---|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                    |   |     |   |     |   |     |     |    |                           |  |
| Taylor's POD       | 10/25/1935                                | 2   | N | 31  | E | 13  | SW  | NW | 37                        | 1700 ft South and 2730 West from NE Corner, Section 13 |
|                    |   |     |   |     |   |     |     |    |                           |  |
|                    |   |     |   |     |   |     |     |    |                           |  |

**Will the proposed instream transfer affect the entire water right?**

Yes Then Table 2 on Page 8 does not need to be completed.

No Then complete all of Table 2 to describe the portion of the water right to be changed.

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Please use additional pages of Table 2 as needed. See page 9 for instructions. If you have further questions about how to fill out the tables, contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Change to Water Right Certificate # \_\_\_\_\_**

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

| Twp         |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot | Gov't Lot or DLC | Acres if Applicable | Type of USE listed on Certificate | Priority Date (if not the same for all acres or type of use) | POD(s) (name or number from Table 1) |
|-------------|---|-----|---|-----|-----|----|---------|------------------|---------------------|-----------------------------------|--|--------------------------------------|
| 2           | S | 9   | E | 14  | NE  | NW | 100     |                  | 15.0                | Irrigation                        | 4/1/1900   | POD #1<br>POD #2                     |
| "           | " | "   | " | "   | "   | "  | "       | "                | EXAMPLE             | "                                 | "  | "                                    |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
|             |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |
| TOTAL ACRES |   |     |   |     |     |    |         |                  |                     |                                   |  |                                      |

Additional remarks: 34.6 acres of primary irrigation to be transferred instream. Supplemental irrigation portion of this water right not available for instream transfer. Portion of supplemental irrigation water rights 89089 and 91877 are in process of transfer to POU for Cert. 41258 and are not available for instream transfer.

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T-14827

**Part 4 of 4 – Water Right Information**

**CERTIFICATE # 88974**

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**Description of Water Delivery System**

System capacity: .81 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. **Two 40 hp electric pumps in Birch Cr. with 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia aluminum mainline with 4" dia risers to run wheel lines with end guns to place of use.**

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed?                    | If POA, OWRD Well Log ID# (or Well ID Tag # L-___) | Twp |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot, DLC or Gov't Lot | Measured Distances (from a recognized survey corner)                                     |
|------------------------|---|--|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                        |   |  |     |   |     |   |     |     |    |                           |  |
| 1                      | <input checked="" type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed |  | 2   | N | 31  | E | 13  | SW  | SW | 37 D                      | 1700 ft South and 2730 ft West from NE Corner, Section 13                                |
| 2                      | <input type="checkbox"/> Authorized<br><input checked="" type="checkbox"/> Proposed |  | 2   | N | 31  | E | 14  | SW  | NE | 300                       | 2200 ft North and 2640 ft West from NE corner, SE-SE, Section 14. (45.65562 - 118.90209) |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- Place of Use (POU)
- Character of Use (USE)
- Point of Diversion (POD)
- Additional Point of Diversion (APOD)
- Surface Water POD to Ground Water POA (SW/GW)
- Supplemental Use to Primary Use (S to P)
- Point of Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)
- Substitution (SUB)
- Government Action POD (GOV)

**Will all of the proposed changes affect the entire water right?**

Yes Complete only the Proposed (“to” or “on” lands) section of Table 2 on the next page. Use the “CODES” listed above to describe the proposed changes.

No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 88974**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands)<br>The listing that appears on the certificate BEFORE PROPOSED CHANGES<br>List only that part or portion of the water right that will be changed. |     |     |   |    |         |                |       |                                   |  |               |                  |      | Proposed Changes (see "CODES" from previous page) | PROPOSED (the "to" or "on" lands)<br>The listing as it would appear AFTER PROPOSED CHANGES are made. |   |    |         |                |       |                 |   |               |      |     |        |          |      |
|--|-----|-----|---|----|---------|----------------|-------|-----------------------------------|--|---------------|------------------|------|---|--|---|----|---------|----------------|-------|-----------------|---|---------------|------|-----|--------|----------|------|
| Twp  | Rng | Sec | ¼ | ¼  | Tax Lot | Gvt Lot or DLC | Acres | Type of USE listed on Certificate | POD(s) or POA(s) (name or number from Table 1) | Priority Date | Twp              | Rng  |   | Sec  | ¼ | ¼  | Tax Lot | Gvt Lot or DLC | Acres | New Type of USE | POD(s)/POA(s) to be used (from Table 1) | Priority Date |      |     |        |          |      |
| <b>EXAMPLE</b>   |     |     |   |    |         |                |       |                                   |  |               |                  |      |   |  |   |    |         |                |       |                 |   |               |      |     |        |          |      |
| 2  | S   | 9   | E | 15 | NE      | NW             | 100   |                                   | 15.0   | Irrigation    | POD #1<br>POD #2 | 1901 | POU/POD   | 2  | S | 9  | E       | 1              | NW    | NW              | 500                                     | 1             | 10.0 |     | POD #5 | 1901     |      |
|  |     |     |   |    |         |                |       |                                   |  |               |                  |      |   |  | 2 | S  | 9       | E              | 2     | SW              | NW                                      | 500           |      | 5.0 |        | POD #6   | 1901 |
| 2  | N   | 31  | E | 13 | SW      | NE             |       | 37                                | 1.7  | Irrigation    | POD #1           | 1924 | POU   | 2  | N | 31 | E       | 14             | NW    | NE              | 300                                     |               | 7.7  |     | POD #2 | 7/1/1924 |      |
| 2  | N   | 31  | E | 13 | SW      | NW             |       | 37                                | 6  | Irrigation    | POD #1           | 1924 | POU   | 2  | N | 31 | E       | 14             | SW    | NE              | 300                                     |               | 15.7 |     | POD #2 | 7/1/1924 |      |
| 2  | N   | 31  | E | 13 | SE      | NW             |       | GL4                               | 7.5  | Irrigation    | POD #1           | 1924 |   |  |   |    |         |                |       |                 |   |               |      |     |        |          |      |
| 2  | N   | 31  | E | 14 | NE      | NE             | 300   |                                   | 4.4  | Irrigation    | POD #1           | 1924 |   |  |   |    |         |                |       |                 |   |               |      |     |        |          |      |
| 2  | N   | 31  | E | 14 | SE      | NE             | 300   |                                   | 3.8  | Irrigation    | POD #1           | 1924 |   |  |   |    |         |                |       |                 |   |               |      |     |        |          |      |
| TOTAL ACRES:   |     |     |   |    |         |                | 23.4  |                                   |  |               |                  |      |   | TOTAL ACRES:   |   |    |         |                |       |                 | 23.4                                    |               |      |     |        |          |      |

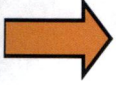
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Additional remarks: \_\_\_\_\_.

**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: From 88975 to 41258.



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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

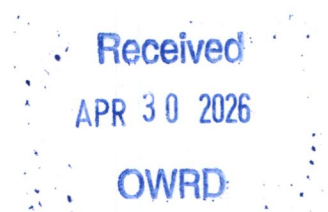
**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:  
[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.



**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well: OWRD Well ID Tag No. L-___ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well category (if any) |
|---|------------------------------------|---|------------------|-----------------|-------------------------|---------------------------|--|--|---|------------------------|
|   |                                    |   |                  |                 |                         |                           |  |  |   |                        |
|   |                                    |   |                  |                 |                         |                           |  |  |   |                        |
|   |                                    |   |                  |                 |                         |                           |  |  |   |                        |
|   |                                    |   |                  |                 |                         |                           |  |  |   |                        |

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STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

Received

APR 30 2026

OWRD

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF RECLAMATION; PACIFIC NORTHWEST REGION  
1150 N CURTIS RD SUITE 100  
BOISE, ID 83706-1234

confirms the right to use the waters of MCKAY RESERVOIR, tributary to UMATILLA RIVER for SUPPLEMENTAL IRRIGATION of 23.4 ACRES.

A portion of this right was perfected under Permit S-7400. The date of priority is JULY 1, 1924. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, during the irrigation season of each year, (0.29 CUBIC FOOT PER SECOND), or its equivalent in case of rotation, measured at the point of re-diversion.

The point of re-diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|-----|------|-----|-----|-------|-----|---|
| 2 N | 31 E | WM  | 13  | SE NW | 37  | TAYLORS POD - 1750 FEET SOUTH AND 2730 FEET WEST FROM NE CORNER, SECTION 13 |

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Acres |                          |
|-----|------|-----|-----|-------|------|-----|-------|--------------------------|
| 2 N | 31 E | WM  | 13  | SW NE |      | 37  | 1.7   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | SW NW |      | 37  | 6.0   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | SE NW | 4    |     | 7.5   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 14  | NE NE |      |     | 4.4   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 14  | SE NE |      |     | 3.8   | WARREN AND VIVIAN TAYLOR |

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water available from the original point of diversion described as follows:

| Twp | Rng  | Mer | Sec | Q-Q   |                 |
|-----|------|-----|-----|-------|-----------------|
| 2 N | 32 E | WM  | 34  | NW SE | MCKAY RESERVOIR |

Water shall be acquired from the same surface source as the original point of diversion.

The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

The water user shall maintain a fish screen or fish by-pass device.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**


This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

This certificate is issued to confirm a CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered DECEMBER 17, 2003, at Special Order Volume 58, Page 469, approving Transfer Application 6590, and modifies a portion of the right perfected under Permit S-7400.

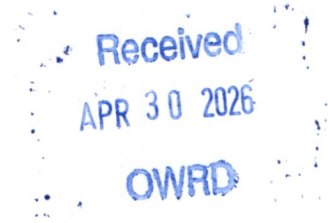
The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued **JAN 24 2014**  
\_\_\_\_\_

  
\_\_\_\_\_  
Dwight W. French  
Water Right Services Administrator,  
for Phillip C. Ward, Director  
Oregon Water Resources Department

Received  
APR 30 2026  
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**CERTIFICATE # 89089**



**Description of Water Delivery System**

System capacity: .81 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. **Two 40 hp electric pumps in Birch Cr. with 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia aluminum mainline with 4" dia risers to run wheel lines with end guns to place of use.**

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**  
 (Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed?                    | If POA, OWRD Well Log ID# (or Well ID Tag # L-___) | Twp |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot, DLC or Gov't Lot | Measured Distances (from a recognized survey corner)                                     |
|------------------------|---|--|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                        |   |  |     |   |     |   |     |     |    |                           |  |
| Taylor's POD           | <input checked="" type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed |  | 2   | N | 31  | E | 13  | SW  | NW | 37D                       | 1700 ft South and 2730 West from NE Corner, Section 13                                   |
| 2                      | <input type="checkbox"/> Authorized<br><input checked="" type="checkbox"/> Proposed |  | 2   | N | 31  | E | 14  | SW  | NE | 300                       | 2200 ft North and 2640 ft West from NE corner, SE-SE, Section 14. (45.65562 - 118.90209) |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input checked="" type="checkbox"/> Point of Diversion (POD)           | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

**Will all of the proposed changes affect the entire water right?**

- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 89089**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands)<br>The listing that appears on the certificate BEFORE PROPOSED CHANGES<br>List only that part or portion of the water right that will be changed. |     |     |   |    |         |                |       |                                   |  |               |                  | Proposed Changes (see "CODES" from previous page) | PROPOSED (the "to" or "on" lands)<br>The listing as it would appear AFTER PROPOSED CHANGES are made. |     |   |    |         |                |       |                 |   |               |      |             |        |      |
|--|-----|-----|---|----|---------|----------------|-------|-----------------------------------|--|---------------|------------------|---|--|-----|---|----|---------|----------------|-------|-----------------|---|---------------|------|-------------|--------|------|
| Twp  | Rng | Sec | ¼ | ¼  | Tax Lot | Gvt Lot or DLC | Acres | Type of USE listed on Certificate | POD(s) or POA(s) (name or number from Table 1) | Priority Date | Twp              |   | Rng  | Sec | ¼ | ¼  | Tax Lot | Gvt Lot or DLC | Acres | New Type of USE | POD(s)/POA(s) to be used (from Table 1) | Priority Date |      |             |        |      |
| <b>EXAMPLE</b>   |     |     |   |    |         |                |       |                                   |  |               |                  |   |  |     |   |    |         |                |       |                 |   |               |      |             |        |      |
| 2  | S   | 9   | E | 15 | NE      | NW             | 100   |                                   | 15.0   | Irrigation    | POD #1<br>POD #2 | 1901  | POU/POD  | 2   | S | 9  | E       | 1              | NW    | NW              | 500                                     | 1             | 10.0 |             | POD #5 | 1901 |
|  |     |     |   |    |         |                |       |                                   |  |               |                  |   |  | 2   | S | 9  | E       | 2              | SW    | NW              | 500                                     |               | 5.0  |             | POD #6 | 1901 |
| 2  | N   | 31  | E | 13 | NW      | NW             | 400   |                                   | 19   | Irrigation    | POD #1           | 1924  | POU  | 2   | N | 31 | E       | 13             | NW    | SW              | 400                                     |               | 4.1  |             | POD #2 | 1924 |
| 2  | N   | 31  | E | 13 | SW      | NW             | 400   |                                   | 25   | Irrigation    | POD #1           | 1924  | POU  | 2   | N | 31 | E       | 14             | SW    | NE              | 300                                     |               | 19.9 |             | POD #2 | 1924 |
| 2  | N   | 31  | E | 13 | SE      | NW             |       | GL4                               | 11   | Irrigation    | POD #1           | 1924  | POU  | 2   | N | 31 | E       | 14             | SE    | NE              | 300                                     |               | 18.6 |             | POD #2 | 1924 |
| 2  | N   | 31  | E | 13 | NE      | SW             |       | 37                                | 2  | Irrigation    | POD #1           | 1924  | POU  | 2   | N | 31 | E       | 14             | NW    | SE              | 300                                     |               | 8.9  |             | POD #2 | 1924 |
| 2  | N   | 31  | E | 13 | NW      | SE             |       | 37                                | 10.7   | Irrigation    | POD #1           | 1924  | POU  | 2   | N | 31 | E       | 14             | NE    | SE              | 300                                     |               | 28   |             | POD #2 | 1924 |
| 2  | N   | 31  | E | 13 | SE      | SE             |       | 37                                | 1.8  | Irrigation    | POD #1           | 1924  |  |     |   |    |         |                |       |                 |   |               |      |             |        |      |
| 2  | N   | 31  | E | 14 | NE      | NE             | 300   |                                   | 7  | Irrigation    | POD #1           | 1924  |  |     |   |    |         |                |       |                 |   |               |      |             |        |      |
| 2  | N   | 31  | E | 14 | SE      | NE             | 300   |                                   | 3  | Irrigation    | POD #1           | 1924  |  |     |   |    |         |                |       |                 |   |               |      |             |        |      |
| TOTAL ACRES:   |     |     |   |    |         |                |       |                                   | <b>79.5</b>                                    | TOTAL ACRES:  |                  |   |  |     |   |    |         |                |       |                 |   |               |      | <b>79.5</b> |        |      |

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Additional remarks: \_\_\_\_\_.

**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: From 89086, 89087, 89088 to 41258.



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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:  
[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

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**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well: OWRD Well ID Tag No. L-___ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well |
|---|------------------------------------|---|------------------|-----------------|-------------------------|---------------------------|--|--|---|------|
|   |                                    |   |                  |                 |                         |                           |  |  |   |      |
|   |                                    |   |                  |                 |                         |                           |  |  |   |      |
|   |                                    |   |                  |                 |                         |                           |  |  |   |      |
|   |                                    |   |                  |                 |                         |                           |  |  |   |      |

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STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF RECLAMATION  
 PACIFIC NORTHWEST REGION  
 1150 N CURTIS RD SUITE 100  
 BOISE, ID 83706-1234

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confirms a portion of the right to use the waters of MCKAY RESERVOIR, constructed under reservoir Permit R-584, tributary to UMATILLA RIVER, for SUPPLEMENTAL IRRIGATION of 79.5 ACRES.

A portion of this right was perfected under Permit S-7400. The date of priority is JULY 1, 1924.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to an amount actually used beneficially, and shall not exceed ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated, during the irrigation season of each year, or its equivalent in case of rotation, measured at the point of re-diversion.

The water user shall comply with the terms and conditions of a valid Water Contract between the Bureau of Reclamation and the water user. The Watermaster shall distribute water to the designated points of diversion according to ORS 540.410 and valid water service contracts as may be amended from time to time.

The point of diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   |                 |
|-----|------|-----|-----|-------|-----------------|
| 2 N | 32 E | WM  | 34  | NW SE | MCKAY RESERVOIR |

The point of re-diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|-----|------|-----|-----|-------|-----|---|
| 2 N | 31 E | WM  | 13  | SE NW | 37  | TAYLORS POD - 1750 FEET SOUTH AND 2730 FEET WEST FROM NE CORNER, SECTION 13 |

A description of the place of use is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | GLot | DLC | Acres | Water User               |
|-----|------|-----|-----|-------|------|-----|-------|--------------------------|
| 2 N | 31 E | WM  | 13  | NW NW |      |     | 19.0  | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | SW NW |      |     | 25.0  | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | SE NW | 4    |     | 11.0  | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | NE SW |      | 37  | 2.0   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | NW SE |      | 37  | 10.7  | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 13  | SE SE |      | 37  | 1.8   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 14  | NE NE |      |     | 7.0   | WARREN AND VIVIAN TAYLOR |
| 2 N | 31 E | WM  | 14  | SE NE |      |     | 3.0   | WARREN AND VIVIAN TAYLOR |

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

Water shall be acquired from the same surface source as the original point of diversion.

The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.


The water user shall maintain a fish screen or fish by-pass device.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

This certificate is issued to confirm a CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered DECEMBER 17, 2003, at Special Order Volume 58, Page 439, approving Transfer Application 6588, and modifies a portion of the right perfected under Permit S-7400.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Issued           MAR 13 2014          

  
~~Dwight W. French~~  
Water Right Services Administrator,  
for Phillip C. Ward, Director  
Oregon Water Resources Department

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**CERTIFICATE # 91877**

**Description of Water Delivery System**

System capacity: .65 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. **Two 40 hp electric pumps in Birch Cr. with 50 ft of 10" buried aluminum pipe to a t-valve. 1,700 ft 6" dia aluminum mainline with 4" dia risers to run wheel lines with end guns to place of use.**

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**  
 (Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed?                    | If POA, OWRD Well Log ID# (or Well ID Tag # L-___) | Twp |   | Rng |   | Sec |    | ¼ ¼ |     | Tax Lot, DLC or Gov't Lot  | Measured Distances (from a recognized survey corner) |
|------------------------|---|--|-----|---|-----|---|-----|----|-----|-----|--|--|
|                        |   |  |     |   |     |   |     |    |     |     |  |  |
| Taylor's POD           | <input checked="" type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed |  | 2   | N | 31  | E | 13  | SW | NW  | 37D | 1700 ft South and 2730 ft West from NE Corner, Section 13                                |  |
| 2                      | <input type="checkbox"/> Authorized<br><input checked="" type="checkbox"/> Proposed |  | 2   | N | 31  | E | 14  | SW | NE  | 300 | 2200 ft North and 2640 ft West from NE corner, SE-SE, Section 14. (45.65562 - 118.90209) |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |    |     |     |  |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |    |     |     |  |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |    |     |     |  |  |

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input checked="" type="checkbox"/> Point of Diversion (POD)           | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

**Will all of the proposed changes affect the entire water right?**

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- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 91877**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands)<br>The listing that appears on the certificate BEFORE PROPOSED CHANGES<br>List only that part or portion of the water right that will be changed. |     |     |   |    |         |                      |                     |   |   |                  |                  | Proposed<br>Changes (see<br>"CODES" from<br>previous<br>page) | PROPOSED (the "to" or "on" lands)<br>The listing as it would appear AFTER PROPOSED CHANGES<br>are made. |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
|--|-----|-----|---|----|---------|----------------------|---------------------|---|---|------------------|------------------|---|---|-----|---|----|---------|----------------------|-------|--------------------|--|------------------|---------------------|-------------|--------|------|
| Twp  | Rng | Sec | ¼ | ¼  | Tax Lot | Gvt<br>Lot or<br>DLC | Acres               | Type of USE<br>listed on<br>Certificate | POD(s) or<br>POA(s) (name<br>or number<br>from Table 1) | Priority<br>Date | Twp              |   | Rng   | Sec | ¼ | ¼  | Tax Lot | Gvt<br>Lot or<br>DLC | Acres | New Type of<br>USE | POD(s)/<br>POA(s) to<br>be used<br>(from<br>Table 1) | Priority<br>Date |                     |             |        |      |
| <b>EXAMPLE</b>   |     |     |   |    |         |                      |                     |   |   |                  |                  |   |   |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
| 2  | S   | 9   | E | 15 | NE      | NW                   | 100                 |   | 15.0  | Irrigation       | POD #1<br>POD #2 | 1901  | POU/POD   | 2   | S | 9  | E       | 1                    | NW    | NW                 | 500  | 1                | 10.0                |             | POD #5 | 1901 |
|  |     |     |   |    |         |                      |                     |   |   |                  |                  |   |   | 2   | S | 9  | E       | 2                    | SW    | NW                 | 500  |                  | 5.0                 |             | POD #6 | 1901 |
| 2  | N   | 31  | E | 13 | SW      | NE                   |                     | 37                                      | 17.3  | Irrigation       | Taylor's POD     | 1959  | POU   | 2   | N | 31 | E       | 13                   | SW    | SW                 | 400  |                  | 32.4                |             | POD #2 | 1959 |
| 2  | N   | 31  | E | 13 | NE      | NW                   |                     | GL 3                                    | .2  | Irrigation       | Taylor's POD     | 1959  |   |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
| 2  | N   | 31  | E | 13 | SE      | NW                   |                     | GL 4                                    | 11.7  | Irrigation       | Taylor's POD     | 1959  |   |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
| 2  | N   | 31  | E | 14 | NE      | NE                   | 300                 |   | 2.6   | Irrigation       | Taylor's POD     | 1959  |   |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
| 2  | N   | 31  | E | 14 | SE      | NE                   | 300                 |   | .6  | Irrigation       | Taylor's POD     | 1959  |   |     |   |    |         |                      |       |                    |  |                  |                     |             |        |      |
|  |     |     |   |    |         |                      | <b>TOTAL ACRES:</b> | <b>32.4</b>                             |   |                  |                  |   |   |     |   |    |         |                      |       |                    |  |                  | <b>TOTAL ACRES:</b> | <b>32.4</b> |        |      |

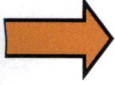
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Additional remarks: \_\_\_\_\_.

**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: From 91875 to 41258.



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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:  
[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

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**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well: OWRD Well ID Tag No. L-___ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well... |
|---|------------------------------------|---|------------------|-----------------|-------------------------|---------------------------|--|--|---|---------|
|   |                                    |   |                  |                 |                         |                           |  |  |   |         |
|   |                                    |   |                  |                 |                         |                           |  |  |   |         |
|   |                                    |   |                  |                 |                         |                           |  |  |   |         |
|   |                                    |   |                  |                 |                         |                           |  |  |   |         |

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STATE OF OREGON  
 COUNTY OF UMATILLA  
 CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WARREN TAYLOR  
 VIVIAN TAYLOR  
 41095 TAYLOR LANE  
 PENDLETON OR 97801

confirms the right to the use of water perfected under the terms of Permit S-26136. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

SOURCE OF WATER: MCKAY RESERVOIR, CONSTRUCTED UNDER PERMIT R-584

PURPOSE or USE: SUPPLEMENTAL IRRIGATION OF 32.4 ACRES

MAXIMUM RATE: 128.9 ACRE-FEET STORED WATER ONLY; SUBJECT TO THE TERMS OF CONTRACT NO. 14-06-100-970, DATED 5-4-56 BETWEEN THE USA THROUGH THE BUREAU OF RECLAMATION AND THE WATER USER, A COPY OF WHICH IS ON FILE IN THE OFFICE OF THE WATER RESOURCES DIRECTOR.

DATE OF PRIORITY: APRIL 20, 1959

The point of diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Measured Distances   |
|-----|------|-----|-----|-------|-----|--|
| 2 N | 31 E | WM  | 13  | SE NW | 37  | TAYLOR'S POD - 1750 FEET SOUTH AND 2730 FEET WEST FROM NE CORNER, SECTION 13 |

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to a diversion of 4.5 acre-feet for each acre irrigated during the irrigation season of each year and shall be limited to a total diversion of not to exceed 128.9 acre-feet per year.

The right shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | GLOT | DLC | Acres |
|-----|------|-----|-----|-------|------|-----|-------|
| 2 N | 31 E | WM  | 13  | SW NE |      | 37  | 17.3  |
| 2 N | 31 E | WM  | 13  | NE NW | 3    |     | 0.2   |
| 2 N | 31 E | WM  | 13  | SE NW |      |     | 11.7  |
| 2 N | 31 E | WM  | 14  | NE NE |      |     | 2.6   |
| 2 N | 31 E | WM  | 14  | SE NE |      |     | 0.6   |

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**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and 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.

The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available from the original point(s) of diversion described as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | Measured Distances   |
|-----|------|-----|-----|-------|--|
| 2 N | 32 E | WM  | 34  | NW SE | MCKAY RESERVOIR  |
| 2 N | 32 E | WM  | 18  | NW NW | UMATILLA RIVER – SOUTH 54 DEGREES EAST 960 FEET FROM NW CORNER, SECTION 18 |

Water shall be acquired from the same surface water source as the original points of diversion.

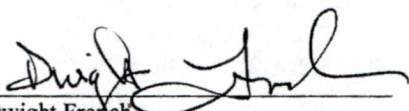
The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

The water user shall maintain a fish screen or fish by-pass device.

The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered December 17, 2003, at Special Order Volume 58, Page 463, approving Transfer Application 6589, supercedes Certificate 33878, State record of Water Right Certificates.

Issued           OCT 21 2016          .

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

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APR 30 2026  
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**CERTIFICATE # 91878**

**Description of Water Delivery System**

System capacity: .65 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. **Two 40 hp electric pumps in Birch Cr. to a buried 10" dia. aluminum line 50' to a t-valve. 1,200' long 6" dia. pvc mainline with 4" dia risers to run handlines to place of use.**

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**  
 (Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed?                    | If POA, OWRD Well Log ID# (or Well ID Tag # L-___) | Twp |   | Rng |   | Sec | ¼ ¼ |    | Tax Lot, DLC or Gov't Lot | Measured Distances (from a recognized survey corner)                                     |
|------------------------|---|--|-----|---|-----|---|-----|-----|----|---------------------------|--|
|                        |   |  |     |   |     |   |     |     |    |                           |  |
| Taylor POD             | <input checked="" type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed |  | 2   | N | 31  | E | 13  | SW  | NW | 37D                       | 1700 ft South and 2730 West from NE Corner, Section 13                                   |
| 2                      | <input type="checkbox"/> Authorized<br><input checked="" type="checkbox"/> Proposed |  | 2   | N | 31  | E | 14  | SW  | NE | 300                       | 2200 ft North and 2640 ft West from NE corner, SE-SE, Section 14. (45.65562 - 118.90209) |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |  |     |   |     |   |     |     |    |                           |  |

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input checked="" type="checkbox"/> Point of Diversion (POD)           | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

**Will all of the proposed changes affect the entire water right?**

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- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 91878**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands)<br>The listing that appears on the certificate BEFORE PROPOSED CHANGES<br>List only that part or portion of the water right that will be changed. |     |     |            |         |                |              |                                   |  |               |         |     | Proposed Changes (see "CODES" from previous page) | PROPOSED (the "to" or "on" lands)<br>The listing as it would appear AFTER PROPOSED CHANGES are made. |            |         |                |       |                 |   |               |  |  |
|--|-----|-----|------------|---------|----------------|--------------|-----------------------------------|--|---------------|---------|-----|---|--|------------|---------|----------------|-------|-----------------|---|---------------|--|--|
| Twp  | Rng | Sec | ¼ ¼        | Tax Lot | Gvt Lot or DLC | Acres        | Type of USE listed on Certificate | POD(s) or POA(s) (name or number from Table 1) | Priority Date | Twp     | Rng |   | Sec  | ¼ ¼        | Tax Lot | Gvt Lot or DLC | Acres | New Type of USE | POD(s)/POA(s) to be used (from Table 1) | Priority Date |  |  |
| <b>EXAMPLE</b>   |     |     |            |         |                |              |                                   |  |               |         |     |   |  |            |         |                |       |                 |   |               |  |  |
| 2  | S   | 9   | E 15 NE NW | 100     |                | 15.0         | Irrigation                        | POD #1 POD #2                                  | 1901          | POU/POD | 2   | S   | 9  | E 1 NW NW  | 500     | 1              | 10.0  |                 | POD #5                                  | 1901          |  |  |
|  |     |     |            |         |                |              |                                   |  |               |         | 2   | S   | 9  | E 2 SW NW  | 500     |                | 5.0   |                 | POD #6                                  | 1901          |  |  |
| 2  | N   | 31  | E 13 SW NE |         | 37             | 5.47         | Irrigation                        | Taylor POD                                     | 1924          | POU     | 2   | N   | 31   | E 13 NW SW | 400     |                | 7.6   |                 | POD #2                                  | 1924          |  |  |
| 2  | N   | 31  | E 13 NE SE |         | 37             | 7.4          | Irrigation                        | Taylor POD                                     | 1924          | POU     | 2   | N   | 31   | E 13 NW SE | 400     |                | 4     |                 | POD #2                                  | 1924          |  |  |
| 2  | N   | 31  | E 13 NW SE |         | 37             | 4.2          | Irrigation                        | Taylor POD                                     | 1924          | POU     | 2   | N   | 31   | E 13 SW SW | 400     |                | 2.2   |                 | POD #2                                  | 1924          |  |  |
| 2  | N   | 31  | E 13 SE SE |         | 37             | 4.2          | Irrigation                        | Taylor POD                                     | 1924          | POU     | 2   | N   | 31   | E 13 NE NE | 400     |                | 7.47  |                 | POD #2                                  | 1924          |  |  |
| TOTAL ACRES:   |     |     |            |         |                | <b>21.27</b> |                                   |  |               |         |     | TOTAL ACRES:                                      |  |            |         |                |       | <b>21.27</b>    |   |               |  |  |

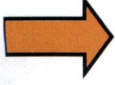
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Additional remarks: \_\_\_\_\_.

**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: From: 91874 To: 41258.



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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:  
[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

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**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well: OWRD Well ID Tag No. L-____ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well category (e.g., domestic, irrigation, etc.) |
|---|------------------------------------|--|------------------|-----------------|-------------------------|---------------------------|--|--|---|--|
|   |                                    |  |                  |                 |                         |                           |  |  |   |  |
|   |                                    |  |                  |                 |                         |                           |  |  |   |  |
|   |                                    |  |                  |                 |                         |                           |  |  |   |  |
|   |                                    |  |                  |                 |                         |                           |  |  |   |  |

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 APR 30 2026  
 OWRD

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

U.S. BUREAU OF RECLAMATION  
1150 N CURTIS RD SUITE 100  
BOISE ID 83706-1234

confirms a portion of the right to use the waters of MCKAY RESERVOIR, constructed under reservoir Permit R-584, tributary to UMATILLA RIVER, for SUPPLEMENTAL IRRIGATION 21.27 ACRES.

A portion of this right was perfected under Permit S-7400. The date of priority is JULY 1, 1924.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to an amount actually used beneficially, and shall not exceed ONE-EIGHTIETH of one cubic foot per second per acre or its equivalent for each acre irrigated during the irrigation season of each year, or its equivalent in case of rotation, measured at the point of re-diversion from the source.

The water user shall comply with the terms and conditions of a valid Water Contract between the Bureau of Reclamation and the water user. The Watermaster shall distribute water to the designated points of diversion according to ORS 540.410 and valid water service contracts as may be amended from time to time

The point of diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | Location        |
|-----|------|-----|-----|-------|-----------------|
| 2 N | 32 E | WM  | 34  | NW SE | MCKAY RESERVOIR |

The point of re-diversion is located as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Measured Distances  |
|-----|------|-----|-----|-------|-----|---|
| 2 N | 31 E | WM  | 13  | SE NW | 37  | TAYLORS POD - 1750 FEET SOUTH AND 2730 FEET WEST FROM NE CORNER, SECTION 13 |

A description of the place of use is as follows:

| Twp | Rng  | Mer | Sec | Q-Q   | DLC | Acres |
|-----|------|-----|-----|-------|-----|-------|
| 2 N | 31 E | WM  | 13  | SW NE | 37  | 5.47  |
| 2 N | 31 E | WM  | 13  | NE SE | 37  | 7.4   |
| 2 N | 31 E | WM  | 13  | NW SE | 37  | 4.2   |
| 2 N | 31 E | WM  | 13  | SE SE | 37  | 4.2   |

Water shall be acquired from the same surface water source as the original points of diversion.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

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The water user shall maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.


The water user shall maintain a fish screen or fish by-pass device.

The right is limited to any deficiency in the available supply of any prior right existing for the same lands.

The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered December 17, 2003, at Special Order Volume 58, Page 463, approving Transfer Application 6589, and modifies a portion of the right perfected under Permit S-7400.

Issued OCT 21 2016

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

Received  
APR 30 2026  
OWRD

**CERTIFICATE # 41254**

**Description of Water Delivery System**

System capacity: \_\_\_\_\_ cubic feet per second (cfs) **OR**  
539 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. 5 hp electric well pump into 4" dia. pvc mainline 1,790 ft 4" dia risers to wheellines and handlines at place of use.

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed?                    | If POA, OWRD Well Log ID# (or Well ID Tag # L-____) | Twp      |          | Rng       |          | Sec       | ¼ ¼       |           | Tax Lot, DLC or Gov't Lot | Measured Distances (from a recognized survey corner)     |
|------------------------|---|---|----------|----------|-----------|----------|-----------|-----------|-----------|---------------------------|--|
|                        |   |   |          |          |           |          |           |           |           |                           |  |
| <b>Well 1</b>          | <input checked="" type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed |   | <b>2</b> | <b>N</b> | <b>31</b> | <b>E</b> | <b>13</b> | <b>SE</b> | <b>SE</b> | <b>37</b>                 | <b>3230 ft South and 800 West from NE Corner, DLC 37</b> |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |   |          |          |           |          |           |           |           |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |   |          |          |           |          |           |           |           |                           |  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |   |          |          |           |          |           |           |           |                           | <b>Received</b>  |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |   |          |          |           |          |           |           |           |                           | <b>APR 30 2026</b>                                       |
|                        | <input type="checkbox"/> Authorized<br><input type="checkbox"/> Proposed            |   |          |          |           |          |           |           |           |                           | <b>OWRD</b>  |

**Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input checked="" type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)                   |
| <input type="checkbox"/> Point of Diversion (POD)                      | <input type="checkbox"/> Additional Point of Appropriation (APOA)            |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                                  |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)                         |

**Will all of the proposed changes affect the entire water right?**

- Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 41254**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands)<br>The listing that appears on the certificate BEFORE PROPOSED CHANGES<br>List only that part or portion of the water right that will be changed. |     |     |            |         |                      |            |   |   |                  |              |              | Proposed<br>Changes (see<br>"CODES" from<br>previous<br>page) | PROPOSED (the "to" or "on" lands)<br>The listing as it would appear AFTER PROPOSED CHANGES<br>are made. |            |         |                      |            |                    |  |                  |  |  |
|--|-----|-----|------------|---------|----------------------|------------|---|---|------------------|--------------|--------------|---|---|------------|---------|----------------------|------------|--------------------|--|------------------|--|--|
| Twp  | Rng | Sec | ¼ ¼        | Tax Lot | Gvt<br>Lot or<br>DLC | Acres      | Type of USE<br>listed on<br>Certificate | POD(s) or<br>POA(s) (name<br>or number<br>from Table 1) | Priority<br>Date | Twp          | Rng          |   | Sec   | ¼ ¼        | Tax Lot | Gvt<br>Lot or<br>DLC | Acres      | New Type of<br>USE | POD(s)/<br>POA(s) to<br>be used<br>(from<br>Table 1) | Priority<br>Date |  |  |
| <b>EXAMPLE</b>   |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
| 2  | S   | 9   | E 15 NE NW | 100     |                      | 15.0       | Irrigation                              | POD #1<br>POD #2  | 1901             | POU/POD      | 2            | S   | 9   | E 1 NW NW  | 500     | 1                    | 10.0       |                    | POD #5   | 1901             |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              | 2            | S   | 9   | E 2 SW NW  | 500     |                      | 5.0        |                    | POD #6   | 1901             |  |  |
| 2  | N   | 31  | E 13 NE SE |         | 37                   | 1          | Irrigation                              | 1   | 1967             | POU          | 2            | N   | 31  | E 13 SW NE |         | 37                   | 1          |                    | 1  | 1967             |  |  |
| 2  | N   | 31  | E 13 NW SW |         | 37                   | 4.47       | Irrigation                              | 1   | 1967             | POU / S TO P | 2            | N   | 31  | E 13 SW NE |         | 37                   | 4.47       |                    | 1  | 1967             |  |  |
| 2  | N   | 31  | E 13 NW SW |         | 37                   | .23        | Irrigation                              | 1   | 1967             | POU / S TO P | 2            | N   | 31  | E 13 NW SE |         | 37                   | .23        |                    | 1  | 1967             |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
|  |     |     |            |         |                      |            |   |   |                  |              |              |   |   |            |         |                      |            |                    |  |                  |  |  |
| TOTAL ACRES:   |     |     |            |         |                      | <b>5.7</b> |   |   |                  |              | TOTAL ACRES: |   |   |            |         |                      | <b>5.7</b> |                    |  |                  |  |  |

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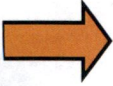
Additional remarks:Change place of use for 1 acres of primary. Change place of use for 5.47 acre and change purpose of use from supplemental to primary for the same 5.47 acres.

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**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: 89088.



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.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;  
Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # 41254

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:  
[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

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**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well: OWRD Well ID Tag No. L-___ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well category (e.g., monitoring, production, etc.) |
|---|------------------------------------|---|------------------|-----------------|-------------------------|---------------------------|--|--|---|--|
|   |                                    |   |                  |                 |                         |                           |  |  |   |  |
|   |                                    |   |                  |                 |                         |                           |  |  |   |  |
|   |                                    |   |                  |                 |                         |                           |  |  |   |  |
|   |                                    |   |                  |                 |                         |                           |  |  |   |  |

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STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

This Is to Certify, That **JOHNS, SMITH, & BEAMER**

of **P. O. Box 161, Athens, State of Oregon 97813**, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of a well

a tributary of **Birch Creek (Umatilla River)** for the purpose of irrigation of **2.23 acres and supplemental irrigation of 451.77 acres** under Permit No. **G-3742** of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from **June 13, 1967**

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed **1.67 cubic feet per second**

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the **SE $\frac{1}{4}$  SE $\frac{1}{4}$** , as projected within Whitney DLC 37 Section 13, T. 2 N., R. 31 E., W. M., 3230 feet South and 800 feet West from NE Corner, Whitney DLC 37.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to **one-eightieth** of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed **3 acre feet per acre** for each acre irrigated during the irrigation season of each year; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein,

and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- Primary**
- 1.23 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$**
- 1.00 acre NE $\frac{1}{4}$  SE $\frac{1}{4}$**
- Both as projected within Whitney DLC 37**
- Section 13**
- T. 2 N., R. 31 E., W. M.**

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Supplemental

25.57 acres SW $\frac{1}{2}$  NE $\frac{1}{4}$   
As projected within Whitney DLC 37  
0.1 acre Lot 3 (NE $\frac{1}{4}$  NW $\frac{1}{4}$ )  
17.8 acres NW $\frac{1}{4}$  NW $\frac{1}{4}$   
32.7 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$   
24.8 acres Lot 4 (SE $\frac{1}{4}$  NW $\frac{1}{4}$ )  
6.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$   
4.0 acres NE $\frac{1}{4}$  SW $\frac{1}{4}$

Both as projected within Whitney DLC 37

4.8 acres Lot 5 (NE $\frac{1}{4}$  SW $\frac{1}{4}$ )  
11.7 acres NW $\frac{1}{4}$  SW $\frac{1}{4}$   
34.6 acres SW $\frac{1}{4}$  SW $\frac{1}{4}$   
27.8 acres Lot 6 (SE $\frac{1}{4}$  SW $\frac{1}{4}$ )  
3.0 acres SE $\frac{1}{4}$  SW $\frac{1}{4}$   
7.4 acres NE $\frac{1}{4}$  SE $\frac{1}{4}$   
14.4 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$   
12.0 acres SW $\frac{1}{4}$  SE $\frac{1}{4}$   
9.5 acres SE $\frac{1}{4}$  SE $\frac{1}{4}$

All as projected within Whitney DLC 37

Section 13

15.0 acres NE $\frac{1}{4}$  NE $\frac{1}{4}$   
0.9 acre NW $\frac{1}{4}$  NE $\frac{1}{4}$   
8.4 acres SW $\frac{1}{4}$  NE $\frac{1}{4}$   
26.0 acres SE $\frac{1}{4}$  NE $\frac{1}{4}$   
28.0 acres NE $\frac{1}{4}$  SE $\frac{1}{4}$   
3.3 acres NW $\frac{1}{4}$  SE $\frac{1}{4}$

Section 14

30.0 acres NE $\frac{1}{4}$  NW $\frac{1}{4}$   
32.8 acres NW $\frac{1}{4}$  NW $\frac{1}{4}$   
37.2 acres SW $\frac{1}{4}$  NW $\frac{1}{4}$   
34.0 acres SE $\frac{1}{4}$  NW $\frac{1}{4}$

Section 24

T. 2 N., R. 31 E., W. M.

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The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 11 day of December, 19 74

Chris L. Wheeler

State Engineer



# Application for Water Right Transfer

## Evidence of Use Affidavit

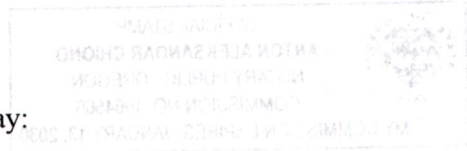


**Oregon Water Resources Department**  
 725 Summer Street NE, Suite A  
 Salem, Oregon 97301-1266  
 (503) 986-0900  
 www.wrd.state.or.us

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 UMATILLA)

I, JIM WHITNEY, in my capacity as OWNER,  
 mailing address 101 SE 3<sup>RD</sup> ST. PENDLETON, OR, 97801  
 telephone number (541)601-4433, 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) |
|---------------|----------|-------|-----|-----|-----|------------------|-----------------------|
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |
|               |          |       |     |     |     |                  |                       |

**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: IL-1984 (CERTIFICATES 80490, 80491, 80492, 89086, 89088, 91874 AND PORTION OF 91875); IL-1703 (PORTION OF CERTIFICATE 75656); AND IL-2042 (89087 AND 88975) (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)

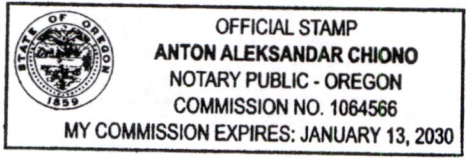
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3. The water right was used for: (e.g., crops, pasture, etc.): INSTREAM LEASING AND CROP IRRIGATION
4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

[Signature]  
Signature of Affiant

2/10/26  
Date

Signed and sworn to (or affirmed) before me this 10<sup>th</sup> day of Feb., 2026.



[Signature]  
Notary Public for Oregon

My Commission Expires: #1064566  
Exp. 1/13/30

| 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 <b>confirming</b> water right certificate that shows issue date  |
| <input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water                                  | <ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>   |
| <input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers | <ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>  |
| <input type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph                                       | <p>Multiple photos can be submitted to resolve different areas of a water right.<br/>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:<br/>OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a><br/>OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a><br/>Google Earth – <a href="http://earth.google.com">earth.google.com</a><br/>TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a></p> |
| <input checked="" type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years   | Copy of instream lease or lease number.  |

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**AFTER RECORDING, RETURN TO:**  
 Blue Mountain Land Trust  
 P.O. Box 1473  
 Walla Walla, WA 99362  
 Ptn. of Sections 11, 13, 14 and 24, T2N, R31E,  
 and Sections 19 and 30, T2N, R32E, W.M.  
 Umatilla County, OR  
 Bonneville Tract ID: UMATT-WL-14, UMATT-  
 14-AR-1, Parcel 1, and UMATT-14-AR-1,  
 Parcel 2

State of Oregon  
 County of Umatilla  
 REC-DE  
 Pgs=80 \$400.00 \$11.00 \$10.00 \$60.00 \$491.00  
 Office of County Records  
*Steve Churchill*  


**DEED OF CONSERVATION AND RESTORATION EASEMENT**

This DEED OF CONSERVATION AND RESTORATION EASEMENT (“**Conservation and Restoration Easement**”) is executed by WHITWHIT, LLC, an Oregon limited liability company (“**Grantor**”), having an address of 101 S.E. 3<sup>rd</sup> Street, Pendleton, OR 97801, in favor of BLUE MOUNTAIN LAND TRUST, a Washington non-profit corporation, and its successors and assigns (“**Grantee**”), having an address of P.O. Box 1473, Walla Walla, WA 99362, holder of the Conservation and Restoration Easement, and the UNITED STATES OF AMERICA, acting by and through the U.S Department of Energy, Bonneville Power Administration (“**Bonneville**”), having a third-party right of enforcement. Grantor and Grantee may be individually referred to as “**Party**” or collectively referred to as “**Parties.**”

**I. RECITALS**

**A. Protected Property.** Grantor is the owner in fee simple of certain real property situated near the unincorporated town of Rieth approximately five miles west of the City of Pendleton in Umatilla County, Oregon. A 942.54 acre portion of Grantor’s larger 981.6-acre real property will be permanently protected by this Conservation and Restoration Easement, which will protect significant proposed habitat restoration and channel modification of the Umatilla River and Birch Creek, once implemented (“**Protected Property,**” also commonly referred to as “**UmaBirch**”). At the time of this conveyance, the Grantor is the fee simple owner of additional property not subject to this Conservation and Restoration Easement.

**B. Planned Restoration Work.** The Confederated Tribes of the Umatilla Indian Reservation (“**CTUIR**”) are responsible for the planning, design, proposed and final implementation, and monitoring and evaluation of a large-scale habitat restoration project (“**Planned Restoration Work**”) on a portion of Grantor’s real property, in coordination with and funded by Bonneville (Contract No. 73982, Project # 1987-100-01), and in coordination with Grantor pursuant to a Riparian Conservation Agreement executed in December 2017 and amended in June 2023. The Protected Property is comprised of two non-contiguous parcels of land – referred to herein as the “**Umatilla River Unit**” and the “**Birch Creek Unit**” – totaling approximately 942.54 acres, which will be managed by zones. As further described in

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Section II.E, the Planned Restoration Work will occur in the Riparian Management Zone of both units.

- C. Protected Water.** Grantor is also the holder of one Groundwater Certificate, four Reservoir Supplemental Certificates, and twelve Surface Water Certificates appurtenant to or appropriated on its fee-owned real property. As part of this Conservation and Restoration Easement transaction and the Riparian Conservation Agreement with CTUIR, as amended, Grantor, in partnership with the CTUIR, has filed transfer applications with Oregon Water Resources Department (“**OWRD**”) for changes in place of use and purpose of use, where the net effect will: (1) enable the permanent transfer of 227.57 irrigated acres (approximately 3.525 cfs) of surface water instream for the conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values (“**Protected Water**”); and (2) enable Grantor to reserve certain water rights (“**Reserved Water Rights**”). Both Protected Water and Reserved Water Rights are described further in Sections II.D (Protected Water (and Reserved Water Rights) Process) and II.H.1 (Reserved Water Rights and Water Delivery System).
- D. Qualified Organization.** Grantee is a publicly-supported, tax-exempt non-profit organization, qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. [United States Code] §§ 1 *et seq.*, and O.R.S. [Oregon Revised Statutes] § 271.715(3)(b), to hold this Conservation and Restoration Easement. Grantee’s primary purpose is to acquire, preserve, and dispose of privately-owned fee and less-than-fee real property interests to protect open space, agricultural, forest, fish and wildlife habitat, and historically significant lands in southeast Washington and Eastern Oregon. Grantee has resources to monitor and enforce the restrictions set forth in this Conservation and Restoration Easement.
- E. Funding and Authority (General).** Bonneville is a power-marketing agency having legal obligations under the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. §§ 839-839h (“**Northwest Power Act**”), to protect, mitigate, and enhance fish and wildlife, including related spawning grounds and habitat, affected by the development and operation of federal hydroelectric projects of the Columbia River and its tributaries, in a manner consistent with the purposes of the Northwest Power Act, the Fish and Wildlife Program adopted by the Pacific Northwest Electric Power and Conservation Planning Council under Section 4(h) of the Northwest Power Act (16 U.S.C. § 839b(h)), and other environmental laws, including the Endangered Species Act, 16 U.S.C. §§ 1531-1544 (“**ESA**”). Bonneville has the authority pursuant to the Northwest Power Act, 16 U.S.C. §§ 839b(h) and 839f(a), the Federal Columbia River Transmission System Act, 16 U.S.C. § 838(e) and § 838i(b), and the Bonneville Project Act, 16 U.S.C. §§ 832a(c) through (f), to acquire and sell real estate or to assist in the acquisition and transfer of real property interests.
- F. Funding for this Deed of Conservation and Restoration Easement.** Bonneville, in partial fulfillment of its Northwest Power Act mitigation responsibility, is the federal acquiring agency funding the acquisition of this Conservation and Restoration Easement, the instream transfer of the Protected Water, and the planning, design, proposed and final implementation,

and monitoring and evaluation of Planned Restoration Work under agreements and contracts with the CTUIR, including: (1) the 2008 Columbia Basin Fish Accords Memorandum of Agreement between the Three Treaty Tribes and the Federal Columbia River Power System Action Agencies, (2) the 2018 Accords Extensions, as amended, and (3) Bonneville Projects 1987-100-01 (Exp Umatilla Anadromous Fish Habitat – Umatilla Tribe) and 1987-100-1 (Exp Birch Creek Floodplain Restoration - RM 2.3).

*Now, therefore, the Parties agree as follows:*

## II. AGREEMENT

**A. Conveyance and Consideration.** Grantor, for and in consideration of \$3,185,000 dollars provided by Bonneville, hereby voluntarily conveys and warrants to Grantee, its successors and assigns, a perpetual Conservation and Restoration Easement, created and implemented pursuant to the Oregon Conservation and Highway Scenic Preservation Easements Act (O.R.S. §§ 271.715-795), in, over, under, upon and across the Protected Property legally described in **Exhibit A** (Legal Description – Conservation and Restoration Easement) and shown in **Exhibit B** (Map – Conservation and Restoration Easement), together with a right of access, and;

TOGETHER WITH the permanent instream transfer of Protected Water to the State of Oregon (OWRD) for the conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, summarized in **Exhibit C** (Summary of Protected Water) and further described in Section II.D;

TOGETHER WITH the right to plan, design, and implement the Planned Restoration Work in the Riparian Management Zone, as shown in **Exhibit D** (Map – Management Zones), in partnership with Grantor, the CTUIR, and Bonneville, and further described in Section II.E (Management Zones);

TOGETHER WITH a perpetual, non-exclusive right of access for ingress and egress to the Protected Property, constituting an access easement running with the land and connecting Birch Creek Road, a public County road, to the Protected Property via privately-owned Taylor Lane (“**Taylor Lane Access Road**”), upon, over, under, and across two tracts of Taylor Lane Access Road located on Grantor’s adjacent fee-owned property outside of the Protected Property (BPA Tract IDs UMATT-14-AR-1, Parcel 1 and UMATT-14-AR-1, Parcel 2), legally described in **Exhibit E** (Legal Description – Taylor Lane Access Road Easement), and shown in **Exhibit F** (Map – Taylor Lane Access Road). A third piece of Taylor Lane Access Road is interior to the Protected Property (see Section II.H.2.a), and thus access is included in the general right of access granted in this Conservation and Restoration Easement; and

TOGETHER WITH the rights otherwise described herein.

For and in the same consideration, Grantor conveys and warrants to the United States of America and its assigns a perpetual third-party right of enforcement to this Conservation and

Restoration Easement and full access rights to the United States of America and its assigns and contractors, including the general right of access and non-exclusive easement for Taylor Lane Access Road (BPA Tract ID UMATT-14-AR-1, Parcel 1 and UMATT-14-AR-1, Parcel 2) described above, and the interior roads described below in Section II.H.2).

The interests conveyed to Grantee and the United States of America are real property interests created and implemented in accordance with O.R.S. §§ 271.715-795 and other applicable federal and state law. Grantor expressly intends that this Conservation and Restoration Easement creates equitable servitudes and covenants running with the land, and is a perpetual and irrevocable easement in gross, which shall be binding upon Grantor and Grantor's heirs, successors, and assigns of the Protected Property for the benefit of Grantee and the United States of America.

**B. Purpose.** The purpose of this Conservation and Restoration Easement (“**Purpose**”) is to permanently identify, preserve, protect, maintain, conserve, enhance, improve, and allow for the restoration of fish and wildlife habitat, open space, and other Conservation Values of the Protected Property, as those Conservation Values are described in Section II.C (Conservation Values). This includes preventing any use of, or activity on, the Protected Property that will materially impair the Conservation Values.

**C. Conservation Values.** The Protected Property possesses relatively natural and restored riparian habitat important for fish and wildlife species, open space, and scenic values of great importance to Grantor, the people of Umatilla County, the people of the State of Oregon, and the United States (collectively, “**Conservation Values**”). The Conservation Values of the Protected Property are more fully described below.

1. Riparian Habitat. The Protected Property includes approximately 316.10 acres of riparian and wetland habitat, containing hardwood communities of willow and cottonwood, along Birch Creek and the south bank of the Umatilla River. Riparian habitat generally contains elements of aquatic and terrestrial ecosystems providing particularly important habitat for fish and wildlife species, including water, soil and stream bank stability, flood control, stream temperature control, water purification, and supply of food and nutrients to the aquatic system.
2. Fish Species and Habitat. The Protected Property provides spawning, rearing, and migration habitat for a diverse list of native fish species, including but not limited to ESA-listed Middle Columbia River summer steelhead (*Oncorhynchus mykiss*) and bull trout (*Salvelinus confluentus*). Other important fish and aquatic species include reintroduced spring and fall Chinook salmon (*O. tshawytscha*) and Coho salmon (*O. kisutch*), redband trout (*O. mykiss gairdneri*), rainbow trout (*O. mykiss*), Pacific lamprey (*Entosphenus tridentatus*), freshwater mussels (*Bivalvia Unionoida*), and other native fish.
3. Wildlife Species and Habitat. The Protected Property provides significant upland and critical winter range habitat for whitetail deer (*Odocoileus virginianus*) and mule deer (*O. hemionus*), is currently dominated by bunchgrass and sagebrush, and historically

contained western juniper. Wetland, riparian and upland habitats, taken together, benefit approximately 250 wildlife species, including but not limited to bald eagle (*Haliaeetus leucocephalus*), yellow warbler (*Dendroica dominica*), western meadowlark (*Sturnella neglecta*), pileated woodpecker (*Hylatomus pileatus*), American White Pelican (*Pelecanus erythrorhynchos*), American beaver (*Castor canadensis*), mountain lion (*Puma concolor*), Columbia spotted frog (*Rana pretiosa*), western rattlesnake (*Crotalus viridus*), western toad (*Bufo boreas*), rock chuck (*Marmota flaviventris*), and long-toed salamander (*Ambystoma macrodactylum*), and various waterfowl and upland bird species.

4. Natural, Scenic, and Open Space Values. The Protected Property possesses natural, scenic, and open space values, including the confluence of Birch Creek with the Umatilla River.
5. Planned Restoration Work and Protected Water. Implementing the Planned Restoration Work in the Riparian Management Zone of the Protected Property as described further in Section II.E.1, and permanently transferring Protected Water to the State of Oregon for instream use as described further in Section II.D, will benefit all of the other Conservation Values listed above by: (1) increasing habitat for ESA-listed and non-listed fish and other aquatic species, habitat for terrestrial and avian wildlife, water availability (quantity), floodplain connectivity, storage and capacity, flooding inundation protection, and instream structural complexity, (2) improving sediment routing processes, stream flow timing and duration, water quality (including reduced or buffered stream temperatures), riparian vegetation condition (quantity and quality), (3) allowing for limited recreation access and opportunities and landowner ranching and business operations, and (4) decommissioning and restoring a former concentrated animal feeding operation feedlot.

This list is not exhaustive. Parties and Bonneville acknowledge the Conservation Values may periodically fluctuate due to short- or long-term changes from Planned Restoration Work, as implemented, or from factors beyond their control, including but not limited to wildfire, earth movement, floods, interdecadal climate events, and long-term climate change, or any or all of these.

- D. Protected Water (and Reserved Water Rights) Process.** Grantor, in partnership with the CTUIR, has filed transfer applications with OWRD for a change in the Place of Use and/or Purpose of Use for one Groundwater Certificate, one Surface Water Certificate, and four Supplemental Reservoir Storage Certificates associated with McKay Reservoir (related to Grantor's Reserved Water Rights, as further described in Section II.D.1, Section II.H.1, and legally described in **Exhibit G** (Legal Description – Reserved Water Rights)), and a change in Purpose of Use for eleven Surface Water Certificates (*see* Exhibit C), where the net effect is to maintain Grantor's Reserved Water Rights for irrigation outside of the Protected Property and enable the permanent transfer of 227.57 irrigated acres (approximately 3.525 cfs) of Protected Water instream for the conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.

1. Process for Reserved Water Rights. To remove surface water diversions from Birch Creek while accomplishing Grantor's Reserved Water Rights allowing for 7.93 acres of primary irrigation outside of the Protected Property, steps include:
  - a. Transferring the Place of Use for 1.0 acre of Groundwater Certificate No. 41254 (part of Grantor's Reserved Water Rights defined in Section II.H.1), which is not hydraulically connected to Birch Creek or the Umatilla River such that the use will not diminish flows, to make it appurtenant to the Grantor's fee-owned property adjacent to and outside of the Protected Property;
  - b. Transferring the Purpose of Use for 5.7 acres of Groundwater Certificate No. 41254 (part of Grantor's Reserved Water Rights defined in Section II.H.1) from "supplemental irrigation" to "irrigation," which will enable groundwater to be used as the primary irrigation source on the Grantor's fee-owned property adjacent to and outside of the Protected Property; and
  - c. Transferring the Purpose of Use for 5.7 acres of Surface Water Certificate No. 91876 (part of Grantor's Reserved Water Rights defined in Section II.H.1) from "irrigation" to "supplemental irrigation," which will remove surface water as the primary source of irrigation within the Grantor's fee-owned property adjacent to and outside of the Protected Property.
  - d. Transferring the Place of Use for 156.57 acres of McKay Reservoir supplemental irrigation under Certificate Nos. 88974, 89089, 91877, and 91878 to make them appurtenant to the Upland Management Zone.
2. Process for Transfer of Protected Water. To permanently transfer and restore 3.525 cfs of instream flow in Birch Creek and the Umatilla River, steps include:
  - a. Transferring the Purpose of Use for Surface Water Certificates Nos. 75656, 80490, 80491, 80492, 88975, 89086, 89087, 89088, 91874, and 91875, which are appurtenant to the Protected Property and when combined are 227.57 irrigated acres, from "irrigation" to "instream use."

The Final Orders finalizing the above changes have not yet been issued by OWRD, and will be recorded upon receipt.

**E. Management Zones.** To further the Purpose, the Protected Property is divided into two management zones in both the Umatilla River Unit and Birch Creek Unit, as depicted in Exhibit D, described below, and further documented in the Management Plan and Baseline Inventory.

1. Riparian Management Zone. The Riparian Management Zone, shown in Exhibit D for both the Umatilla River Unit and Birch Creek Unit, consists of approximately 246.7 acres along the Umatilla River Unit, and 69.4 acres along the Birch Creek Unit for a total of 316.10 acres. Planned Restoration Work is further detailed in the Riparian Conservation

Agreement, as amended, attached as **Exhibit H** (Riparian Conservation Agreement, as amended), various design and implementation reports for four project areas, the bridge installation, and the levee setback (on file with CTUIR and Bonneville), the Management Plan, Baseline Inventory, and any Land Use Agreement(s).

The Planned Restoration Work includes, but is not limited to:

- Constructing floodplain large woody material structures
- Excavating side channels, wetlands, meanders, and floodplain features
- Reseeding and replanting disturbed areas
- Decommissioning certain roads
- Decommissioning the concentrated animal feeding operation
- Moving or decommissioning certain utilities, points of diversion, and a well
- Installing a floodplain relief bridge, and
- Altering and setting back a portion of the Pendleton 2a Levee part of the larger U.S. Army Corps of Engineers Pendleton Zone 2 Flood Damage Reduction Project federally authorized under Section 204 of the Flood Control Act of 1950 (Public Law 516, 81<sup>st</sup> Congress, 2<sup>nd</sup> Session).

The Riparian Management Zone will be managed and retained forever predominantly in a natural condition to preserve and enhance the riparian habitat, fish species and habitat, and other Conservation Values.

Grantor and CTUIR shall continue to coordinate with one another, and with Grantee and Bonneville, on Planned Restoration Work in and across the Riparian Management Zone. Grantee recognizes, accepts, and approves that Umatilla River and Birch Creek movement shall occur within the Riparian Management Zone, and that their banks and beds are not expected to be fixed in place.

2. Upland Management Zone. The Upland Management Zone consists of 626.44 acres and includes all portions of the Protected Property outside of the Riparian Management Zone, as depicted in Exhibit D. The Upland Management Zone will be managed and retained forever to preserve and enhance the wildlife species and habitat, natural, scenic, and open space values, and other Conservation Values.

#### **F. Baseline Inventory.**

1. Baseline Inventory at Acquisition. The Parties and Bonneville agree that the characteristics and conditions of the Protected Property as of the Effective Date of this Conservation and Restoration Easement (*see* Section II.V.9 for definition of Effective Date) are documented in an inventory report on file at the offices of Grantee and Bonneville (“**Baseline Inventory**”), which is incorporated into this Conservation and Restoration Easement by reference in the acceptance and acknowledgement contained in **Exhibit I** (Acknowledgement of Baseline Inventory). The Baseline Inventory consists of reports, maps, photographs, and other documentation that collectively provide an accurate representation of the Protected Property to serve as the primary repository of

objective information for monitoring changes to the Protected Property and compliance with the terms and conditions of this Conservation and Restoration Easement. Grantee is not limited to use of the Baseline Inventory to show a change in condition or use of the Protected Property.

2. Amendments to the Baseline Inventory after Implementation of Planned Restoration Work. The Parties and Bonneville acknowledge that, as of the Effective Date of this Conservation and Restoration Easement, not all of the Planned Restoration Work has been implemented. Such Planned Restoration Work, when fully completed, will alter the baseline condition of the Protected Property and result in short- and long-term changes to the Protected Property and Conservation Values. Thus, the Parties and Bonneville further acknowledge and agree that, within eighteen (18) months of the completion of Planned Restoration Work, an “**Amended Baseline Inventory**” will be prepared by Grantee, and incorporated herein by this reference. Copies of the Amended Baseline Inventory will be kept on file at the offices of Grantee and Bonneville and provided to Grantor. Failure to timely complete the additional Baseline Inventory shall not affect the enforceability of validity of any other provision hereof.

**G. Rights Conveyed to Grantee (and Bonneville).** To accomplish the Purpose of this Conservation and Restoration Easement, the following rights are conveyed to Grantee (and Bonneville):

1. Protection and Restoration. Grantee shall have the right to identify, protect, preserve, maintain, restore, enhance, improve, and conserve the Conservation Values in perpetuity.
2. Access. Grantor hereby grants to Grantee and Bonneville, and their employees, contractors, representatives, or assigns, including CTUIR and its employees, contractors, representatives, or assigns, the following rights of access:
  - a. The right to enter the Protected Property at reasonable times and in accordance with notice provisions in Section II.R.1.a, for the purpose of monitoring, compliance monitoring, protecting, maintaining, enhancing, or restoring the Conservation Values.
  - b. The right to enter the Protected Property at any time when Grantee, in its sole discretion, believes that a violation of this Conservation and Restoration Easement is imminent, is occurring, or has occurred, for the purpose of preventing, mitigating, or terminating damage to the Conservation Values and otherwise enforcing the provisions of this Conservation and Restoration Easement. Grantee shall provide notice of such entry to Grantor as soon as practicable.

The right to enter the Protected Property includes the right of access on foot, with drones, and with motor vehicles.

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Grantor shall not unreasonably withhold or delay its consent to dates and times of access proposed by Grantee.

3. Injunction and Restoration. The right to enjoin any use of or activity on the Protected Property that is inconsistent with the Purpose, including any trespass use of the Protected Property, and to require or undertake the restoration of such areas or features of the Protected Property as may be damaged by uses or activities inconsistent with the provisions of this Conservation and Restoration Easement, in accordance with Sections II.M (Dispute Resolution) and II.N (Enforcement or Judicial Resolution).
4. Enforcement. The right to enforce the terms and conditions of this Conservation and Restoration Easement, consistent with Sections II.M (Dispute Resolution) and II.N (Enforcement or Judicial Resolution).
5. Assignment. The right to assign, convey, or otherwise transfer Grantee's interest in the Protected Property in accordance with Section II.U.
6. Development Rights. Grantor has granted and conveyed to Grantee all development rights except as specifically reserved herein, and agrees that such rights may not be used on or transferred off of the Protected Property as it now or hereafter may be bounded or described, or to any other property adjacent or otherwise, or used for the purpose of calculating permissible lot yield or density of the Protected Property or any other property.
7. Signage. Grantee has the right to erect and maintain one or more signs or other appropriate markers on the Protected Property bearing information indicating that the Protected Property is protected by this Conservation and Restoration Easement held by Grantee and funded by Bonneville.
8. Rights of Bonneville. Bonneville may, but is not obligated to, exercise all of the rights and remedies of the Grantee.

**H. Reserved Rights and Permitted Uses.** Grantor reserves for itself and its heirs, successors, and assigns, all rights accruing from ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, any use of or activity on the Protected Property that is consistent with the Purpose, this Conservation and Restoration Easement, and applicable provisions of federal and state law. Without limiting the generality of the preceding sentence, Grantor specifically reserves for itself and its personal representatives, heirs, successors, and assigns, the following uses and activities:

1. Reserved Water Rights and Water Delivery System. Except for the 227.57 acres (approximately 3.525 cfs) of Protected Water that will be permanently transferred to instream use as described in Section II.D, Grantor reserves all water and water rights appurtenant to, or appropriated or authorized for use on Grantor's fee-owned property

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adjacent to and outside of the Protected Property and the Upland Management Zone on the Protected Property, including Surface Water Certificates Nos. 41258 (note that this Certificate did not need to go through the process outlined in Section II.D.1) and 91876; Groundwater Certificate No. 41254; and Supplemental Reservoir Water Certificate Nos. 88974, 89089, 91877, and 91878 (collectively all of the Reserved Water Rights). *See* Exhibit G.

Grantor also reserves the right to own, access, use, repair, replace, and maintain: (1) two groundwater wells, one in the Upland Management Zone of the Umatilla River Unit (“**Upland Well**”) and one in the southernmost portion of the Riparian Management Zone in the Birch Creek Unit on the Protected Property (“**Birch Creek Well**”); (2) one point of diversion for McKay Reservoir Storage Contract No.14-06-100-970 and the four Supplemental Reservoir Water Certificates comprising a portion of Grantor’s Reserved Water Rights; (3) and other water delivery system equipment, all located on the Protected Property (collectively “**Water Delivery System**”), relevant portions of which are shown in **Exhibit J** (Conservation and Restoration Easement Infrastructure Map) and the Baseline Inventory. Grantor may access, use, maintain, repair, or replace the Water Delivery System to deliver irrigation, domestic, or stock water to the Upland Management Zone on the Protected Property or to Grantor’s fee-owned land outside of and adjacent to the Protected Property.

2. Maintenance and Limited Construction of Access Roads.

- a. Interior Access Roads in the Riparian Management Zone. In the Riparian Management Zone of the Protected Property, the Planned Restoration Work will decommission and restore to natural conditions the existing and temporary construction roads in both the Umatilla River and Birch Creek Units (*see* Section II.H.10), EXCEPT for the interior access roads shown in **Exhibit K** (Conservation and Restoration Easement Road Map) that either currently exist or will be constructed, and that will remain, including:

**Umatilla River Unit, Interior Access Roads to Remain**

- Taylor Lane Extension Foothill Road
- Taylor Lane Access Road, Middle Segment
- Pendleton 2a Levee Access Route (to be constructed)
- Upland Well Access Road
- East Extension Foothill Road

**Birch Creek Unit, Interior Access Roads to Remain**

- Birch Creek Well Access Road
- Floodplain Lane

All existing interior roads as of the Effective Date of this Conservation and Restoration Easement, including those to be decommissioned and restored to natural conditions, are also documented and shown in the Baseline Inventory. The

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Pendleton 2a Levee Access Route, once constructed, will be documented in the Amended Baseline Inventory.

Grantor, Grantee, the CTUIR, and partners have the right to: (1) construct the Pendleton 2a Levee Access Route, so long as it does not exceed forty (40) feet in width (including ditches, bank slopes, and culverts) and is constructed in a manner consistent with the Purpose, (2) maintain, repair, and replace the interior access roads described above in their existing or future-existing footprints, as shown in Exhibits F and K and documented in the Baseline Inventory or Amended Baseline Inventory, and (3) construct a bridge on Taylor Lane Access Road, Middle Segment, that lies within the Riparian Management Zone. All maintenance, repairs, and construction of these above-named interior access roads must utilize permeable materials, except for the East Extension Foothill Road, which may be paved.

- b. Interior Access Roads in the Upland Management Zone. In the Upland Management Zone, Grantor has the right to maintain, repair, and replace existing roads in the current condition and within the existing footprint as documented and shown in the Baseline Inventory and Exhibit K. In conjunction with the right to construct a “**Utility Corridor**” as described in Section II.I.5, Grantor also has the right to construct (to Umatilla County standards), maintain, repair and replace a road sixty (60) feet in width extending east off Birch Creek Road to access additional property outside of the Protected Property, as legally described and shown in **Exhibit L** (Future Utility Corridor Access Road – Legal Description and Map) and including the utility rights in Section II.I.5. This future Utility Corridor Access Road must be described and approved by Grantee and Bonneville in a Management Plan or Land Use Agreement, consistent with the requirements for the Utility Corridor in Section II.I.5. Grantor additionally acknowledges that Bonneville may in the future maintain, repair, and improve its existing route of travel to the United States’ transmission easement, located in the southernmost portion of the Upland Management Zone, as shown in Exhibit K.

Construction of any new roads in the Upland Management Zone beyond what is described above shall be avoided or minimized to the greatest extent possible. Any proposal for new construction shall be submitted to Grantee and Bonneville with sufficient detail, including but not limited to purpose, scope, design, location, mitigation measures, and schedule, and evaluated for consistency with the Purpose and terms and conditions of this Conservation and Restoration Easement. Any Grantee and Bonneville approval will be documented in the Management Plan or Land Use Agreement.

### 3. Agricultural Use.

- a. Agricultural Use in the Umatilla River Unit Upland Management Zone. Within the Upland Management Zone of the Umatilla River Unit, Grantor may, but is not obligated to, engage in agricultural activities, including but not limited to growing

grass for hay production, food crops, or crops to prevent the invasion of weeds, grazing and pasturing livestock, and other similar activities consistent with the limitations provided herein.

Agricultural activities must be conducted in a manner, intensity, and scale that do not adversely impact the soils, plant diversity, or wildlife habitat, and are consistent with the Purpose and terms and conditions of this Conservation and Restoration Easement. Adverse impacts are those impacts, both short-term and long-term, that cause loss, destruction, or modification to the resource that can have a direct, indirect, or cumulative effect on that resource. Grazing, feeding, breeding, watering, and managing livestock (defined as livestock that are considered traditional at the time of the Effective Date of this Conservation and Restoration Easement, including cattle and horses) shall not approach or constitute feedlots otherwise prohibited by Section II.I.18.

A Grazing Management Plan must be developed with the goals of maintaining and enhancing existing ecological conditions of the Protected Property. Ecological conditions will make significant progress toward: (1) properly functioning soil and plant conditions that support infiltration of water, soil moisture storage and the release of water in an amount historically associated with the local climate and landforms; (2) maintaining or improving water quality, water quantity, and the timing and duration of water flow; (3) restoring and maintaining ecological processes, including hydrologic and nutrient cycles that support native biotic populations and communities; (4) reducing the extent and cover of invasive species; (5) minimizing the impacts of hay production and grazing in nesting and fawning areas; and (6) enhancing native plant successional communities.

- b. Limited Exception for Low-Impact Grazing in the Riparian Management Zone. Livestock shall be excluded from the Riparian Management Zone of both the Umatilla River and Birch Creek Units, with a limited exception that if, in the joint opinion of Grantee and Bonneville, low-impact grazing would improve the Conservation Values, including improving riparian conditions or to control vegetation. Grantee and Bonneville may permit such grazing by the written consent of both Grantee and Bonneville in a Land Use Agreement or the Management Plan, prior to any such grazing entry.

#### 4. Fences.

- a. Fencing the Perimeter of the Protected Property. Grantee, CTUIR, and its partners may construct, maintain, and remove flagging, fencing, and gates to demarcate part or all the boundaries of the Protected Property. Any new or maintained perimeter fencing shall be “wildlife-friendly” to allow for the safe passage of wildlife and wildlife access to food, shelter, and water.

- b. Fencing in the Umatilla River Unit Upland Management Zone. Grantor may maintain, replace, and repair existing fences, gates, and other ranching or agricultural improvements located in the Umatilla River Unit Upland Management Zone as of the Effective Date of this Conservation and Restoration Easement, as identified and shown in the Baseline Inventory, provided such fence or improvement is replaced or repaired in its original approximate size, type, and general location. Any change in location requires prior written approval from Grantee. Any newly replaced or maintained fencing shall be “wildlife-friendly” to allow for the safe passage of wildlife and wildlife access to food, shelter, and water.
  - c. Fencing in the Riparian Management Zone. Grantor shall not construct, maintain, repair, or replace permanent fencing, gates, or other improvements within the Riparian Management Zone. Temporary fencing may be constructed, maintained and removed for the sole purpose of restoration work, including but not limited to CTUIR’s Planned Restoration Work.
5. Herbicide and Pesticide Application. Herbicides and pesticides may be used to control noxious and invasive weeds on the Protected Property, only in the amounts and with the frequency constituting the minimum necessary to accomplish reasonable weed management objectives and not have an adverse effect on fish and wildlife habitat or water quality. Noxious and invasive weed identification, and all herbicide and pesticide use, shall be detailed in the Management Plan, and shall comply with all applicable federal, state and local requirements. If appropriate, pesticides may be applied with the use of an all-terrain vehicle (“ATV”), consistent with Section II.I.19 (Vehicles).
6. Low-Impact Recreation. Low-impact recreational activities such as hiking, bird watching, cross-country skiing, fishing, and hunting on the Protected Property are permitted for Grantor and Grantor’s personal invitees, provided that such activities are conducted in compliance with applicable laws and regulations and in a manner and intensity that does not materially impair the Conservation Values of the Protected Property or constitute commercial recreational activities.
7. Foot Paths. Foot paths equal to or less than six feet wide may be constructed on the Protected Property, if they are maintained with permeable surfaces and designed and located to be consistent with the Purpose. Prior to the construction of such foot paths, Grantor shall consult with and obtain the written approval of Grantee and written agreement by Bonneville for the design, proposed use, and location of such foot paths. No trees with a diameter at breast height of less than or equal to six (6) inches can be removed, and other tree and vegetation removal shall be minimized.

After or during Planned Restoration Work, where the channels for the Umatilla River and Birch Creek will be significantly altered, Grantor may construct, maintain, repair and replace two (2) temporary footpath bridges on the Protected Property in the Umatilla River Unit for the sole purpose of non-motorized river crossing and quiet

enjoyment of the Protected Property. Such footpath bridges must be no wider than four (4) feet in width, for non-vehicular use only, sited in a location and manner that will not materially impair the Conservation Values, designed as temporary in nature, and approved prior to installation in the amended Management Plan or a Land Use Agreement.

8. Unimproved Camping Area at the West End of the Umatilla River Unit. Grantor is permitted to maintain the existing unimproved “**Camping Area**” in the Riparian Management Zone, in the existing footprint documented in the Baseline Inventory. The Camping Area is located at the west end of the Umatilla River Unit and the end of Taylor Lane Extension Foothill Road, to be used seasonally by Grantor and Grantor’s personal invitees. One campfire is allowed in a ring. All firewood must be brought into the unimproved camping area from areas outside the Riparian Management Zone. No other improvements or structures are allowed. The Camping Area and associated activities shall be consistent with the Purpose. Sewage and solid waste shall not be stored or disposed of in the Riparian Management Zone or otherwise on the Protected Property.
9. Emergency Activities to Protect Human Health and Safety. Grantor is permitted to undertake emergency activities needed to protect human health or safety on the Protected Property or on adjacent properties, including the placement of temporary structures, soil disturbances, or removal of vegetation necessary to control the spread of wildfires. All emergency actions taken must, however, comply with federal, state, or local law. In the event of such emergency actions being taken within the Protected Property, Grantor shall avoid or minimize impairment of the Conservation Values to the greatest extent possible. Grantor will promptly notify Grantee of any emergency actions taken pursuant to this subsection, pursuant to the notification provisions for exigent circumstances in Section II.R.4, and after the emergency has passed, will cooperate with Grantee and Bonneville to appropriately restore the Protected Property and Conservation Values. Consistent with Section II.R.4, if such restoration is necessary, Grantor shall accept full responsibility for the cost of the restoration.
10. Habitat Management and Planned Restoration Work in the Riparian Management Zone. CTUIR may implement any Planned Restoration Work, stewardship, or management activity in the Riparian Management Zone that is intended to preserve, restore, maintain, or enhance the Conservation Values of the Protected Property and is performed pursuant to a Land Use Agreement with Bonneville or the Management Plan as described in Section II.J. Such habitat work may be conducted with motor vehicles, consistent with Section II.I.19 (Vehicles), and may include the construction and subsequent decommissioning and restoration to natural conditions of temporary roads used to implement the Planned Restoration Work, and the decommissioning and restoration of prior-existing interior access roads. Such habitat work may also require the construction and use of temporary structures, to be utilized by CTUIR, its contractors, and partners for the sole purpose of implementing the Planned Restoration Work. Any temporary structures constructed for the Planned Restoration Work must be disassembled upon completion of the Planned Restoration Work and

the area impacted restored to site-appropriate natural habitat conditions. Nothing in this Section shall be interpreted to allow the use or maintenance of any temporary structures beyond the completion of the Planned Restoration Work.

Grantor may conduct additional restoration work in the future, beyond the timeframe of the CTUIR's Planned Restoration Work, subject to written approval by Grantee and Bonneville, in an amended Management Plan or Land Use Agreement.

11. Personal or Tribal Vegetation Harvest for Traditional and Cultural Use. Grantor may conduct and may allow the CTUIR, its members, and Indigenous people, to gather and harvest plant resources for traditional and cultural use, in a time and manner that is consistent with the Purpose.
12. Conveyance and Encumbrances.
  - a. Fee Interest. Grantor may convey the underlying fee interest of the Protected Property as a single unit of land and shall give prior written notice to Grantee and Bonneville consistent with Section II.R.1.b, including the name and contact information of the purchaser to facilitate any necessary dialog about understanding compliance with this Conservation and Restoration Easement and amendment or transfer of the Management Plan. Grantor shall ensure the deed conveying fee affirmatively states that the conveyance is subject to this Conservation and Restoration Easement, and reference the recordation number for each instrument.
  - b. Less-than-Fee Interest Grant of Rights. Grantor may convey less-than-fee interests or otherwise encumber the Protected Property, subject to prior written approval by Grantee and Bonneville, including, but not limited to, leases, licenses, permits, mortgages and deeds of trust, or easements. Prior written approval of Grantee and Bonneville is contingent upon Grantee and Bonneville's determination that the proposed grant of less-than-fee interest or rights is consistent with the Purpose and is not prohibited by the terms and conditions of this Conservation and Restoration Easement. Any-less-than fee interest grant of right shall be subordinate to this Conservation and Restoration Easement and reference that the rights are subject to the terms and conditions of this Conservation and Restoration Easement. For mortgages and deeds of trust, plain language affirming such subordination shall be included in the appropriate conveyance documents and reviewed and approved by Grantee and Bonneville prior to execution. Bonneville will document its written approval through a Land Use Agreement or its equivalent.

Further, for leases, permits, or licenses, Grantee shall have the opportunity to meet with the lessee, permittee, or licensee prior to the execution of the lease, permit, or license to review the requirements of the Conservation and Restoration Easement and Management Plan. The lease, permit, or license shall include a certification by Grantee that the provisions of this subsection have been met. If

Grantor executes a lease, permit, or license in violation of this requirement, Grantor shall be liable for all subsequent costs incurred by Grantee in ensuring that the lessee, permittee, or licensee complies with the provisions of this Conservation and Restoration Easement, in addition to any damages and costs recoverable under Section II.N (Enforcement or Judicial Resolution) in the event of a violation. Grantor shall also be liable for any violation of this Conservation and Restoration Easement by its lessee, permittee, licensee, or guest.

13. Requests for Other Uses. In the event Grantor intends to exercise reserved rights under this Conservation and Restoration Easement in a manner that is not clearly addressed in this Section II.H, Grantor will consult with Grantee in accordance with the notice provisions in Section II.R.1.b (Notice by Grantor, 90 calendar days).

**I. Prohibited Uses.** Any use of, or activity on, the Protected Property inconsistent with the Purpose and materially impairing the Conservation Values is prohibited. Grantor acknowledges and agrees that it will not conduct, engage in or permit any such use or activity. Uses or activities otherwise prohibited under this Section II.I may be temporarily allowed during restoration of the Protected Property, if consistent with the Purpose of this Conservation and Restoration Easement and described in the Management Plan. Without limiting the generality of this subsection, the following uses of, or activities on, the Protected Property, are deemed inconsistent with the Purpose and expressly prohibited, except to the extent expressly reserved in Section II.H or in this Section II.I.

1. Subdivision. The legal or “de facto” division, subdivision, or partitioning of the Protected Property of any kind is prohibited, including but not limited to any subdivision, short subdivision, platting, building site plan, testamentary division, or other process by which the Protected Property is divided into lots or in which title to different portions of the Protected Property are held by different owners.
2. Commercial, Industrial, or Residential Use. Any commercial, industrial, or residential use of the Protected Property is prohibited, except as specifically allowed for agriculture in Section II.H.3.a. This includes, but is not limited to, timber harvest and commercial recreational activities such as allowing hunting or fishing on the Protected Property for profit, consistent with Section 2031(c)(8)(B) of the Internal Revenue Code of 1986, as amended, and Treasury Regulations at 26 CFR 1.170A-14.
3. Buildings, Structures and Other Improvements. The placement or construction of any buildings, structures, or other improvements of any kind is prohibited on the Protected Property, including but not limited to dwellings, trailers, mobile homes, agricultural buildings, stock ponds, pipeline, wells, septic systems, drain fields, and parking areas, except as otherwise expressly reserved in Section II.H.
4. Removal of Trees and Other Native Vegetation. The pruning, cutting down, or other alteration, destruction, or removal of live and dead trees and other native vegetation is prohibited in the Riparian Management Zone, except as necessary to exercise the reserved rights in Sections II.H, and for the following purposes: (a) to remove dead,

diseased or dying trees that pose a threat to human health or safety or to permitted improvements on the Protected Property; (b) to prune or remove trees or limbs that overhang the boundary of the Protected Property and which pose a risk of damage to permitted fencing or to area outside the Protected Property; (c) to prevent, limit or stop the spread of disease or infestation of pests to other vegetation; or (d) with the prior written approval of Grantee and prior written agreement of Bonneville to preserve, protect, restore or enhance the Conservation Values. Except with the prior written approval of Grantee and prior written agreement of Bonneville, any trees or other native vegetation that are cut down or pruned must be left on the Protected Property to decompose naturally to the extent possible.

5. Utilities. The installation of new utility systems (including but not limited to public or private electric, telephone, or other communications services) or the extension of existing utility systems on, under, or over Protected Property is prohibited, except for the right to construct, install, operate, repair, replace, maintain, and use a thirty (30) foot wide Utility Corridor for water, power, sewer, cable, and other utilities, including junction boxes and related equipment, where such Utility Corridor would be located adjacent to and east of Birch Creek Road, as legally described and shown in **Exhibit M** (Future Utility Corridor – Legal Description and Map), for the purposes of serving property outside of the Protected Property. Prior to installation of any new utility systems in the Utility Corridor, Grantor must provide Grantee and Bonneville with sufficient detail of the proposal for both the Utility Corridor and associated access road (see Section II.H.2.b), including but not limited to purpose, scope, design, location, mitigation measures, and schedule, which Grantee and Bonneville will evaluate for consistency with the Purpose and terms and conditions of this Conservation and Restoration Easement. Any Grantee and Bonneville approval will be documented in the Management Plan or Land Use Agreement.
6. Roads and Impervious Surfaces. The construction of any new roads and any impervious surfaces on existing roads is prohibited in the Riparian Management Zone and limited in the Upland Management Zone, except as consistent with Section II.H.2 (Maintenance and Limited Construction of Access Roads), Section II.H.10 (Habitat Management and Planned Restoration Work in the Riparian Management Zone), and as otherwise reviewed and approved in the Management Plan or Land Use Agreement.
7. Fences. Consistent with Sections II.H.4.a and II.H.4.c, except for wildlife-friendly perimeter fencing, the construction, maintenance, repair, or replacement of any fences, gates, or other improvements within the Riparian Management Zone is prohibited, except that CTUIR or its partners may construct, maintain, or remove and temporary fencing in the Riparian Management Zone associated with Planned Restoration Work, and Grantor may later do the same for any approved habitat restoration work that it performs beyond the timeframe of the Planned Restoration Work.

8. Mining. The exploration for, or development or extraction of, sand, gravel, and other aggregates, hydrocarbons (including but not limited to oil, natural gas, and shale), minerals, or any other mineral substance, on or below the surface of the Protected Property is prohibited. Any alteration of land permitted by this Conservation and Restoration Easement will not be interpreted to allow for extraction or removal of surface materials inconsistent with Section 170(h)(5) of the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations. Notwithstanding the foregoing, sand, gravel, and other aggregates from the “**Gravel Area**” in the existing footprint, as depicted in Exhibit J and documented further in the Baseline Inventory, may be used for maintenance, repair, and construction of permitted roads on the Protected Property, consistent with Section II.H.2 (Maintenance and Limited Construction of Access Roads), with Section II.H.9 for emergency activities, and with Section II.H.10 for habitat management and Planned Restoration Work, where future proposed extent and extraction will be subject to notice and prior approval by Grantee and Bonneville. Such extraction shall be limited to the Gravel Area only. This provision shall not be interpreted to permit any extraction or removal of surface materials for use outside of the Protected Property.
9. Alteration of Land Topography. Except as expressly permitted in Section II.I.8 and Sections II.H.2, 3, 7, 9, and 10, any activity that will alter the soil surface, topography, or subsurface of the Protected Property is prohibited, including, without limitation, excavating, plowing, disking, filling, burning, or removing any soil, sand, gravel, rock, peat, or sod, except as approved by Grantee and Bonneville as consistent with this Conservation and Restoration Easement, the Management Plan, or any Bonneville-issued Land Use Agreement. Any such allowable alteration shall be designed and located to avoid or minimize materially impairing the Conservation Values. This provision shall not be interpreted to permit any extraction or removal of surface materials inconsistent with Section 170(h)(5) of the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations.
10. Alteration of Watercourses. Except for the Habitat Management and Planned Restoration Work in the Riparian Management Zone (Section II.H.10), draining, filling, dredging, ditching, diking, or other alteration of wetland areas, the creation, alteration, or manipulation of ponds, the diking, rip-rapping or other alteration of the Umatilla River or Birch Creek, or the creation of new wetlands, water impoundments, or watercourses is prohibited, except with the prior written approval of Grantee and prior written agreement by Bonneville to preserve, protect, restore or enhance the Conservation Values, consistent with the Management Plan, or any Bonneville-issued Land Use Agreement.
11. Erosion or Water Pollution. Except for emergency activities (Section II.H.9) and the Habitat Management and Planned Restoration Work in the Riparian Management Zone (Section II.H.10), any use or activity that causes or is likely to materially impair the Conservation Values due to soil degradation or erosion or pollution of any surface or subsurface waters is prohibited.

12. Solid Waste and Hazardous Materials Storage and Disposal. The disposal, storage, or abandonment of solid waste, including but not limited to rubbish, garbage, debris, vehicles, sewage, and abandoned equipment or other personal property, and hazardous materials (defined in Section II.S.2) is prohibited. This subsection shall not be interpreted to prohibit the temporary storage of vehicles, equipment, fuel, or other materials or supplies necessary for permitted activities, provided that such vehicles, equipment, fuel, materials, or other supplies are stored in accordance with federal, state, and local law and shall not be stored for a period longer than fourteen (14) calendar days, or for Planned Restoration Work.
13. Signs. The placement of commercial signs, billboards, or other advertising material on the Protected Property is prohibited, except signs that identify the Protected Property, advertise for sale or rent, state the condition of access to the Protected Property, describe the natural features of the Protected Property including but not limited to funding and implementation of the Conservation and Restoration Easement and Planned Restoration Work, or acknowledge prohibitions associated with the Conservation and Restoration Easement including prohibited general public access to the Riparian Management Zone, provided signs are less than fifteen (15) square feet in area per side and the location of such signs do not materially impair the Conservation Values.
14. Fish and Wildlife Disruption. The intentional disruption of fish spawning, wildlife breeding and nesting, foraging and migrating activities is prohibited. This prohibition will not be construed to prohibit lawful low-impact recreational hunting or fishing on the Protected Property consistent with applicable laws, regulations, and seasons as allowed by Section II.H.6.
15. Planting Non-Native Vegetation. The intentional introduction of weeds required to be eradicated or controlled as a noxious weed pursuant to O.R.S. §§ 569.175 and designated by Umatilla County as Class A or B weed is prohibited on the Protected Property.
16. Harvest of Native Plants. The gathering, picking, taking or harvesting of native plants, or any parts thereof, is prohibited, except for personal use or tribal vegetation harvest for traditional and cultural use, consistent with Section II.H.11.
17. Game Farming and Game Farm Animals. Grantor may not construct, conduct, or operate a game farm, or raise, breed or hold game farm animals on the Protected Property. Game farm animals include penned, enclosed or privately owned animals that are normally wild animals, including but not limited to, deer, elk, caribou, moose, antelope, mountain sheep, mountain goat, bears, cougars and other cats, furbearers such as mink, foxes, and birds.
18. Feedlots. The establishment and operation and maintenance of a feedlot is prohibited on the Protected Property. A “**feedlot**” means high density animal confinement facilities, including structures, fencing, and walls, where animals are kept for

intensive feeding purposes or where animals are received for short-term use (e.g., for auction) such as Animal Feeding Operations or Concentrated Animal Feeding Operations as defined by Federal, State, and local laws as of the Effective Date of this Conservation and Restoration Easement, or as of the date the facility is proposed if said definition is subsequently amended to be more restrictive.

19. Vehicles.

- a. Vehicles in the Riparian Management Zone. In the Riparian Management Zone, the operation of cars, trucks, motorcycles, ATVs, utility task vehicles (“UTVs”), dune buggies, snowmobiles, or any other type of motorized vehicle, or the operation of other motorized sources of compaction or erosion that could materially impair the Conservation Values, is generally only allowed on interior access roads described in Section II.H.2.b and shown in Exhibit K, except as necessary off-road to use, maintain, repair, and replace the Water Delivery System (Section II.H.1), construct and repair fences (Section II.H.4), apply herbicides and pesticides (Section II.H.5), use ATVs for limited low impact recreation (Section II.H.6), conduct emergency activities (Section II.H.9), and implement Planned Restoration Work (Section II.H.10), and to conduct other land management, maintenance, and monitoring activities. Such limited off-road use may not approach creating temporary or permanent roads, shall not cause rutting, tracks, or soil disturbance, and must be consistent with the uses and activities described in the Management Plan.
- b. Vehicles in the Upland Management Zone. In the Upland Management Zone, the operation of these vehicles and motorized sources must not materially impair the Conservation Values. Off-road ATV or UTV use must be for the purpose of exercising reserved rights and permitted uses (Section II.H), may not create rutting or tracks and must be consistent with the uses and activities described in the Management Plan.

**J. Management Plan.** As of the Effective Date of this Conservation and Restoration Easement, the Parties have jointly developed and agreed to a written plan for management of the Protected Property (“**Management Plan**”) and which Grantee and Bonneville have determined to be consistent with this Conservation and Restoration Easement (see Exhibit N, Acknowledgment of Management Plan). The Management Plan will be kept on file at the offices of Grantee, CTUIR, and Bonneville. The Management Plan will be revised, as necessary, by Grantee in the event of a change of ownership of the Protected Property or every five (5) years, or when it is necessary to address changed circumstances affecting the Protected Property. The Management Plan and any amendments thereto shall be consistent with the terms and conditions of this Conservation and Restoration Easement and shall require the written approval of the Parties and Bonneville, each in their sole discretion, before taking effect. In no case may the Management Plan permit any use of the Protected Property that is prohibited by the terms and conditions of this Conservation and Restoration Easement. In the event of a conflict, the terms and conditions of this Conservation and Restoration Easement shall

prevail over the Management Plan. The Management Plan is binding on Grantor's successors and assigns.

An acknowledged Management Plan that is effective as of the date of any change of ownership, five (5) year revision period, or changed circumstances necessitating a revision, shall remain in effect until such time as a revised Management Plan is completed. A revision of the acknowledged Management Plan must be approved in writing by the Parties and Bonneville. If the Parties cannot agree to a revised Management Plan, then the existing Management Plan remains in effect.

**K. Annual Report.** By April 15 each year, Grantee shall submit a report to Bonneville for annual monitoring conducted in the prior calendar year. The annual report will describe, at a minimum, any changed conditions of the Protected Property and status of the Conservation Values, including but not limited to documenting the implementation of any Planned Restoration Work, any uses or activities undertaken, in progress, or planned, any violations or potential violations of the Conservation and Restoration Easement or other issues with compliance, and any enforcement action(s) taken.

**L. Public Access.** No right of access or entry to or use of the Protected Property by the general public is conveyed by this Conservation and Restoration Easement. Grantor retains the sole and exclusive right to grant any public access to the Protected Property, and all such access must be consistent with the Purpose and the terms and conditions of this Conservation and Restoration Easement.

**M. Dispute Resolution.**

1. Preventative Discussions. Each Party will promptly give the other (and Bonneville) notice of problems or concerns arising in connection with the other's actions under this Conservation and Restoration Easement or the use of or activities or conditions on the Protected Property, and will meet as needed, but no later than fifteen (15) business days after receipt of a written request for a meeting, to minimize any harm. Bonneville may, but is not required to, participate in such discussions.
2. Mediation. Mediation will proceed if: (1) Parties disagree as to the consistency of any proposed use or activity with the Purpose or terms and conditions of this Conservation and Restoration Easement and the Parties are unable to resolve such disagreement through unassisted preventive discussions in Section II.M.1; (2) Bonneville and Grantee are in agreement that mediation is preferred over enforcement or judicial resolution in Section II.N; and (3) Grantor agrees not to proceed with the use or activity pending resolution of the dispute. If these conditions are met, Grantor or Grantee may refer the dispute to mediation by request made in writing upon the other. Within thirty (30) calendar days of the receipt of such a request, the parties to the mediation ("**Mediation Parties**") shall refer the dispute to a single impartial mediator acceptable to each Party. Mediation shall then proceed in accordance with the following guidelines:

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- a. Purpose of Mediation. The purpose of the mediation is to: (a) promote discussion among the Mediation Parties; (b) assist the Mediation Parties to develop and exchange pertinent information concerning the issues in dispute; and (c) assist the Mediation Parties to develop proposals which enable them to arrive at a mutually acceptable resolution of the controversy. The mediation is not intended to result in any express or de facto modification or amendment of the terms, conditions or restrictions of this Conservation and Restoration Easement.
- b. Participation. The mediator may meet with the Mediation Parties and their counsel jointly or ex parte. The Mediation Parties agree they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. Representatives of all Mediation Parties with settlement authority will attend mediation sessions as requested by the mediator.
- c. Time Period. Neither Party shall be obligated to continue the mediation process beyond a period of sixty (60) calendar days from the date of receipt of the initial request or if the mediator concludes there is no reasonable likelihood continuing mediation will result in a mutually agreeable resolution of the dispute.
- d. Costs. While the dispute remains unresolved, the costs of the mediator shall be borne equally by the Parties; the Mediation Parties shall bear their own expenses, including attorneys' fees, unless otherwise agreed. Upon resolution of the dispute, mediation expenses shall be treated as Costs of Enforcement recoverable by the substantially prevailing Party as described in Section II.N.5.
- e. Impasse. In the event the Mediation Parties are not successful in resolving a dispute in accordance with the preventative discussion and mediation procedures in this Section II.M, they may pursue any and all legal courses of action available to them as to the specific dispute.
- f. Effect of Non-Participation. If Grantor or Grantee fails to undertake mediation as appropriate and provided for in this Section II.M and/or share costs and expenses related to such action, such Party shall not be entitled to any recovery for costs pursuant to Section II.N.5.
- g. Bonneville. Bonneville may, but does not have the obligation to, participate in or fund mediation, and may pursue a separate enforcement action as described in Section II.N. The costs and expenses of this Section II.M may not be appropriately applicable to, and are not binding upon, the United States (Bonneville).

**N. Enforcement or Judicial Resolution.**

1. Notice of Violation, Corrective Action. If Grantee determines Grantor, or Grantor's employees, agents, contractors, licensees, invitees or guests, is violating, or in threat

of violating, the terms and conditions of this Conservation and Restoration Easement, and if such determination or dispute is not resolved by the preventative discussions and mediation process described in Section II.M, Grantee will give written notice to Grantor and demand corrective action sufficient to cure the violation within thirty (30) calendar days. Where the violation involves injury to the Protected Property or materially impairs the Conservation Values, Grantor will be required, at its sole expense, to restore the Protected Property or Conservation Values to their prior condition in accordance with a plan approved by Grantee and Bonneville. Grantee may pursue its own remedies without waiting for any cure period in a violation notice to expire, if Grantee, in its sole discretion, determines circumstances require immediate Grantee action to prevent or mitigate significant damage to the Conservation Values.

2. Grantor's Failure to Respond. Grantee or the United States (Bonneville) may bring an action as provided in Section II.N.3 below if Grantor: (1) fails to cure the violation within fifteen (15) calendar days after receipt of a notice of violation from Grantee given pursuant to Section II.N.1, or (2) under circumstances where the violation cannot reasonably be cured within such fifteen (15) day period, fails to begin curing the violation within the fifteen (15) day period and fails to continue diligently to cure such violation until finally cured.
3. Grantee's and United States' Action. Grantee or the United States (Bonneville) may bring an action at law or in equity in a court having jurisdiction to enforce the terms and conditions of this Conservation and Restoration Easement: (1) to enjoin the violation by temporary or permanent injunction; (2) to require the restoration of the Protected Property to the condition that existed prior to the use or activity that caused harm; and (3) to recover any damages to which they may be entitled, including but not limited to, all staff time and expenses incurred responding to the violation, and injury to the Conservation Values, including damages for the loss of natural, scenic, open space, or other environmental values. These remedies shall be cumulative and in addition to all remedies now or hereafter existing.
4. Grantor's Action. In the event Grantor seeks a determination as to the legal meaning or effect of this Conservation and Restoration Easement, or as to any alleged violation hereof by Grantee, and if such determination or dispute is not resolved as set forth in Section II.M, then nothing in this Conservation and Restoration Easement shall prohibit Grantor from bringing judicial action in law or equity in a court of competent jurisdiction.
5. Costs of Enforcement. In any suit, action, or proceeding to enforce or interpret this Conservation and Restoration Easement, the substantially prevailing Party in any such suit, action or proceeding will be entitled to recover from the non-prevailing Party all costs and expenses incurred therein, including reasonable attorneys' fees and costs of litigation, including fees of experts and consultants and all such costs and expenses will be included in any judgment secured by such prevailing Party. In the event Grantor or Grantee secures redress for a Conservation and Restoration

Easement violation without initiating or completing a judicial proceeding, the Party determined to be responsible for the unauthorized use or activity will be entitled to all costs of restoration and enforcement as though the matter had been resolved by judicial resolution. This subsection may not be appropriately applicable to, and is not binding upon, the United States (Bonneville).

6. Discretion in Enforcement. Enforcement of the terms and conditions of this Conservation and Restoration Easement is at the discretion of each Party and Bonneville. The failure of any Party or Bonneville to discover a violation, or to require strict performance of this Conservation and Restoration Easement, shall not constitute a waiver of any strict future performance, or of any rights or remedies granted under this Conservation and Restoration Easement.
7. Compliance Certificates. Upon request by Grantor, Grantee will within thirty (30) calendar days execute and deliver to the Grantor, or to any party designated by Grantor, any document including a compliance certificate, that certifies, to the best of the certifying Grantee's knowledge, the status of Grantor's compliance with any obligation of Grantor contained in this Conservation and Restoration Easement, and otherwise evidences the status of this Conservation and Restoration Easement. Such certification will be limited to the condition of the Protected Property as of the Grantee's most recent inspection. If Grantor requests more current documentation, Grantee will conduct an inspection, at Grantor's expense, and provide the compliance certificate to Grantor within forty-five (45) calendar days of receipt of Grantor's written request and payment therefore.

#### **O. Termination and Valuation.**

1. Termination Standard. As described in the Purpose (Section II.B) and other provisions herein, Parties and Bonneville intend that Conservation Values in this Conservation and Restoration Easement will be permanently preserved and protected, and restored where appropriate. Therefore, this Conservation and Restoration Easement may only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction (including but not limited to condemnation proceedings, to the extent applicable to a federal real property interest) or by mutual written agreement of the Parties and Bonneville (as described below in Section II.O.2 and Section II.T), either to settle condemnation proceedings if applicable, necessary, and deemed preferable, or when a subsequent, unexpected change in the conditions of the Protected Property or the surrounding area makes impossible the continued use of the Protected Property for the intended Purpose. The impossibility threshold is not met with changed environmental conditions related to climate change, or other natural events, for example, wildfire, river channel migration, erosion or avulsion, failure of this Conservation and Restoration Easement to be considered a "qualified conservation easement" as defined by 26 U.S.C. Section 2031(c)(8)(B), or economic considerations making non-compliance more profitable than compliance.

2. Mutual Written Agreement and Exchange. If the impossibility threshold in Section II.O.1 is met or there is a settlement in lieu of condemnation consistent with Section II.T, and Parties and Bonneville mutually agree to release this Conservation and Restoration Easement in whole or part as a result, Parties will identify whether monetary compensation is more appropriate based on the fair market value of the land released (e.g., a small area released in settlement of condemnation), or is more appropriate for an exchange property having equal or better Conservation Values aligned with Bonneville's Northwest Power Act mitigation purposes and funding. Any release would subsequently be recorded by a Deed of (Partial or Full) Release of Conservation and Restoration Easement in the records of Umatilla County. Any exchange would occur as a new land acquisition transaction with substantially the same rights and habitat as the Protected Property, only after meeting Bonneville's approval and due diligence requirements under federal acquisition law, regulations, and standards.
3. Valuation. The Parties and Bonneville stipulate this Conservation and Restoration Easement has a fair market value determined by multiplying (a) the fair market value of the Property unencumbered by the Conservation and Restoration Easement as vacant (without the Conservation and Restoration Easement or any subsequent liens or encumbrances) determined by an Uniform Standards of Professional Appraisal Practice-compliant appraisal by a qualified appraiser, by (b) a ratio of 41.9% (Grantee's Proportionate Value). Thus, in the event of extinguishment as set forth in Sections II.O.1 and 2, Grantee shall be entitled to proceeds attributable to the Grantee's Proportionate Value. For purposes of this subsection, Grantee's Proportionate Value ratio will remain constant. Grantee shall coordinate with Bonneville and apply any such funds Grantee receives to fish and wildlife habitat conservation as approved in advance by Bonneville.
4. In granting this Conservation and Restoration Easement, Grantor has considered the fact that any use of the Protected Property prohibited by this Conservation and Restoration Easement, or any other use as determined to be inconsistent with the Purpose, may be or become economically more valuable than permitted uses. It is the intent of the Parties and Bonneville such circumstances shall not justify the termination or extinguishment of this Conservation and Restoration Easement. Grantor's inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Conservation and Restoration Easement or be considered grounds for its termination or extinguishment.

**P. Responsibilities Related to Ownership.** Grantor retains all responsibilities of ownership for the Protected Property and will bear all cost and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Protected Property, including but not limited to operation and maintenance of the water delivery system, noxious weed and invasive species response, and the maintenance of adequate liability insurance coverage. Grantor remains solely responsible for obtaining any necessary and applicable governmental review, permits, and approval for any activity or use permitted by this Conservation and Restoration Easement, including but not limited to any necessary ESA

review and permits, and cultural or historic resource mitigation or preservation. All such activity or use will be undertaken in accordance with all applicable federal, state, and local laws, regulations, and requirements.

- Q. Real Estate Taxes.** Grantor will pay all taxes, assessments, fees, and other charges levied on or assessed against the Protected Property by the relevant government authority as they become due, and will furnish Grantee with the satisfactory evidence of payment upon request. Unpaid taxes will be subordinate to this Conservation and Restoration Easement.

**R. Notice and Approval.**

1. Notice.

- a. Notice by Grantee and Bonneville. Certain provisions of this Conservation and Restoration Easement require Grantee to give notice to Grantor prior to undertaking certain activities. Whenever such notice is required, and no other timeline for notice is set forth elsewhere in this Conservation and Restoration Easement, Grantee shall provide such notice in writing not less than thirty (30) calendar days prior to the date Grantee intends to undertake the use or activity in question.
- b. Notice by Grantor. Certain provisions of this Conservation and Restoration Easement require Grantor to give notice to Grantee or to seek Grantee's approval prior to undertaking certain permitted uses and activities. The purpose of requiring Grantor to notify Grantee prior to undertaking these permitted uses and activities is to afford Grantee an adequate opportunity to ensure that the use or activity in question is designed and carried out in a manner consistent with the Purpose. Whenever such notice is required, and no other timeline for notice is set forth elsewhere in this Conservation and Restoration Easement, and Grantee's approval is not required, Grantor shall provide such notice in writing not less than thirty (30) calendar days prior to the date Grantor intends to undertake the use or activity in question.

Whenever Grantee's approval is required, Grantor shall provide notice in writing not less than ninety (90) calendar days prior to the date Grantor intends to undertake the use or activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the terms and conditions of this Conservation and Restoration Easement and the Purpose thereof. Upon receipt of such notice, Grantee shall immediately forward a copy to Bonneville.

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2. Approval or Agreement.

- a. Basis of Approval or Agreement. Wherever in this Conservation and Restoration Easement a Party's approval or Bonneville's agreement is required, such approval or agreement must be based upon a reasonable determination by the approving or agreeing Party that a proposed action or use would be consistent with the Purpose or terms and conditions of this Conservation and Restoration Easement. Any approval or agreement may include reasonable terms and conditions consistent with the Purpose and terms and conditions of this Conservation and Restoration Easement that must be satisfied in undertaking the proposed action or use.
- b. Timeline for Approval or Agreement. Whenever in this Conservation and Restoration Easement a Party's approval or Bonneville's agreement is required, and no other timeline for approval or agreement is set forth, the Party whose approval or agreement is required shall grant or withhold its approval or agreement in writing within the following time periods:
  1. Approval by Parties. Where approval by either Party is required, that Party shall grant or withhold its approval within sixty (60) calendar days of receipt of a written request for approval as per Section II.R.1.b. Grantee will coordinate with Bonneville on any proposed approvals.
  2. Agreement by Bonneville. Where agreement by Bonneville is required, except for amendments to the Management Plan, Bonneville will use its best efforts to provide its written agreement within thirty (30) calendar days of receipt of Grantee's written decision (by Bonneville Land Use Agreement or other written instrument) to grant or withhold approval or within ninety (90) calendar days of receipt of Grantor's written request for approval, whichever comes later.
- c. No Waiver or Assumption Upon Failure to Grant or Deny Approval within the Required Time. When approval of either Party or agreement by Bonneville is required under this Conservation and Restoration Easement, and when such approval or agreement is not granted or denied within the time period and manner set forth in this Section II.R.2, the Party requesting approval or agreement may not assume the other Party's or Bonneville's approval of the proposed action, use, or activity in question. The Parties agree failure to grant or withhold approval within the required time on any proposed action, use, or activity shall not be deemed or construed to be a waiver of either Party's or Bonneville's rights under this Conservation and Restoration Easement with respect to any future proposed action, use, or activity.
- d. Inclusion in Management Plan. Any activity requiring the approval of a Party or agreement by Bonneville may be approved and agreed upon in advance via inclusion in the Management Plan pursuant to Section II.J.

3. Optional Consultation. If Grantor is unsure whether a proposed use or activity not requiring prior approval pursuant to this Conservation and Restoration Easement is prohibited, Grantor may consult Grantee by providing Grantee a written notice describing the nature, scope, design, location, timetable, and any other material aspect of the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose and the terms and conditions of this Conservation and Restoration Easement, and to provide comments thereon to Grantor. Grantee will provide notice and any appropriate documents describing the consultation to Bonneville. This subsection does not itself impose a requirement of prior approval of the activity described in any such notice.
  
4. Exigent Circumstances. If exigent circumstances (described in Section II.H.9, Emergency Actions to Protect Public Health and Safety) require Grantor to make a decision regarding the use of the Protected Property in less time than is provided for in the Notice and Approval Section II.R, Grantor will make reasonable efforts to request, and Grantee and Bonneville will make reasonable efforts to provide, expedited review of a proposed action. If exigent circumstances exist and Grantor has made reasonable efforts to provide Grantee and Bonneville with notice or secure the approval of Grantee and agreement by Bonneville as required by this subsection, or if circumstances are such that immediate action is required, and if Grantor's actions are not otherwise prohibited by this Conservation and Restoration Easement, Grantor's failure to comply with the notice and approval or agreement requirements of this subsection shall not, in itself, constitute a violation of this Conservation and Restoration Easement. This subsection shall not be interpreted to permit any use or activity on the Protected Property that would otherwise be prohibited.

Notwithstanding the above, Grantor shall accept full responsibility for the cost of a retroactive remedy in the event Grantee or Bonneville determine the action taken by Grantor is prohibited under this Conservation and Restoration Easement, consistent with Section II.H.9.

5. Addresses. Any notice, demand, request, consent, approval, agreement or communication that either Party or Bonneville desires or is required to give to the others must be in writing and either served personally or sent by first class certified mail, postage prepaid, with original dispatched by certified mail, addressed as follows, or to such other address as either Party or Bonneville from time to time will designate by written notice to the other:

To Grantor:                   WhitWhit, LLC  
                                       101 S.E. 3<sup>rd</sup> Street  
                                       Pendleton, OR 97801

To Grantee:                    Blue Mountain Land Trust  
                                       P.O. Box 1473  
                                       Walla Walla, WA 99362

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To Bonneville: Bonneville Power Administration  
Real Property Services TERR-3  
Tract ID: UMATT-WL-14, UMATT-14-AR-1,  
Parcel 1 and UMATT-14-AR-1, Parcel 2  
P.O. Box 3621  
Portland, OR 97208

Or to such other address as either Party designates by written notice to the other. Electronic mail may be used to informally communicate between Parties and Bonneville prior to any such formal mailing, and may sufficiently substitute for formal mailing as agreed upon between the Parties and Bonneville.

**S. Environmental Compliance and Liability.**

1. Environmental Laws. The term “**Environmental Laws**” includes, without limitation, the ESA (see Section I.E), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §§ 9601 *et seq.*, “**CERCLA**”), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6901 *et seq.*), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §§ 5101 *et seq.*), the Federal Water Pollution Control Act, as amended (33 U.S.C. §§ 1251 *et seq.*), including the Oil Pollution Act of 1990 (33 U.S.C. §§ 2701-2761), the Safe Drinking Water Act, as amended (42 U.S.C. §§ 300f *et seq.*), the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. §§ 136 *et seq.*), together with the implementing regulations and other requirements of these federal statutes, and Oregon state and local equivalent laws, regulations, and ordinances.
2. Hazardous Materials. The term “**Hazardous Materials**” for purposes of this Conservation and Restoration Easement includes, without limitation: (a) material that is flammable, explosive, or radioactive; (b) petroleum products, including by-products and fractions; and (c) hazardous materials, hazardous wastes, hazardous substances, toxic substances, pollutants (including but not limited to pesticides, herbicides, or fertilizers), or contaminants as designated by and defined in applicable Environmental Laws.
3. Environmental Representations and Warranties. Grantor represents and warrants that, after reasonable investigation and to the best of Grantor’s knowledge:
  - a. No Defects. There are no apparent or latent defects in or on the Protected Property.
  - b. Statement of Current Compliance and Promise of Future Compliance. As of the Effective Date of this Conservation and Restoration Easement, Grantor, and its lessees, licensees, permittees, and invitees are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected

Property and its use, including without limitation all Environmental Laws, and will remain in compliance.

- c. No Disposal or Release of Hazardous Materials. As of the Effective Date, there has been no release, dumping, burying, abandonment, disposal, or off-site migration onto or under the Protected Property of any Hazardous Materials. Grantor has no actual knowledge or reason to suspect the presence of underground storage tanks.

Grantor further covenants that Grantor, and its heirs, successors, assigns, lessees, licensees, permittees, and invitees, will not, by any act or omission cause, contribute to, allow, or exacerbate a release of Hazardous Materials on, over, under, or near the Protected Property. A release includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing any Hazardous Materials into the environment, and the abandonment or discarding of barrels, containers, and other closed receptacles or solid waste containing any hazardous materials. A release does not include the proper application of fertilizers, herbicide, or pesticide in accordance with appropriate Environmental Laws and product labels, as allowed in Section II.H.5.

Storage and disposal of solid and hazardous waste is also prohibited in Section II.I.12.

- d. No Notice, Pending or Threatened Litigation. There is no pending or threatened litigation affecting the Protected Property or any portion of the Protected Property. No civil or criminal proceedings have been instigated or are pending against Grantor by government agencies or third parties arising out of alleged violations of Environmental Laws, and Grantor has not received any notices of violation, penalties, claims, demand letters, or other notifications relating to a breach of Environmental Laws.
4. Notifications of Release, Removal, and Remediation. In addition to the notifications to regulatory entities and others required under applicable Environmental Laws, Grantor shall promptly notify Grantee of the presence or release of Hazardous Materials on, over, under, or near the Protected Property, whether caused or discovered by the Grantor or any other person or entity. If, at any time, a release on, under, or near the Protected Property is caused, contributed to, exacerbated by, or allowed by any act or omission of Grantor, and its heirs, successors, assigns, lessees, licensees, permittees, and invitees, Grantor shall be solely responsible for taking any action required by Environmental Laws or regulatory authorities to contain, remove, and remediate the release, and for any action required by Grantee (acting in cooperation with any regulatory authority, where appropriate) to protect and preserve the Conservation Values, at no cost to Grantee or the United States (Bonneville).

5. Control. Nothing in this Conservation and Restoration Easement shall be construed as giving rise to any right or ability in Grantee or Bonneville to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property. Grantee and Bonneville (United States) are not owners or operators with respect to the Protected Property, as defined by CERCLA and relevant case law, by virtue of funding, recording, implementing, monitoring, or enforcing this Conservation and Restoration Easement.
  6. Environmental Indemnification. Except to the extent caused by Grantee or Bonneville and their successors and assigns, employees, contractors, members, directors, officers, and agents, Grantor agrees to defend, hold harmless, and indemnify Grantee and Bonneville (United States) from and against any and all liability, litigation, claims, causes of action, demands, judgments, penalties, costs, losses, damages, expenses, or any other fees, including attorney and consultant fees, related to Grantor's Environmental Representations and Warranties (Section II.S.3) and related to the use, storage, disposal, release, or transportation of Hazardous Materials regulated by Environmental Laws on, over, under, or migrating into the Protected Property.
- T. Amendment.** Amendments will be approved only in limited situations and only in the types of conditions outlined below. Except for 2 and 3 below, no amendments to this Conservation and Restoration Easement will be granted which remove any protections from the Conservation Values and Protected Property. The circumstances in which an amendment will be considered are:
1. To correct an error or ambiguity;
  2. To settle condemnation proceedings (Section II.O.2);
  3. Mutual Written Agreement and Exchange (Section II.O.2)
  4. To place further restrictions on the Protected Property; or
  5. When determined by Grantee and Bonneville, to be appropriate, consistent with the Purpose of the Conservation and Restoration Easement.

Nothing in this paragraph shall be interpreted to require Grantee or Bonneville to grant an amendment request, even if all the foregoing criteria are met. Any request to amend the Conservation and Restoration Easement will be considered and processed according to the written policy of Grantee in effect.

No amendment will be allowed that will affect the qualification of this Conservation and Restoration Easement or the status of Grantee under any applicable laws, including the Oregon Conservation and Highway Scenic Preservation Easements Act, O.R.S. §§ 271.715 *et seq.*, or Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision(s) then applicable), or could cause the Conservation and Restoration Easement to become non-compliant with any applicable federal, state, or local law, regulation, or ordinance. Any amendment must be consistent with the Purpose, may not affect its perpetual duration, shall not result in the release of any or all of the Protected Property from permanent protection under this Conservation and Restoration

Easement absent extinguishment as to all or a portion of the Protected Property in accordance with the provisions of Sections II.O.1 and 2 above; and shall be recorded in the official records of Umatilla County, Oregon, and any other jurisdiction in which such recording is required. OWRD

- U. Assignment.** If Grantee desires to transfer its obligations or otherwise ceases to exist or becomes unable to perform the duties herein, this Conservation and Restoration Easement may only be assigned to the United States, acting by and through Bonneville, or to a qualified entity meeting the requirement of Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations, able to acquire and hold conservations easement interests under ORS § 271.725(1) or its successor provisions, and approved in writing by Bonneville at least ninety (90) calendar days prior to assignment. Grantee will additionally notify Grantor in writing, at Grantor's last known address, in advance of such assignment. The failure of Grantee to give such notice will not affect the validity of such assignment nor impair the validity of this Conservation and Restoration Easement or limit its enforceability in any way.

**V. Administrative Provisions.**

1. Controlling Law. This Conservation and Restoration Easement was created under, and will be interpreted, performed, and governed by, the laws of the state of Oregon and applicable federal law.
2. Liberal Construction. This Conservation and Restoration Easement will be liberally construed to best effectuate the Purpose and in accordance with the Oregon Conservation and Highway Scenic Preservation Easements Act, ORS §§ 271.715-795. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose that would render the provision valid will be favored over any interpretation that would render it invalid.
3. Severability. If any provision of this Conservation and Restoration Easement, or its application to any person or circumstance, is found to be invalid, the remainder of the provisions, or the application of such provision to persons or circumstances other than those found to be invalid, will not be affected.
4. Entire Agreement. This Conservation and Restoration Easement, including its attached exhibits and the Baseline Inventory, sets forth the entire agreement of the Parties and Bonneville and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Protected Property.
5. No Forfeiture. Nothing contained in this Conservation and Restoration Easement will result in a forfeiture or reversion of Grantor's title in any respect.
6. "Grantor," "Grantee". The terms "Grantor" and "Grantee", wherever used or referred to in "Party" or "Parties" in this Conservation and Restoration Easement, shall be

read to appropriately include heirs, successors, assigns, representatives, employees, contractors, directors, officers, agents, invitees, and licensees.

7. Termination of Rights and Obligations. A Party's rights and obligations under this Conservation and Restoration Easement terminate upon transfer of the Party's interest in the Conservation and Restoration Easement or Protected Property, except that liability for acts or omissions occurring prior to transfer will survive transfer. Bonneville's third-party rights terminate only when the Conservation and Restoration Easement is fully extinguished in accordance with Sections II.O.1 and 2 or otherwise released by the agency by a recorded instrument.
8. Acts Beyond Grantor's Control. Nothing in this Conservation and Restoration Easement entitles Grantee or Bonneville to take action against Grantor for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including but not limited to fire, flood, earthquake, or acts of war. In addition, Grantor is not responsible for any prudent action Grantor takes under emergency conditions to prevent, abate, or mitigate significant injury to the Protected Property resulting from such causes. In the event the terms and conditions of this Conservation and Restoration Easement are violated by acts of trespassers, and Grantor has not taken suit itself, Grantor agrees to assign its right of action to Grantee for the purposes of pursuing enforcement action against the responsible parties.
9. Effective Date. The "**Effective Date**" of this Conservation and Restoration Easement is the date it is fully executed and recorded in the records of Umatilla County, Oregon.
10. Schedule of Exhibits. All exhibits are incorporated and made a part of this Conservation and Restoration Easement.

|           |   |
|-----------|---|
| Exhibit A | Legal Description – Conservation and Restoration Easement       |
| Exhibit B | Map – Conservation and Restoration Easement                     |
| Exhibit C | Summary of Protected Water                                      |
| Exhibit D | Map – Management Zones  |
| Exhibit E | Legal Description – Taylor Lane Access Road Easement            |
| Exhibit F | Map – Taylor Lane Access Road                                   |
| Exhibit G | Legal Description – Reserved Water Rights                       |
| Exhibit H | Riparian Conservation Agreement, as amended                     |
| Exhibit I | Acknowledgment of Baseline Inventory                            |
| Exhibit J | Conservation and Restoration Easement Infrastructure Map        |
| Exhibit K | Conservation and Restoration Easement Road Map                  |
| Exhibit L | Future Utility Corridor Access Road – Legal Description and Map |
| Exhibit M | Future Utility Corridor – Legal Description and Map             |
| Exhibit N | Acknowledgement of Management Plan                              |
| Exhibit O | Acceptable Title Encumbrances                                   |

11. Recitals. The Parties and Bonneville agree the terms and recitals set forth in Section I (among other terms and conditions of this Conservation and Restoration Easement in Section II) are material to this Conservation and Restoration Easement. Each term and recital is fully incorporated into this Conservation and Restoration Easement.

**W. Grant, Covenants and Warranties of Title, Acknowledgments.**

TO HAVE AND TO HOLD this Conservation and Restoration Easement to Grantee and its successors and assigns with a third-party right of enforcement to the United States and its assigns, forever.

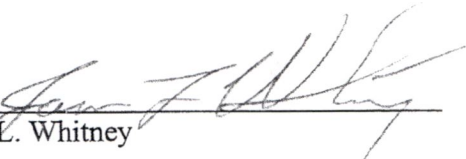
Grantor warrants and covenants to and with Grantee and the United States that the Grantor is lawfully seized and possessed of the Protected Property in fee simple, with a good and lawful right to grant this Conservation and Restoration Easement and third-party right; the Protected Property is free and clear of all encumbrances and restrictions subject to all encumbrances and restrictions of record as of the Effective Date set forth in Exhibit O (Acceptable Title Encumbrances), Grantee and the United States shall have the use of, and enjoy all the benefits derived from and arising out of this Conservation and Restoration Easement and third-party right, Grantor shall at the request of Grantee or the United States execute or obtain any reasonable further assurances of the title of the Protected Property and defend Grantee and the United State against all persons who claim a lawful interest in the Protected Property, except for person who claim interests pursuant to encumbrances and restrictions of record as described in Exhibit O.

\*\*\*\*\* SIGNATURES TO FOLLOW \*\*\*\*\*


Received  
FEB 19 2026  
OWRD

IN WITNESS WHEREOF, the undersigned Parties have executed this instrument this 7 day of Jan, 2025.

**Grantor, WhitWhit, LLC:**

  
\_\_\_\_\_  
James L. Whitney  
Member

1-9-25  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Clason Whitney  
Member

1/9/25  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Nicole Whitney Chamberlin  
Member

1/9/25  
\_\_\_\_\_  
Date

**Acceptance by Grantee, Blue Mountain Land Trust, Holder of Conservation and Restoration Easement**

  
\_\_\_\_\_  
Amanda Martino, Executive Director

1/9/25  
\_\_\_\_\_  
Date

**Acceptance by The United States, Third-Party Right of Enforcement**

  
\_\_\_\_\_  
Luke Arant  
Bonneville Power Administration  
Supervisory Realty Specialist

7 Jan 2025  
\_\_\_\_\_  
Date

\*\*\*\*\* ACKNOWLEDGEMENTS TO FOLLOW \*\*\*\*\*

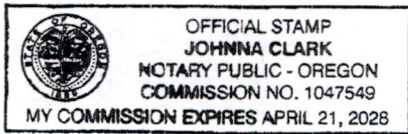
Received  
FEB 19 2026  
OWRD

ACKNOWLEDGMENT

STATE OF OREGON )  
 ) ss:  
COUNTY OF UMATILLA )

I certify that I know or have satisfactory evidence that **James L. Whitney** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a **Member, WhitWhit, LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 1/9/2025



[Signature]  
Notary Public

Print Name J Clark

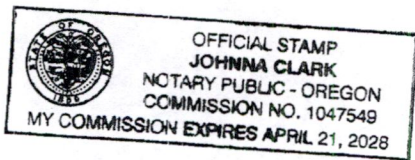
My commission expires 4/21/2028

ACKNOWLEDGMENT

STATE OF OREGON )  
 ) ss:  
COUNTY OF UMATILLA )

I certify that I know or have satisfactory evidence that **Clason Whitney** is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as a **Member, WhitWhit, LLC**, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 1/9/2025



[Signature]  
Notary Public

Print Name J Clark

My commission expires 4/21/2028

Received  
FEB 19 2026

OWRD



February 17, 2026

To: Sarah Henderson  
Flow Restoration Coordinator  
Oregon Water Resources Department  
725 Summer Street NE Suite A  
Salem, Oregon

From: Chris Brun  
Catherine Creek/Umatilla Basin Flow Restoration Project Manager  
Trout Unlimited  
Enterprise, Oregon

RE: WhitWhit Application for Water Right Instream Transfer

Trout Unlimited is submitting the enclosed Application for Water Right Instream Transfer and supporting materials on behalf of the water right holder – WhitWhit LLC. The water rights proposed for transfer are included in the recently executed UmaBirch Conservation and Restoration Easement (CE).

Please note there are four supplement irrigation water rights attached to the place of use of a portion of the primary water rights listed in this transfer application. They are not available for instream transfer as per the terms of the CE. We are in the process of preparing a Water Right Transfer Application to move the place of use for these supplemental certificates to a primary water right outside of the boundary of the CE. This application will be submitted to the Department this spring, 2026.

Charge all application fees to Trout Unlimited Customer Account #0034. Please include myself on all correspondence related to this application and instream water right transfer. Thank you for your assistance.

CHRIS BRUN  
(541) 891-3699  
[chris.brun@tu.org](mailto:chris.brun@tu.org)

Enclosures:  
Application for Water Right Instream Transfer  
Transfer Application Maps  
Evidence of Use Affidavit  
Land Use Notice

Received  
FEB 19 2026

OWRD



February 11, 2026

Umatilla Co. Community Development  
216 SE 4<sup>th</sup>, Rm. 104  
Pendleton, OR 97801

City of Pendleton, Planning Department  
500 SW Dorion Ave.  
Pendleton, OR 97801

Confederated Tribes of the Umatilla Indian Reservation  
46411 Ti'mine Way,  
Pendleton, OR 97801

Re: Proposed Instream Water Rights Transfer

To Whom It May Concern:

WhitWhit LLC is providing notification of intent to transfer ten water rights to instream use in Birch Creek, a tributary to the Umatilla River. The transfer application is requesting to transfer the entirety of nine surface water rights and a portion of one surface water right to instream use. The water rights consist of irrigation, domestic and stock water on 227.57 acres and total 3.52 cubic feet per second (cfs). The water rights, priority date, general place of use, acres and amount of water to be transferred instream are described in the table below.

| Certificate     | Priority Date | Tax Lot      | Place of Use                 | Acres | Rate (cfs) |
|-----------------|---------------|--------------|------------------------------|-------|------------|
| 75656 (portion) | 1880          | 1100         | 2N 32E WM Sections 19 and 30 | 60    | 0.75       |
| 80490           | 1892          | 400          | 2N 31E WM Section 13         | 9.5   | 0.12       |
| 80491           | 1935          | 400          | 2N 31E WM Section 13         | 3.9   | 0.1        |
| 80492           | 1956          | 400          | 2N 31E WM Section 13         | 0.47  | 0.01       |
| 88975           | 1967          | 400          | 2N 31E WM Section 13         | 23.4  | 0.29       |
| 89086           | 1902          | 400 and 3902 | 2N 31E WM Section 13 and 14  | 65    | 0.81       |
| 89087           | 1892          | 400          | 2N 31E WM Section 13         | 12.5  | 0.15       |
| 89088           | 1909          | 400          | 2N 31E WM Section 13         | 2     | 0.025      |
| 91874           | 1935          | 400          | 2N 31E WM Section 13         | 16.2  | 0.4        |
| 91875           | 1935          | 400          | 2N 31E WM Section 13         | 34.6  | 0.865      |

WhitWhit LLC has requested the water be protected from the authorized Points of Diversion listed below to the mouth of the Umatilla River into the Columbia River (River Mile 290).

2N 32E Sec 30 WM SE NE  
2N 32E Sec 19 WM NE SW  
2N 31E Sec 13 WM SW NW  
2N 31E Sec 18 WM NW NW

If you have any questions regarding the proposed transfer application or you are interested in receiving additional information, please contact me at 541-891-3699 or [chris.brun@tu.org](mailto:chris.brun@tu.org).

Sincerely,

CHRIS BRUN  
Trout Unlimited  
209 NW First St.  
Enterprise OR 97828

Received  
FEB 19 2026  
OWRD



April 27, 2026

To: Sarah Henderson  
Flow Restoration Coordinator  
Oregon Water Resources Department  
725 Summer Street NE Suite A  
Salem, Oregon

From: Chris Brun  
Catherine Creek/Umatilla Basin Flow Restoration Project Manager  
Trout Unlimited  
Enterprise, Oregon

RE: T-14827: Supplemental Water Right Transfer Forms

Please include the enclosed materials with the Permanent Instream Transfer Application T-14827 sent to OWRD on February 17, 2026.

Trout Unlimited is submitting the documents on behalf of the water right holder – WhitWhit LLC to:

1. Change the place of use of four supplemental water rights attached to the primary water rights proposed for transfer in T-14827.
2. Change in the Place of Use and Purpose of Use for one groundwater certificate.
3. Change purpose of use of one surface irrigation water right from primary to supplemental.

Electronic copies of all document will be provided upon request. Charge all application fees to Trout Unlimited Customer Account #0034. Please include myself on all correspondence related to this application and instream water right transfer. Thank you for your assistance.

CHRIS BRUN  
(541) 891-3699  
[chris.brun@tu.org](mailto:chris.brun@tu.org)

Enclosures:

Part IV from Permanent Transfer Application  
Transfer Maps  
Water Right Certificates  
Executed Consent to Transfer Form  
Executed Voluntary Diminution of a Water Right Form  
Deed of Conservation and Restoration Easement

Received

APR 30 2026

OWRD