

T-13431

instream

T-13431

Name Ken d Bobbie BakerAddress 81705 Hwy 82
Wallawa Oregon 97885
Kbbaker@earthlink.netChange in USE, POODate Filed 5/4/2020Initial notice date 5/12/2020DPD issued date 9/23/20

PD issued date _____

PD notice date _____

Date of FO 4/22/2021 Vol 120 Page 247-103

C-Date _____

COBU due date _____

COBU Received date _____

Certificate issued _____

DESCRIPTION OF WATER RIGHT(S)

Name of Stream lostine river, reservoir, wallawa riverTrib. of Wallawa river, lostine river, Grande Ronde riverUse irrigation, domestic, livestock, SE County Wallawa

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

Name of ditch _____

App# Wallawa river Per # decree Cert # 94348 PR Date 12/31/1889App# Wallawa river Per # decree Cert # 94778 PR Date 12/31/1883App# Wallawa river Per # decree Cert # 94782 PR Date 12/31/1882 Date _____App# Wallawa river Per # decree Cert # 94780 PR Date 12/31/1883App# S-4936 Per # S-3271 Cert # 941101 PR Date 5/29/1916S-15860 S-111695 941100 6/6/1935

FEES PAID

Date 5/4/2020 Amount \$2345.00 Receipt # CA00008

FEES REFUNDED

Amount _____ Receipt # _____

Assignments:

Additional Applicant: Perry Johnstone 81703 Hwy 82 Wallawa, Oregon 97885Irrigation District Cross Country Canal CompanyAgent Jessica Humphreys - the freshwater trust jessica@thefreshwatertrust.org

CWRE _____

CC's list Wallawa County
Minam Reservoir Company☐ - Oversized map - Location _____



Oregon
Kate Brown, Governor

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

DATE: April 22, 2021

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

SUBJECT: Instream Transfer Application T-13431

Enclosed is a copy of the final order approving your instream water right transfer application, and copies of the confirming instream water right certificate and the remaining right certificates.

Please do not hesitate to contact me at 503-986-0884 or
Sarah.A.Henderson@oregon.gov if I may be of assistance.

Sincerely,

for Sarah Henderson
Flow Restoration Coordinator
Transfer and Conservation Section

cc: 13431
David Bates, District #7 Watermaster *(via e-mail)*
Jessica Humphreys, Trout Unlimited *(via e-mail)*
Rob Kirchner, TFT, Agent for the applicant *(via e-mail)*
Meg Belais, TFT, Agent for the applicant *(via e-mail)*

encs

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

In the Matter of Instream Transfer	)	FINAL ORDER APPROVING CHANGES IN
Application T-13431, Wallowa County	)	PLACE OF USE AND CHARACTER OF USE;
	)	AND APPROVING A CHANGE IN PLACE OF
	)	USE UNDER CERTIFICATE 94161

Authority

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

Applicants

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

Agent

THE FRESHWATER TRUST (TFT)
ATTN: JESSICA HUMPHREYS
401 NE 1ST STREET
ENTERPRISE, OREGON 97828

Findings of Fact

1. On April 29, 2020, Ken and Bobbie Baker, Perry Johnston and the Freshwater Trust filed an application to change the place of use and character of use under Certificates 94782, 94348, 94780, 94778, and 94160 to instream use; and change the place of use under Certificate 94161. The Department assigned the application number T-13431.
2. Notice of the application for transfer was published on May 12, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 19, 2020, the Department contacted TFT by written correspondence to notify the applicant's agent of the deficiencies in the application. On July 22, 2020, TFT submitted revised application pages resolving the deficiencies.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On July 23, 2020, Certificate 94348 was cancelled by Special Order Volume 117, pages 98-101, and superseded by Certificate 94906.
5. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the intent to file the instream transfer application to Wallowa County. Additionally, the Department provided notice of the proposed action to the Wallowa County upon receipt of Transfer Application T-13431.
6. The applicants also submitted a signed Supplemental Form D from Cross Country Canal Company and Minam Lake Reservoir Company.
7. On September 23, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13431 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 22, 2020, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
8. On February 11, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13431 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 16, 2021, and in the Wallowa County Chieftain newspaper on February 17, 2021, and February 24, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
9. The portion of the first right to be transferred is as follows:

Certificate: 94782 in the name of S.W. Miles (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County, the decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 5 at Pages 184-185)

Use: IRRIGATION OF 6.5 ACRES

Priority Date: 1882 for Tract 1

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1

Authorized Place of Use:

TRACT 1 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1882	1 N	43 E	WM	32	NW SE	1.7	1
	1 N	43 E	WM	32	SW SE	4.8	
Total						6.5	

10. Certificate 94782 does not provide a full description of the point of diversion of the Miles Ditch. However, based upon additional information provided by the Applicants, the Department's Watermaster, and a review of the Department's records, the Applicants have been utilizing the downstream Foster Ditch for a point of diversion. Therefore, the point of diversion from the Lostine River, is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances Latitude / Longitude
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

11. A total of 36.40 acre-feet of water may be beneficially used annually under the existing right.
12. The portion of the second right to be transferred is as follows:

Certificate: 94906 in the name of S L. Magill (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 181)

Use: IRRIGATION of 3.9 ACRES

Priority Date: 1889 for Tract No. 3

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitation contained in said decree.

Source: SOUTH FORK OF WALLOWA RIVER (LOSTINE RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

TRACT NO. 3 – PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SE NW	3.9
Total					3.9

13. Certificate 94906 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	9	SE NE	MILES DITCH: LATITUDE: 45.494134, LONGITUDE: 117.438922

14. A total of 21.84 acre-feet of water may be beneficially used annually under the existing right.
15. The third right to be transferred is as follows:

Certificate: 94780 in the name of Kenneth M. and Bobbie Lou Baker, Perry M. Johnston (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5 at Page 177)

Use: IRRIGATION OF 0.3 ACRES AND STOCK

Priority Date: 1883

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre feet per acre for any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: LOSTINE RIVER, tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

Authorized Place of Use:

IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3

16. A total of 1.68 acre-feet of water may be beneficially used annually under the existing right.
17. The portion of the fourth right to be transferred is as follows:

Certificate: 94778 in the name of William Sherod (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 193)

Use: IRRIGATION 3.4 ACRES

Priority Date: 1883

Limit/Duty: The amount of water to which this 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 1.5 acre feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NW	3.4
Total					3.4

18. Certificate 94778 does not provide the location of the point of diversion. Based upon additional information provided by the Applicants and the Department's records, the point of diversion on the Lostine River is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; Latitude: 45.518688; Longitude: -117.469878

19. A total of 19.04 acre-feet of water may be beneficially used annually under the existing right.

20. The portion of the fifth right to be transferred is as follows:

Certificate: 94160 in the name of Cross Country Canal Company (perfected under Permit S-11695)

Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES

Priority Date: JUNE 6, 1935

Rate: 0.355 CUBIC FEET PER SECOND

Limit/Duty: The amount of water for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1.5 acre feet per acre during any 30 day period from May 1 to July 31, and thereafter shall not exceed 1.0 acre foot per acre for the remainder of the irrigation season ending October 1, and the total quantity allowed under this and any other right for these lands described herein shall not at any time exceed the quantity of water allowed herein..

Period of Use: May 1 to October 1

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	11	NW SE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

21. Certificate 94160 does not describe the exact location of the point of diversion. However, based on current mapping and information available from the Applicants and the Watermaster, the headgate for the Cross Country Canal is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

22. Certificate 94160 is supplemental to the portions of Certificates 94782, 94906, 94780, and 94778 proposed to be transferred instream.
23. A total of 78.96 acre-feet of water may be beneficially used annually under Certificate 94160.
24. Transfer Application T-13431 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values for Certificates 94782, 94906, 94780, 94778 and 94160.
25. Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the points of diversion (PODs) (as described in Findings of Fact Nos. 10, 13, 15, 18, and 21) to the mouth of the Wallowa River.
26. The portion of the sixth right to be transferred is as follows:

Certificate: 94161 in the name of Minam Lake Reservoir Company (perfected under Permit S-3271)

Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES

Priority Date: MAY 29, 1916

Rate: 0.08 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to

ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

Source: MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

27. Transfer Application T-13431 proposes to change the place of use of Certificate 94161 to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	29	NE SW	9.4
1 N	42 E	WM	29	SE NW	3.2
1 N	42 E	WM	29	NE NW	1.5
Total					14.1

28. Transfer Application T-13431 proposes to change the place of use of the right to create an instream reach from the authorized points of diversion to the mouth of the Wallowa River at the confluence with the Grande Ronde River.
29. Certificates 94782, 94906, 94780, 94778, 94160, and 94161 do not list a period of use. Pursuant to the Wallowa River Decree, the irrigation season of use is May 1 to October 1.
30. The Applicants propose the following quantities of water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
		5/3 - 7/31	5/3 - 7/31	8/1 - 9/30	8/1 - 9/30	
94778	1883	0.086	15.30	0.028	3.40	May 3 through September 30
94906	1889	0.098	17.55	0.032	3.90	
94780	1883	0.002	1.35	0.002	0.30	
94782	1882	0.330	29.25	0.054	6.50	
94160(IS)	6/6/1935	0.355	63.45	0.117	14.10	
Totals		0.871	126.90	0.233	28.20	

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

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

32. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
33. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13431.
34. A portion of the water diverted at the points of diversion returns to the Lostine and Wallowa Rivers and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for immediately below each point of diversion. The reduction in the instream water rights from the original quantities identified in Finding of Fact No. 30 is as follows:

Reach	Percent
From immediately below each of the points of diversion to the Clearwater Ditch Point of Diversion located in the SWSW Section 33, T1N, R43E, W.M.	5%
From the Clearwater Ditch Point of Diversion to the Mouth of the Lostine River at the confluence with the Wallowa River	10%
In the Wallowa River from the confluence with the Lostine River (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133 to the Wallowa River (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.49803	40%
From the Wallowa River at Latitude: 45.55639, Longitude: -117.49803 to Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa (approx. RM 23.8)	60%
From the Wallowa River at Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa to the mouth of the Wallowa River at the confluence with the Grande Ronde River	70%

OAR 690-077-0015(8).

35. Transfer application requests to protect water instream from the Lostine River into the Wallowa River. An instream reach is generally from the point of diversion to the mouth of the source stream (Lostine), but may be protected further if measurable in the receiving stream (Wallowa) (OAR 690-077-0015(8)). The quantity of water that may be transferred instream in the Lostine River is measurable into the Wallowa River and may be protected instream in the Wallowa River.
36. Certificate 94160 is supplemental to Certificates 94782, 94906, 94780, and 94778. The portion of Certificate 94160 being transferred instream shall only be protected instream if the full rate and duty under Certificates 94782, 94906, 94780, and 94778 is not available.
37. The instream right has been modified to prevent injury and enlargement and shall allow the use and protection of flows as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At the Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.07	38.91	8.46	

38. The proposed changes would not result in enlargement of the right.

39. The proposed changes would not result in injury to other water rights.

40. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
41. The protection of flows within the proposed reaches is appropriate, considering:
- a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Return flows resulting from the exercise of the existing water rights would re-enter the river within the reaches of the instream water right below the points of diversions.
The quantity of water to be protected has been reduced to account for return flows.
42. Within the proposed reaches there are several existing instream water rights for the same reaches as that proposed for the new instream water right. One existing instream water right, Certificate 59814 on the Lostine River, established under ORS 537.346 (minimum streamflow conversion) is for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. There is an instream water right, Certificate 73023 on the Wallowa River, established under ORS 537.341 (state agency application process) for the purposes of anadromous and resident fish habitat and carries a priority date of November 22, 1991. The remaining instream water rights, Certificates 87709, 59808, and 93535, were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process).
43. The existing instream water rights, established under ORS 537.346 (minimum stream flow conversion, and ORS 537.341 (state agency application process), within the proposed reaches are sufficient to protect the monthly quantities of water necessary for support aquatic life and anadromous and resident fish habitat. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under earlier priority dates.
44. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process) within the proposed reaches, any new instream water right established by the transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
45. During the period of May 1 through September 30, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346, and may be in addition to instream water rights

established pursuant to ORS 537.348 and ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.

46. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Conclusions of Law

The changes in character of use and place of use to instream use proposed in application T-13431 are consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075.

Now, therefore, it is ORDERED:

1. The changes in character of use and place of use to instream use proposed in application T-13431 are approved.
2. Water right certificates 94906, 94782, 94780, 94778, and 94160 are cancelled. A new certificate confirming the instream water rights shall be issued. New certificates will be issued describing the portion of the rights not affected by this transfer.
3. Certificate 94161 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
4. Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the PODs (as described in Findings of Fact Nos. 10, 13, 15, 18, and 21) to the mouth of the Wallowa River.
5. The quantities of water to be protected under the instream water right are:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate.	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

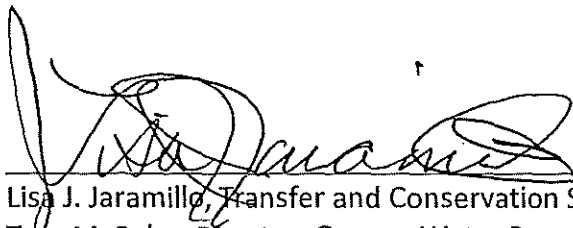
Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.070	38.91	8.46	

6. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
7. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
8. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
9. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 94906, 94782, 94780, 94778, 94160, and 94161 and any related decree.

10. The former places of use of the transferred water shall no longer receive water as part of these rights.
11. Water use measurement conditions for water right Certificate 94161 only:
 - a. **Before water use may begin** under this order, the water user shall install a Weir, Parshall flume, or with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
12. Full beneficial use of water shall be made, consistent with the terms of this order, on or before October 1, 2022. A Claim of Beneficial Use prepared by a Certified Water Right examiner shall be submitted by the Applicant to the Department within one year after the deadline for completion of the change in Certificate 94161 and full beneficial use of water.
13. After satisfactory proof of beneficial use is received for Certificate 94161, a new certificate confirming the right transferred will be issued in the name of Minam Lake Reservoir Company.

APR 21 2021

Dated at Salem, Oregon this day _____.



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

Mailing date: **APR 23 2021**

STATE OF OREGON

COUNTY OF WALLOWA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MINAM LAKE RESERVOIR COMPANY
1120 SE FLORENCE
ENTERPRISE, OR 97828

confirms the right to use the waters of MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE, for SUPPLEMENTAL IRRIGATION OF 6362.45 ACRES.

This right was perfected under Permit S-3271. The date of priority is MAY 29, 1916. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 34.17 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

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 to which this right is appurtenant is as follows:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	14	NE SE	20.0
1 N	42 E	WM	14	SE SE	9.0
1 N	42 E	WM	23	NE NE	5.0
1 N	42 E	WM	24	NE NW	31.0
1 N	42 E	WM	24	NW NW	10.0
1 N	42 E	WM	24	SW NW	20.0
1 N	42 E	WM	24	SE NW	39.5
1 N	42 E	WM	24	NE SW	39.5
1 N	42 E	WM	24	NW SW	30.0
1 N	42 E	WM	24	SW SW	30.0
1 N	42 E	WM	24	SE SW	39.75
1 N	42 E	WM	24	NW SE	15.0
1 N	42 E	WM	24	SW SE	30.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	25	NW NE	40.0
1 N	42 E	WM	25	SW NE	40.0
1 N	42 E	WM	25	SE NE	28.0
1 N	42 E	WM	25	NE NW	40.0
1 N	42 E	WM	25	NW NW	17.0
1 N	42 E	WM	25	SW NW	11.0
1 N	42 E	WM	25	SE NW	40.0
1 N	42 E	WM	25	NE SW	35.0
1 N	42 E	WM	25	NW SW	6.5
1 N	42 E	WM	25	SE SW	20.0
1 N	42 E	WM	25	NE SE	30.0
1 N	42 E	WM	25	NW SE	40.0
1 N	43 E	WM	19	SW NE	30.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	19	SE NE	20.0
1 N	43 E	WM	19	NE SE	26.0
1 N	43 E	WM	19	NW SE	4.7
1 N	43 E	WM	19	SE SE	27.7
1 N	43 E	WM	28	NE NW	25.0
1 N	43 E	WM	28	NW NW	10.0
1 N	43 E	WM	28	SW NW	13.5
1 N	43 E	WM	28	SE NW	30.0
1 N	43 E	WM	28	NE SW	40.0
1 N	43 E	WM	28	NW SW	20.0
1 N	43 E	WM	28	SW SW	20.0
1 N	43 E	WM	28	SE SW	40.0
1 N	43 E	WM	28	NW SE	15.0
1 N	43 E	WM	28	SW SE	6.0
1 N	43 E	WM	29	NW SW	3.7
1 N	43 E	WM	29	SW SW	30.0
1 N	43 E	WM	29	SE SW	3.0
1 N	43 E	WM	30	NW NE	27.7
1 N	43 E	WM	30	SW NE	39.0
1 N	43 E	WM	30	SE NE	15.1
1 N	43 E	WM	30	NW NW	20.0
1 N	43 E	WM	30	SW NW	34.0
1 N	43 E	WM	30	SE NW	40.0
1 N	43 E	WM	30	NE SW	40.0
1 N	43 E	WM	30	NW SW	40.0
1 N	43 E	WM	30	SW SW	40.0
1 N	43 E	WM	30	SE SW	40.0
1 N	43 E	WM	30	NE SE	38.0
1 N	43 E	WM	30	NW SE	38.5
1 N	43 E	WM	30	SW SE	37.5
1 N	43 E	WM	30	SE SE	32.4
1 N	43 E	WM	31	NE NE	35.3
1 N	43 E	WM	31	NW NE	35.5
1 N	43 E	WM	31	SW NE	40.0
1 N	43 E	WM	31	SE NE	40.0
1 N	43 E	WM	31	NE NW	40.0
1 N	43 E	WM	31	NW NW	40.0
1 N	43 E	WM	31	SW NW	40.0
1 N	43 E	WM	31	SE NW	40.0
1 N	43 E	WM	31	NE SW	40.0
1 N	43 E	WM	31	SW SW	7.90
1 N	43 E	WM	31	SE SW	40.0
1 N	43 E	WM	31	NE SE	40.0
1 N	43 E	WM	31	NW SE	38.8
1 N	43 E	WM	32	NW NE	18.0
1 N	43 E	WM	32	SW NE	39.7
1 N	43 E	WM	32	SE NE	16.0
1 N	43 E	WM	32	NE NW	35.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NW	34.6
1 N	43 E	WM	32	SW NW	40.0
1 N	43 E	WM	32	SE NW	36.1
1 N	43 E	WM	32	NE SW	40.0
1 N	43 E	WM	32	NW SW	40.0
1 N	43 E	WM	32	SW SW	15.0
1 N	43 E	WM	32	SE SW	40.0
1 N	43 E	WM	32	NE SE	34.0
1 N	43 E	WM	32	NW SE	38.3
1 N	43 E	WM	32	SW SE	35.2
1 N	43 E	WM	32	SE SE	35.8
1 N	43 E	WM	33	NE NW	30.0
1 N	43 E	WM	33	NW NW	30.0
1 N	43 E	WM	33	SW NW	40.0
1 N	43 E	WM	33	SE NW	25.0
1 N	43 E	WM	33	NE SW	30.0
1 N	43 E	WM	33	NW SW	4.0
1 N	43 E	WM	33	SW SW	25.0
1 N	43 E	WM	33	SE SW	25.0
1 S	43 E	WM	3	SW SW	40.0
1 S	43 E	WM	3	SE SW	40.0
1 S	43 E	WM	3	SW SE	30.0
1 S	43 E	WM	4	NW NE	21.0
1 S	43 E	WM	4	SW NE	24.5
1 S	43 E	WM	4	NE NW	25.0
1 S	43 E	WM	4	NW NW	23.7
1 S	43 E	WM	4	SW NW	35.3
1 S	43 E	WM	4	SE NW	3.0
1 S	43 E	WM	4	NE SW	11.6
1 S	43 E	WM	4	NW SW	39.2
1 S	43 E	WM	4	SW SW	39.5
1 S	43 E	WM	4	SE SW	35.6
1 S	43 E	WM	4	NE SE	22.0
1 S	43 E	WM	4	NW SE	25.0
1 S	43 E	WM	4	SW SE	16.0
1 S	43 E	WM	4	SE SE	40.0
1 S	43 E	WM	5	NE NE	36.6
1 S	43 E	WM	5	NW NE	39.8
1 S	43 E	WM	5	SW NE	40.0
1 S	43 E	WM	5	SE NE	32.9
1 S	43 E	WM	5	NE NW	40.0
1 S	43 E	WM	5	NW NW	20.0
1 S	43 E	WM	5	SE NW	40.0
1 S	43 E	WM	5	SE SW	32.0
1 S	43 E	WM	5	NE SE	39.4
1 S	43 E	WM	5	NW SE	40.0
1 S	43 E	WM	5	SW SE	34.0
1 S	43 E	WM	5	SE SE	40.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	6	NW NE	40.0
1 S	43 E	WM	6	NE NW	37.0
1 S	43 E	WM	8	NE NE	40.0
1 S	43 E	WM	8	NW NE	40.0
1 S	43 E	WM	8	SW NE	40.0
1 S	43 E	WM	8	SE NE	40.0
1 S	43 E	WM	8	NE NW	8.0
1 S	43 E	WM	8	SE NW	12.5
1 S	43 E	WM	8	NE SE	25.0
1 S	43 E	WM	8	NW SE	5.0
1 S	43 E	WM	8	SE SE	5.0
1 S	43 E	WM	9	NE NE	23.7
1 S	43 E	WM	9	NW NE	20.4
1 S	43 E	WM	9	SW NE	35.0
1 S	43 E	WM	9	SE NE	15.0
1 S	43 E	WM	9	NE NW	31.9
1 S	43 E	WM	9	NW NW	34.6
1 S	43 E	WM	9	SW NW	34.6
1 S	43 E	WM	9	SE NW	34.6
1 S	43 E	WM	9	NE SW	30.0
1 S	43 E	WM	9	NW SW	38.0
1 S	43 E	WM	9	SW SW	33.0
1 S	43 E	WM	9	SE SW	36.9
1 S	43 E	WM	9	NE SE	34.0
1 S	43 E	WM	9	NW SE	34.6
1 S	43 E	WM	9	SW SE	35.0
1 S	43 E	WM	9	SE SE	34.6
1 S	43 E	WM	10	NE NE	20.0
1 S	43 E	WM	10	NW NE	40.0
1 S	43 E	WM	10	SW NE	40.0
1 S	43 E	WM	10	SE NE	20.0
1 S	43 E	WM	10	NE NW	40.0
1 S	43 E	WM	10	NW NW	40.0
1 S	43 E	WM	10	SW NW	30.0
1 S	43 E	WM	10	SE NW	40.0
1 S	43 E	WM	10	NE SW	37.9
1 S	43 E	WM	10	NW SW	6.5
1 S	43 E	WM	10	SW SW	15.0
1 S	43 E	WM	10	SE SW	40.0
1 S	43 E	WM	10	NE SE	20.0
1 S	43 E	WM	10	NW SE	40.0
1 S	43 E	WM	10	SW SE	40.0
1 S	43 E	WM	10	SE SE	18.0
1 S	43 E	WM	14	NW NW	39.0
1 S	43 E	WM	14	SW NW	36.0
1 S	43 E	WM	14	SE NW	38.0
1 S	43 E	WM	14	NE SW	39.5
1 S	43 E	WM	14	NW SW	20.0

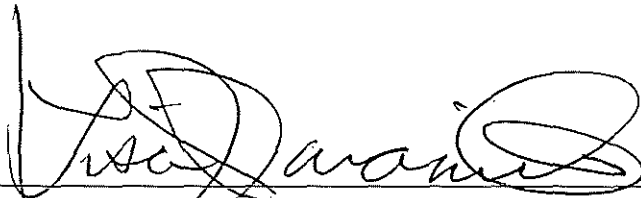
SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	14	SW SW	37.0
1 S	43 E	WM	14	SE SW	15.0
1 S	43 E	WM	14	NW SE	24.0
1 S	43 E	WM	15	NE NE	21.5
1 S	43 E	WM	15	NW NE	40.0
1 S	43 E	WM	15	SW NE	40.0
1 S	43 E	WM	15	SE NE	30.0
1 S	43 E	WM	15	NE NW	18.5
1 S	43 E	WM	15	NW NW	20.0
1 S	43 E	WM	15	SW NW	40.0
1 S	43 E	WM	15	SE NW	16.0
1 S	43 E	WM	15	NE SW	20.0
1 S	43 E	WM	15	NW SW	40.0
1 S	43 E	WM	15	SW SW	40.0
1 S	43 E	WM	15	SE SW	28.0
1 S	43 E	WM	15	NE SE	38.0
1 S	43 E	WM	15	NW SE	33.5
1 S	43 E	WM	15	SW SE	40.0
1 S	43 E	WM	15	SE SE	32.0
1 S	43 E	WM	16	NE NE	30.0
1 S	43 E	WM	16	NW NE	30.0
1 S	43 E	WM	16	SW NE	30.0
1 S	43 E	WM	16	SE NE	30.0
1 S	43 E	WM	16	NE NW	40.0
1 S	43 E	WM	16	NW NW	33.5
1 S	43 E	WM	16	SE NW	25.0
1 S	43 E	WM	16	NE SE	32.8
1 S	43 E	WM	16	NW SE	5.0
1 S	43 E	WM	16	SE SE	10.0
1 S	43 E	WM	22	NE NE	40.0
1 S	43 E	WM	22	NW NE	35.0
1 S	43 E	WM	22	SW NE	30.0
1 S	43 E	WM	22	SE NE	22.0
1 S	43 E	WM	22	NE NW	35.0
1 S	43 E	WM	22	NW NW	40.0
1 S	43 E	WM	22	SW NW	20.0
1 S	43 E	WM	22	SE NW	39.0
1 S	43 E	WM	22	NE SW	39.0
1 S	43 E	WM	22	NW SW	10.0
1 S	43 E	WM	22	SE SW	40.0
1 S	43 E	WM	22	NE SE	5.0
1 S	43 E	WM	22	NW SE	28.0
1 S	43 E	WM	22	SW SE	36.0
1 S	43 E	WM	22	SE SE	15.0
1 S	43 E	WM	27	NW NE	22.0
1 S	43 E	WM	27	NE NW	5.0
Total					6362.45

This certificate describes that portion of water right Certificate 94161, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 21 2021, approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APR 21 2021.

A handwritten signature in black ink, appearing to read 'Lisa J. Jaramillo', is written over a horizontal line.

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

STATE OF OREGON
COUNTY OF WALLOWA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

S.W. MILES
EVANS, OR 97857

confirms the right to use the waters of the LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER for IRRIGATION of 135.6 ACRES, DOMESTIC AND LIVESTOCK and SUPPLEMENTAL IRRIGATION OF 653.5 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5 at Pages 184-185. The dates of priority are 1882 for Tract 1; 1889 for Tract 2; and 1896 for Tracts 3 and 4.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1
1 S	43 E	WM	9	NE SE	POD 2: MIDDLE VALLEY IRRIGATION AND WATER DITCH COMPANY DITCH; TRACT 2
1 S	43 E	WM	9	NE SE	POD 3: MILES MAGILL DITCH; TRACTS 3 & 4

A description of the place of use to which this right is appurtenant is as follows:

TRACT 1 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1882	1 S	43 E	WM	4	NW NW	2.4	1
	1 S	43 E	WM	4	SE NW	2.3	
	1 S	43 E	WM	4	SW NW	2.5	
	1 S	43 E	WM	4	SW SE	1.0	
	1 S	43 E	WM	4	NE SW	0.9	
	1 S	43 E	WM	4	NW SW	2.1	
	1 S	43 E	WM	4	SE SW	15.6	
	1 S	43 E	WM	4	SW SW	32.9	
	1 S	43 E	WM	5	NE NE	0.9	
	1 S	43 E	WM	5	SE NE	3.6	
	1 S	43 E	WM	5	NE SE	1.0	
	1 S	43 E	WM	5	SE SE	40.0	
	1 S	43 E	WM	9	NW NE	6.1	
	1 S	43 E	WM	9	SE NW	3.0	
	1 N	43 E	WM	32	NW SE	2.3	
	1 N	43 E	WM	32	SE SE	0.8	
	1 N	43 E	WM	32	SW SE	0.4	
Total						117.8	

TRACT 3 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1896	1 S	43 E	WM	9	NW NE	10.8	3
	1 S	43 E	WM	9	NE NW	7.0	
	Total					17.8	

For the use of Middle Valley Irrigation and Water Ditch Company Ditch to supplemental the diversion through the Miles Ditch for the following described lands, also described and included in the lands described above under Miles Ditch:

TRACT 2 – SUPPLEMENTAL IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1889	1 N	43 E	WM	32	NW SE	40.0	2
	1 N	43 E	WM	32	SE SE	40.0	
	1 N	43 E	WM	32	SW SE	40.0	
	1 N	43 E	WM	33	SW SW	9.0	
	1 S	43 E	WM	4	NW NW	17.0	
	1 S	43 E	WM	5	NE NE	40.0	
Total						186.0	

For the use of the Miles-Magill Ditch to supplement diversions through the Miles Ditch and Middle Valley Irrigation and Water Ditch Company Ditch for the following described lands, also described and included above under said ditch:

TRACT 4 – SUPPLEMENTAL IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1896	1 N	43 E	WM	32	NW SE	40.0	1, 2, 3
	1 N	43 E	WM	32	SE SE	40.0	
	1 N	43 E	WM	32	SW SE	40.0	
	1 N	43 E	WM	33	SW SW	9.0	
	1 S	43 E	WM	4	NW NW	27.0	
	1 S	43 E	WM	4	SE NW	3.0	
	1 S	43 E	WM	4	SW NW	38.0	
	1 S	43 E	WM	4	NE SW	13.5	
	1 S	43 E	WM	4	NW SW	40.0	
	1 S	43 E	WM	4	SW SW	40.0	
	1 S	43 E	WM	5	NE NE	42.0	
	1 S	43 E	WM	5	SE NE	40.0	
	1 S	43 E	WM	5	NE SE	40.0	
	1 S	43 E	WM	5	SE SE	40.0	
	1 S	43 E	WM	9	NE NW	15.0	
Total						467.5	

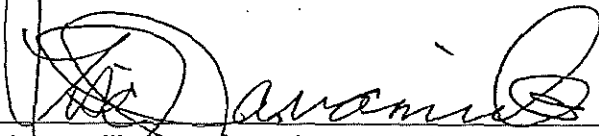
This certificate describes that portion of Certificate 94782, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 21 2021, approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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 and is subject to all other conditions and limitations contained in said decree.

WITNESS the signature of the Water Resources Director, affixed

APR 21 2021

A handwritten signature in black ink, appearing to read 'Lisa J. Jaramillo', is written over a horizontal line.

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

STATE OF OREGON

COUNTY OF WALLOWA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

S.L. MAGILL
LOSTINE OR 97857

confirms the right to use the waters of the SOUTH FORK OF WALLOWA RIVER (LOSTINE RIVER), a tributary of WALLOWA RIVER for IRRIGATION of 379.0 ACRES, DOMESTIC AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 181. The date of priority is 1891 FOR TRACT NO. 1, 1896 FOR TRACT NO. 2, AND 1889 FOR TRACT NO. 3.

The amount of water to which this right is entitled is limited an amount actually beneficially used for said purposes, and shall not exceed 1 1/2 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitation contained in said decree.

A description of the place of use to which this right is appurtenant is as follows:

TRACT NO. 1					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	9	SW SE	33.0
1 S	43 E	WM	9	SE SE	34.6
1 S	43 E	WM	10	SW SW	8.3
Total					75.9

TRACT NO. 2					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	5	NW SE	40.0
1 S	43 E	WM	5	SW SE	34.0
1 S	43 E	WM	9	NW NW	18.0
Total					92.0

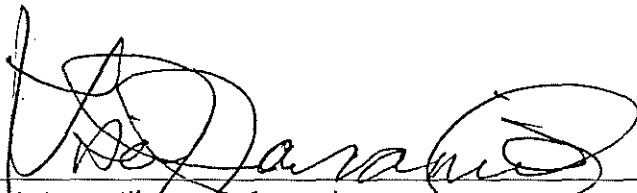
TRACT NO. 3					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SE NW	36.1
1 N	43 E	WM	32	SW NW	40.0
1 N	43 E	WM	32	NW SW	40.0
1 N	43 E	WM	32	NE SW	40.0
1 N	43 E	WM	32	SW SW	15.0
1 N	43 E	WM	32	SE SW	40.0
Total					211.1

This certificate describes that portion of water right Certificate 94906, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered ~~APR 21 2021~~ approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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.

WITNESS the signature of the Water Resources Director, affixed APR 21 2021.


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

STATE OF OREGON
COUNTY OF WALLOWA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON
WATER RESOURCES DEPARTMENT

confirms the right to use the waters of the Lostine River (aka South Fork Wallowa River) and Wallowa River tributaries of Wallowa River and Grande Ronde River, for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 5 at Pages 177, 181, 184-185, and 193. Portions of this right were also confirmed by Permit S-11695.

The description of the quantity, priority dates, and stream reaches in which flows are to be maintained are as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94905	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Instream Point No. 2:

At Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.63) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.070	38.91	8.46	

Certificate 94160 is supplemental to Certificates 94782, 94906, 94780, and 94778. The portion of Certificate 94160 being transferred instream shall only be protected instream if the full rate and duty under Certificates 94782, 94906, 94780, and 94778 is not available.

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

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

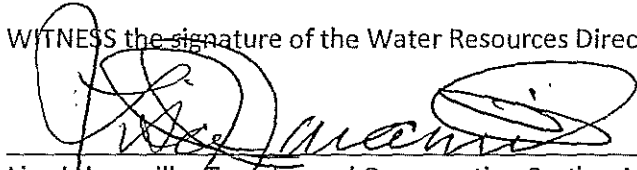
The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and shall be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by a subsequent order establishing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

The right is subject to all other terms and conditions of Certificates 94160, 94782, 94906, 94780, and 94778 and any related decree.

This certificate is issued to confirm a change in use and place of use approved by an order of the Water Resources Director recorded in Special Order Volume 120, Page 247, approving Transfer T-13431, and together with Certificates 95646, 95648, 95649, 95650, supersedes Certificates 94160, 94782, 94906, 94780, and 94778, State Record of Water Right Certificates.

WITNESS the signature of the Water Resources Director, affixed

APR 21 2021



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

STATE OF OREGON
COUNTY OF WALLOWA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WILLIAM SHEROD
WALLOWA, OR 97885

confirms the right to use the waters of the LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER for IRRIGATION of 191.5 ACRES, DOMESTIC, AND STOCK USE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 193. The date of priority is 1883.

The amount of water to which this 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 1.5 acre feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per are during the entire remainder of the irrigation season.

A description of the place of use to which this right is appurtenant is as follows:

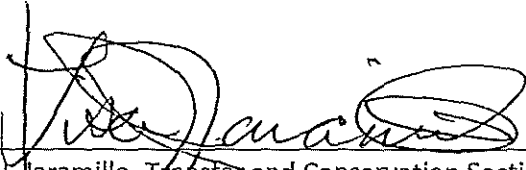
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	29	SW SW	7.6
1 N	43 E	WM	30	SW NW	34.0
1 N	43 E	WM	30	SE NW	40.0
1 N	43 E	WM	30	NE SW	40.0
1 N	43 E	WM	30	NW SW	40.0
1 N	43 E	WM	32	NW NE	16.8
1 N	43 E	WM	32	NW NW	13.1
Total					191.5

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 and is subject to all other conditions and limitations contained in said decree.

This certificate describes that portion of water right Certificate 94778, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 21 2021, approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed APR 21 2021.

A handwritten signature in black ink, appearing to read "Lisa J. Paramillo", written over a horizontal line.

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

STATE OF OREGON

COUNTY OF WALLOWA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CROSS COUNTRY CANAL COMPANY
LOSTINE, OR

confirms the right to use the waters of the WALLOWA RIVER, a tributary of GRANDE RONDE RIVER, for SUPPLEMENTAL IRRIGATION of 3481.35 ACRES.

This right was perfected under Permit S-11695. The date of priority is JUNE 6, 1935. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 87.035 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The points of diversion are located as follows:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	11	NW SE

The amount of water for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1-1/2 acre feet per acre during any thirty-day period from May 1 to July 31, and thereafter shall not exceed 1.0 acre foot per acre for the remainder of the irrigation season ending October 1, and the total quantity allowed under this and any other right for these lands described herein shall not at any time exceed the quantity of water 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 to which this right is appurtenant is as follows:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	13	NW SW	2.00
1 N	42 E	WM	13	SE SW	5.00
1 N	42 E	WM	14	NE SE	30.00
1 N	42 E	WM	14	NW SE	5.00
1 N	42 E	WM	14	SE SE	9.00
1 N	42 E	WM	23	NE NE	5.00
1 N	42 E	WM	24	NW NE	1.00
1 N	42 E	WM	24	SW NE	9.00
1 N	42 E	WM	24	NE NW	31.00
1 N	42 E	WM	24	NW NW	20.00
1 N	42 E	WM	24	SW NW	25.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	24	SE NW	39.50
1 N	42 E	WM	24	NE SW	39.50
1 N	42 E	WM	24	NW SW	34.00
1 N	42 E	WM	24	SW SW	34.00
1 N	42 E	WM	24	SE SW	39.75
1 N	42 E	WM	24	NW SE	15.00
1 N	42 E	WM	24	SW SE	35.00
1 N	42 E	WM	25	NW NE	40.50
1 N	42 E	WM	25	SW NE	40.50
1 N	42 E	WM	25	SE NE	28.00
1 N	42 E	WM	25	NE NW	40.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	25	NW NW	17.00
1 N	42 E	WM	25	SW NW	11.00
1 N	42 E	WM	25	SE NW	40.00
1 N	42 E	WM	25	NE SW	40.00
1 N	42 E	WM	25	NW SW	6.50
1 N	42 E	WM	25	SE SW	20.00
1 N	42 E	WM	25	NE SE	41.00
1 N	42 E	WM	25	NW SE	40.50
1 N	42 E	WM	25	SW SE	39.00
1 N	42 E	WM	25	SE SE	41.00
1 N	42 E	WM	36	NE NE	27.00
1 N	42 E	WM	36	NW NE	9.00
1 N	43 E	WM	28	NW NE	4.50
1 N	43 E	WM	28	SW NE	11.00
1 N	43 E	WM	28	NE NW	40.00
1 N	43 E	WM	28	NW NW	10.00
1 N	43 E	WM	28	SW NW	13.50
1 N	43 E	WM	28	SE NW	40.00
1 N	43 E	WM	28	NE SW	40.00
1 N	43 E	WM	28	NW SW	21.00
1 N	43 E	WM	28	SW SW	29.00
1 N	43 E	WM	28	SE SW	40.00
1 N	43 E	WM	28	NW SE	15.00
1 N	43 E	WM	28	SW SE	6.00
1 N	43 E	WM	29	NW SW	3.70
1 N	43 E	WM	29	SW SW	30.00
1 N	43 E	WM	29	SE SW	3.00
1 N	43 E	WM	30	NW NE	27.70
1 N	43 E	WM	30	SW NE	39.00
1 N	43 E	WM	30	SE NE	15.1
1 N	43 E	WM	30	NE NW	38.00
1 N	43 E	WM	30	NW NW	17.00
1 N	43 E	WM	30	SW NW	34.00
1 N	43 E	WM	30	SE NW	40.00
1 N	43 E	WM	30	NE SW	40.00
1 N	43 E	WM	30	NW SW	40.00
1 N	43 E	WM	30	SW SW	40.00
1 N	43 E	WM	30	SE SW	40.00
1 N	43 E	WM	30	NE SE	38.00
1 N	43 E	WM	30	NW SE	38.50
1 N	43 E	WM	30	SW SE	37.50
1 N	43 E	WM	30	SE SE	32.40
1 N	43 E	WM	31	NE NE	38.70
1 N	43 E	WM	31	NW NE	40.00
1 N	43 E	WM	31	SW NE	40.00
1 N	43 E	WM	31	SE NE	40.00
1 N	43 E	WM	31	NE NW	40.00
1 N	43 E	WM	31	NW NW	40.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NE	18.00
1 N	43 E	WM	32	SW NE	39.70
1 N	43 E	WM	32	SE NE	16.00
1 N	43 E	WM	32	NE NW	35.00
1 N	43 E	WM	32	NW NW	34.60
1 N	43 E	WM	32	SW NW	40.00
1 N	43 E	WM	32	SE NW	36.10
1 N	43 E	WM	32	NE SW	40.00
1 N	43 E	WM	32	NW SW	40.00
1 N	43 E	WM	32	SW SW	15.00
1 N	43 E	WM	32	SE SW	40.00
1 N	43 E	WM	32	NE SE	34.00
1 N	43 E	WM	32	NW SE	38.30
1 N	43 E	WM	32	SW SE	35.20
1 N	43 E	WM	32	SE SE	35.80
1 N	43 E	WM	33	NE NW	40.00
1 N	43 E	WM	33	NW NW	40.00
1 N	43 E	WM	33	SW NW	40.00
1 N	43 E	WM	33	SE NW	40.00
1 N	43 E	WM	33	NE SW	40.00
1 N	43 E	WM	33	NW SW	4.00
1 N	43 E	WM	33	SW SW	9.00
1 N	43 E	WM	33	SE SW	40.00
1 S	43 E	WM	4	NW NE	21.00
1 S	43 E	WM	4	SW NE	24.50
1 S	43 E	WM	4	NE NW	25.00
1 S	43 E	WM	4	NW NW	23.70
1 S	43 E	WM	4	SW NW	35.30
1 S	43 E	WM	4	SE NW	6.00
1 S	43 E	WM	4	NE SW	11.60
1 S	43 E	WM	4	NW SW	39.20
1 S	43 E	WM	4	SW SW	39.50
1 S	43 E	WM	4	SE SW	35.60
1 S	43 E	WM	4	NE SE	22.00
1 S	43 E	WM	4	NW SE	34.00
1 S	43 E	WM	4	SW SE	16.00
1 S	43 E	WM	4	SE SE	40.00
1 S	43 E	WM	5	NE NE	38.60
1 S	43 E	WM	5	NW NE	42.00
1 S	43 E	WM	5	SW NE	35.00
1 S	43 E	WM	5	SE NE	32.90
1 S	43 E	WM	5	NE NW	40.00
1 S	43 E	WM	5	SE NW	35.00
1 S	43 E	WM	5	NE SW	8.00
1 S	43 E	WM	5	NE SE	39.40
1 S	43 E	WM	5	SE SE	40.00
1 S	43 E	WM	9	NW NE	11.80
1 S	43 E	WM	9	SW NE	3.00

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	9	SE NE	10.00
1 S	43 E	WM	9	NE NW	3.00
1 S	43 E	WM	10	NW NE	38.00

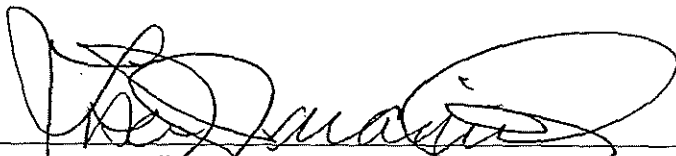
SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	10	NE NW	28.70
1 S	43 E	WM	10	NW NW	29.50
Total					3481.35

This certificate describes that portion of water right Certificate 94160, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 21 2021, approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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.

WITNESS the signature of the Water Resources Director, affixed APR 21 2021.



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

STATE OF OREGON

COUNTY OF WALLOWA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

MINAM LAKE RESERVOIR COMPANY
1120 SE FLORENCE
ENTERPRISE, OR 97828

confirms the right to use the waters of MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE, for SUPPLEMENTAL IRRIGATION OF 6362.45 ACRES.

This right was perfected under Permit S-3271. The date of priority is MAY 29, 1916. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 34.17 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

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 to which this right is appurtenant is as follows:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	14	NE SE	20.0
1 N	42 E	WM	14	SE SE	9.0
1 N	42 E	WM	23	NE NE	5.0
1 N	42 E	WM	24	NE NW	31.0
1 N	42 E	WM	24	NW NW	10.0
1 N	42 E	WM	24	SW NW	20.0
1 N	42 E	WM	24	SE NW	39.5
1 N	42 E	WM	24	NE SW	39.5
1 N	42 E	WM	24	NW SW	30.0
1 N	42 E	WM	24	SW SW	30.0
1 N	42 E	WM	24	SE SW	39.75
1 N	42 E	WM	24	NW SE	15.0
1 N	42 E	WM	24	SW SE	30.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	25	NW NE	40.0
1 N	42 E	WM	25	SW NE	40.0
1 N	42 E	WM	25	SE NE	28.0
1 N	42 E	WM	25	NE NW	40.0
1 N	42 E	WM	25	NW NW	17.0
1 N	42 E	WM	25	SW NW	11.0
1 N	42 E	WM	25	SE NW	40.0
1 N	42 E	WM	25	NE SW	35.0
1 N	42 E	WM	25	NW SW	6.5
1 N	42 E	WM	25	SE SW	20.0
1 N	42 E	WM	25	NE SE	30.0
1 N	42 E	WM	25	NW SE	40.0
1 N	43 E	WM	19	SW NE	30.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	19	SE NE	20.0
1 N	43 E	WM	19	NE SE	26.0
1 N	43 E	WM	19	NW SE	4.7
1 N	43 E	WM	19	SE SE	27.7
1 N	43 E	WM	28	NE NW	25.0
1 N	43 E	WM	28	NW NW	10.0
1 N	43 E	WM	28	SW NW	13.5
1 N	43 E	WM	28	SE NW	30.0
1 N	43 E	WM	28	NE SW	40.0
1 N	43 E	WM	28	NW SW	20.0
1 N	43 E	WM	28	SW SW	20.0
1 N	43 E	WM	28	SE SW	40.0
1 N	43 E	WM	28	NW SE	15.0
1 N	43 E	WM	28	SW SE	6.0
1 N	43 E	WM	29	NW SW	3.7
1 N	43 E	WM	29	SW SW	30.0
1 N	43 E	WM	29	SE SW	3.0
1 N	43 E	WM	30	NW NE	27.7
1 N	43 E	WM	30	SW NE	39.0
1 N	43 E	WM	30	SE NE	15.1
1 N	43 E	WM	30	NW NW	20.0
1 N	43 E	WM	30	SW NW	34.0
1 N	43 E	WM	30	SE NW	40.0
1 N	43 E	WM	30	NE SW	40.0
1 N	43 E	WM	30	NW SW	40.0
1 N	43 E	WM	30	SW SW	40.0
1 N	43 E	WM	30	SE SW	40.0
1 N	43 E	WM	30	NE SE	38.0
1 N	43 E	WM	30	NW SE	38.5
1 N	43 E	WM	30	SW SE	37.5
1 N	43 E	WM	30	SE SE	32.4
1 N	43 E	WM	31	NE NE	35.3
1 N	43 E	WM	31	NW NE	35.5
1 N	43 E	WM	31	SW NE	40.0
1 N	43 E	WM	31	SE NE	40.0
1 N	43 E	WM	31	NE NW	40.0
1 N	43 E	WM	31	NW NW	40.0
1 N	43 E	WM	31	SW NW	40.0
1 N	43 E	WM	31	SE NW	40.0
1 N	43 E	WM	31	NE SW	40.0
1 N	43 E	WM	31	SW SW	7.90
1 N	43 E	WM	31	SE SW	40.0
1 N	43 E	WM	31	NE SE	40.0
1 N	43 E	WM	31	NW SE	38.8
1 N	43 E	WM	32	NW NE	18.0
1 N	43 E	WM	32	SW NE	39.7
1 N	43 E	WM	32	SE NE	16.0
1 N	43 E	WM	32	NE NW	35.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NW	34.6
1 N	43 E	WM	32	SW NW	40.0
1 N	43 E	WM	32	SE NW	36.1
1 N	43 E	WM	32	NE SW	40.0
1 N	43 E	WM	32	NW SW	40.0
1 N	43 E	WM	32	SW SW	15.0
1 N	43 E	WM	32	SE SW	40.0
1 N	43 E	WM	32	NE SE	34.0
1 N	43 E	WM	32	NW SE	38.3
1 N	43 E	WM	32	SW SE	35.2
1 N	43 E	WM	32	SE SE	35.8
1 N	43 E	WM	33	NE NW	30.0
1 N	43 E	WM	33	NW NW	30.0
1 N	43 E	WM	33	SW NW	40.0
1 N	43 E	WM	33	SE NW	25.0
1 N	43 E	WM	33	NE SW	30.0
1 N	43 E	WM	33	NW SW	4.0
1 N	43 E	WM	33	SW SW	25.0
1 N	43 E	WM	33	SE SW	25.0
1 S	43 E	WM	3	SW SW	40.0
1 S	43 E	WM	3	SE SW	40.0
1 S	43 E	WM	3	SW SE	30.0
1 S	43 E	WM	4	NW NE	21.0
1 S	43 E	WM	4	SW NE	24.5
1 S	43 E	WM	4	NE NW	25.0
1 S	43 E	WM	4	NW NW	23.7
1 S	43 E	WM	4	SW NW	35.3
1 S	43 E	WM	4	SE NW	3.0
1 S	43 E	WM	4	NE SW	11.6
1 S	43 E	WM	4	NW SW	39.2
1 S	43 E	WM	4	SW SW	39.5
1 S	43 E	WM	4	SE SW	35.6
1 S	43 E	WM	4	NE SE	22.0
1 S	43 E	WM	4	NW SE	25.0
1 S	43 E	WM	4	SW SE	16.0
1 S	43 E	WM	4	SE SE	40.0
1 S	43 E	WM	5	NE NE	36.6
1 S	43 E	WM	5	NW NE	39.8
1 S	43 E	WM	5	SW NE	40.0
1 S	43 E	WM	5	SE NE	32.9
1 S	43 E	WM	5	NE NW	40.0
1 S	43 E	WM	5	NW NW	20.0
1 S	43 E	WM	5	SE NW	40.0
1 S	43 E	WM	5	SE SW	32.0
1 S	43 E	WM	5	NE SE	39.4
1 S	43 E	WM	5	NW SE	40.0
1 S	43 E	WM	5	SW SE	34.0
1 S	43 E	WM	5	SE SE	40.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	6	NW NE	40.0
1 S	43 E	WM	6	NE NW	37.0
1 S	43 E	WM	8	NE NE	40.0
1 S	43 E	WM	8	NW NE	40.0
1 S	43 E	WM	8	SW NE	40.0
1 S	43 E	WM	8	SE NE	40.0
1 S	43 E	WM	8	NE NW	8.0
1 S	43 E	WM	8	SE NW	12.5
1 S	43 E	WM	8	NE SE	25.0
1 S	43 E	WM	8	NW SE	5.0
1 S	43 E	WM	8	SE SE	5.0
1 S	43 E	WM	9	NE NE	23.7
1 S	43 E	WM	9	NW NE	20.4
1 S	43 E	WM	9	SW NE	35.0
1 S	43 E	WM	9	SE NE	15.0
1 S	43 E	WM	9	NE NW	31.9
1 S	43 E	WM	9	NW NW	34.6
1 S	43 E	WM	9	SW NW	34.6
1 S	43 E	WM	9	SE NW	34.6
1 S	43 E	WM	9	NE SW	30.0
1 S	43 E	WM	9	NW SW	38.0
1 S	43 E	WM	9	SW SW	33.0
1 S	43 E	WM	9	SE SW	36.9
1 S	43 E	WM	9	NE SE	34.0
1 S	43 E	WM	9	NW SE	34.6
1 S	43 E	WM	9	SW SE	35.0
1 S	43 E	WM	9	SE SE	34.6
1 S	43 E	WM	10	NE NE	20.0
1 S	43 E	WM	10	NW NE	40.0
1 S	43 E	WM	10	SW NE	40.0
1 S	43 E	WM	10	SE NE	20.0
1 S	43 E	WM	10	NE NW	40.0
1 S	43 E	WM	10	NW NW	40.0
1 S	43 E	WM	10	SW NW	30.0
1 S	43 E	WM	10	SE NW	40.0
1 S	43 E	WM	10	NE SW	37.9
1 S	43 E	WM	10	NW SW	6.5
1 S	43 E	WM	10	SW SW	15.0
1 S	43 E	WM	10	SE SW	40.0
1 S	43 E	WM	10	NE SE	20.0
1 S	43 E	WM	10	NW SE	40.0
1 S	43 E	WM	10	SW SE	40.0
1 S	43 E	WM	10	SE SE	18.0
1 S	43 E	WM	14	NW NW	39.0
1 S	43 E	WM	14	SW NW	36.0
1 S	43 E	WM	14	SE NW	38.0
1 S	43 E	WM	14	NE SW	39.5
1 S	43 E	WM	14	NW SW	20.0

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	14	SW SW	37.0
1 S	43 E	WM	14	SE SW	15.0
1 S	43 E	WM	14	NW SE	24.0
1 S	43 E	WM	15	NE NE	21.5
1 S	43 E	WM	15	NW NE	40.0
1 S	43 E	WM	15	SW NE	40.0
1 S	43 E	WM	15	SE NE	30.0
1 S	43 E	WM	15	NE NW	18.5
1 S	43 E	WM	15	NW NW	20.0
1 S	43 E	WM	15	SW NW	40.0
1 S	43 E	WM	15	SE NW	16.0
1 S	43 E	WM	15	NE SW	20.0
1 S	43 E	WM	15	NW SW	40.0
1 S	43 E	WM	15	SW SW	40.0
1 S	43 E	WM	15	SE SW	28.0
1 S	43 E	WM	15	NE SE	38.0
1 S	43 E	WM	15	NW SE	33.5
1 S	43 E	WM	15	SW SE	40.0
1 S	43 E	WM	15	SE SE	32.0
1 S	43 E	WM	16	NE NE	30.0
1 S	43 E	WM	16	NW NE	30.0
1 S	43 E	WM	16	SW NE	30.0
1 S	43 E	WM	16	SE NE	30.0
1 S	43 E	WM	16	NE NW	40.0
1 S	43 E	WM	16	NW NW	33.5
1 S	43 E	WM	16	SE NW	25.0
1 S	43 E	WM	16	NE SE	32.8
1 S	43 E	WM	16	NW SE	5.0
1 S	43 E	WM	16	SE SE	10.0
1 S	43 E	WM	22	NE NE	40.0
1 S	43 E	WM	22	NW NE	35.0
1 S	43 E	WM	22	SW NE	30.0
1 S	43 E	WM	22	SE NE	22.0
1 S	43 E	WM	22	NE NW	35.0
1 S	43 E	WM	22	NW NW	40.0
1 S	43 E	WM	22	SW NW	20.0
1 S	43 E	WM	22	SE NW	39.0
1 S	43 E	WM	22	NE SW	39.0
1 S	43 E	WM	22	NW SW	10.0
1 S	43 E	WM	22	SE SW	40.0
1 S	43 E	WM	22	NE SE	5.0
1 S	43 E	WM	22	NW SE	28.0
1 S	43 E	WM	22	SW SE	36.0
1 S	43 E	WM	22	SE SE	15.0
1 S	43 E	WM	27	NW NE	22.0
1 S	43 E	WM	27	NE NW	5.0
Total					6362.45

This certificate describes that portion of water right Certificate 94161, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered APR 21 2021, approving Instream Transfer Application T-13431.

The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

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. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

WITNESS the signature of the Water Resources Director, affixed APR 21 2021.

A handwritten signature in black ink, appearing to read "Lisa J. Daramillo", is written over a horizontal line.

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

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 13431

Transfer Specialist: Sarah

Transfer Type: Instream Transfer

Applicant: Ken and Bobbie Baker 81705 Hwy 82 Wallowa, OR 97885 Perry Johnston 81703 HWY 82 WALLOWA, OR 97885 Email: _____ Phone: _____		Agent: ☐ N/A JESSICA HUMPHREYS, Trout Unlimited Email: Humphreys.jessicad@gmail.com ROB KIRSCHNER, FRESHWATER TRUST Email: rob@thefreshwatertrust.org MEG BELAIS, FRESHWATER TRUST Email: meg@thefreshwatertrust.org	
Irrigation District: ☐ N/A Cross Country Canal Email: _____		Affected Local Gov'ts: ☐ N/A County Of Wallowa planning Department Email: _____	

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☐	S-15860	S-11695	94160	X Yes ☐ No	RR 95646
☐	S-4936	S-3271	94161	X Yes ☐ No	RR 95647
☐	WALLOWA RIVER DECREE		94906	X Yes ☐ No	RR 95650
☐	WALLOWA RIVER DECREE		94778	X Yes ☐ No	RR 95648
☐	WALLOWA RIVER DECREE		94780	☐ Yes X No	none
☐	WALLOWA RIVER DECREE		94782	☐ Yes ☐ No	RR 95649
				Instream Cert	95651

Key Dates & Initial Actions:

Rec'd: 4/29/2020	Proposed Action(s): PLACE OF USE; USE	
Fees Pd: 2345.00	WM District: 7	ODFW District: N/A
Initial Public Notice: May 12, 2020	WM Review sent: 5/7/2020	ODFW Review sent: N/A
Acknowledgement Letter Sent ☒		GW Review sent: N/A X N/A
County sent cc: of Ack Letter X	BOR notified (date): X N/A	
Newspaper quote requested: 12/23/20	Request for news \$ sent: 12/30/20	News \$ received: 1/28/21
Request to publish sent:	Affidavit of publication received: 3/12/21	Last day of publication: 2/24/21

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: sarah Initials: sarah	Date: 9/14/20 Initials: Teri	Date: 9/14/20 Initials: sarah	Date: 9/14/20 Initials: sarah	Date: 9/14/20 Initials: sarah	CW Sent: 9/23/20	N/A
PD	Date: 12/14/20 Initials: sarah	Date: 12/14/20 Initials: teri	Date: 12/14/20 Initials: sarah	Date: 12/14/20 Initials: sarah	Date: 12/14/20 Initials: sarah	Date: 2/4/21	Date: 2/11/21
FO	Date: 4/12/21 Initials: sarah	Date: 4/12/21 Initials: Corey	Date: 4/13/21 Initials: sarah	Date: 4/13/21 Initials: sarah	Date: 4/13/21 Initials: sarah	Date: 4/15/21	Date: _____

APR 21 2021

Special Issues: _____

Special Order Volume: Vol. 180 Pages 247-263

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE # _____

RECEIPT # **134410**

RECEIVED FROM: The Freshwater Trust

BY: _____

CASH: ☐ CHECK: # 1000380 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>T-13431</u>

TOTAL REC'D \$ 314.38

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$
0807 OTHER: (IDENTIFY) Newspaper Notice \$ 314.38

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201	SURFACE WATER	\$	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

WELL CONSTRUCTION

0218	WELL DRILL CONSTRUCTOR	\$	0219	\$
	LANDOWNER'S PERMIT		0220	\$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$

RECEIPT: **134410**

DATED: 1-28-2021 BY: Mindy Carlson

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

IN THE CIRCUIT COURT OF
THE STATE OF OREGON FOR
WALLOWA COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON

County of Wallowa } ss

I, Jooney being duly
sworn, depose and say that I am
the principal clerk of the publisher
of the Wallowa County Chieftain,
wallowa.com, a newspaper of general
circulation, as defined by ORS
193.010 and 193.020; that the

**Notice of Preliminary
Determination**

a printed copy of which is hereto
annexed; was published in the
entire issue of said newspaper for 2
successive and consecutive issues in
the following issues:
02/17/2021, 02/24/2021

Subscribed and sworn to before me
on this **2nd day of March, A.D. 2021**



Cheryl L. Jenkins
Notary Public of Oregon

**Notice of Preliminary Determination for
Water Right Transfer T-13431**

T-13431 filed by Ken and Bobbie Baker, 81705 Hwy 82, Wallowa, OR 97885, Perry Johnston, 81703 Hwy 82, Wallowa, OR 97885, proposes to change the place of use under Certificate 94161, and change the place of use and character of use under Certificates 94782, 94906, 94780, 94778, and 94160. Certificate (Cert.) 94161 allows the use of 0.08 cubic foot per second (cfs) from Minam Lake Reservoir in Sec. 27, T1S, R43E, WM for supplemental irrigation in Sec. 32, T1N, R43E, WM. The applicants propose to change the place of use to Sec. 29, T1N, R42E, WM. Cert. 94782 allows the use of 36.40 af of water from the Lostine River in Sec. 4, T1S, R43E, WM for irrigation in Sec. 32, T1N, R43E, WM. Cert. 94906 allows the use of 21.84 af from the Lostine River in Sec. 9, T1S, R43E, WM for irrigation in Sec. 32, T1N, R43E, WM. Cert. 94780 allows the use of 1.68 af from the Lostine River in Sec. 4, T1S, R43E, WM for irrigation in Sec. 32, T1N, R43E, WM. Cert. 94778 allows the use of 19.04 af from the Lostine River in Sec. 33, T1N, R43E, WM for irrigation in Sec. 32. Cert. 94160 allows the use of 78.96 af from the Wallowa River in Sec. 11, T1S, R43E, WM for supplemental irrigation in Sec. 32, T1N, R43E, WM. The applicants propose to create an instream use in the Lostine River from the points of diversion to the mouth at a maximum of 0.342 cfs and into the Wallowa River. The applicants propose to create an instream use in the Wallowa River from the point of diversion on the Wallowa River and the water from the Lostine River at a maximum rate of 0.426 cfs. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540, OAR 690-380-5000 and OAR 690-077-0075.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice February 24, 2021. Due to COVID-19, the Department's office is closed to walk-in services. The Department encourages the submission of protests by U.S. mail. Please consider mailing early to ensure the Department receives the protest by the deadline specified above. Call (503) 986-0815 to obtain additional information. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

Legal No. 223601

Published: February 17, 24, 2021

RECEIVED

MAR 12 2021

OWRD



Oregon
Kate Brown, Governor

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

February 11, 2021

Applicants

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

SUBJECT: Water Right Transfer Application T-13431

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13431. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

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

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

Please do not hesitate to contact me at 503-986-0884 or Sarah.A.Henderson@oregon.gov if I may be of assistance.

Sincerely,

for Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: T-13431
David Bates, District #7 Watermaster (*via e-mail*)
Jessica Humphreys, The Freshwater Trust, (TFT) Agent for the applicant (*via e-mail*)
Rob Kirchner, TFT, Agent for the applicant (*via e-mail*)
Meg Belais, TFT, Agent for the applicant (*via e-mail*)

encs

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

In the Matter of Instream Transfer	)	PRELIMINARY DETERMINATION
Application T-13431, Wallowa County	)	PROPOSING APPROVAL OF CHANGES IN
	)	PLACE OF USE AND CHARACTER OF USE;
	)	AND APPROVING A CHANGE IN PLACE OF
	)	USE UNDER CERTIFICATE 94161

Authority

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

Applicants

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

Agent

THE FRESHWATER TRUST (TFT)
ATTN: JESSICA HUMPHREYS
401 NE 1ST STREET
ENTERPRISE, OREGON 97828

Findings of Fact

1. On April 29, 2020, Ken and Bobbie Baker, Perry Johnston and the Freshwater Trust filed an application to change the place of use and character of use under Certificates 94782, 94348, 94780, 94778, and 94160 to instream use; and change the place of use under Certificate 94161. The Department assigned the application number T-13431.
2. Notice of the application for transfer was published on May 12, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 19, 2020, the Department contacted TFT by written correspondence to notify the applicant's agent of the deficiencies in the application. On July 22, 2020, TFT submitted revised application pages resolving the deficiencies.
4. On July 23, 2020, Certificate 94348 was cancelled by Special Order Volume 117, pages 98-101, and superseded by Certificate 94906.

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

5. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the intent to file the instream transfer application to Wallowa County. Additionally, the Department provided notice of the proposed action to the Wallowa County upon receipt of Transfer Application T-13431.
6. The applicants also submitted a signed Supplemental Form D from Cross Country Canal Company and Minam Lake Reservoir Company.
7. On September 23, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-13431 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of October 22, 2020, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
8. The portion of the first right to be transferred is as follows:

Certificate: 94782 in the name of S.W. Miles (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County, the decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 5 at Pages 184-185)

Use: IRRIGATION OF 6.5 ACRES

Priority Date: 1882 for Tract 1

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1

Authorized Place of Use:

TRACT 1 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1882	1 N	43 E	WM	32	NW SE	1.7	1
	1 N	43 E	WM	32	SW SE	4.8	
Total						6.5	

9. Certificate 94782 does not provide a full description of the point of diversion of the Miles Ditch. However, based upon additional information provided by the Applicants, the Department's Watermaster, and a review of the Department's records, the Applicants have

been utilizing the downstream Foster Ditch for a point of diversion. Therefore, the point of diversion from the Lostine River, is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances Latitude / Longitude
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

10. A total of 36.40 acre-feet of water may be beneficially used annually under the existing right.

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

Certificate: 94906 in the name of S L. Magill (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 181)

Use: IRRIGATION of 3.9 ACRES

Priority Date: 1889 for Tract No. 3

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitation contained in said decree.

Source: SOUTH FORK OF WALLOWA RIVER (LOSTINE RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

TRACT NO. 3 – PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SE NW	3.9
Total					3.9

12. Certificate 94906 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	9	SE NE	MILES DITCH: LATITUDE: 45.494134, LONGITUDE: 117.438922

13. A total of 21.84 acre-feet of water may be beneficially used annually under the existing right.

14. The third right to be transferred is as follows:

Certificate: 94780 in the name of Kenneth M. and Bobbie Lou Baker, Perry M. Johnston (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5 at Page 177)

Use: IRRIGATION OF 0.3 ACRES AND STOCK

Priority Date: 1883

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre feet per acre for any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: LOSTINE RIVER, tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

Authorized Place of Use:

IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3

15. A total of 1.68 acre-feet of water may be beneficially used annually under the existing right.

16. The portion of the fourth right to be transferred is as follows:

Certificate: 94778 in the name of William Sherod (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 193)

Use: IRRIGATION 3.4 ACRES

Priority Date: 1883

Limit/Duty: The amount of water to which this 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 1.5 acre feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NW	3.4
Total					3.4

17. Certificate 94778 does not provide the location of the point of diversion. Based upon additional information provided by the Applicants and the Department's records, the point of diversion on the Lostine River is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; Latitude: 45.518688; Longitude: -117.469878

18. A total of 19.04 acre-feet of water may be beneficially used annually under the existing right.

19. The portion of the fifth right to be transferred is as follows:

Certificate: 94160 in the name of Cross Country Canal Company (perfected under Permit S-11695)

Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES

Priority Date: JUNE 6, 1935

Rate: 0.355 CUBIC FEET PER SECOND

Limit/Duty: The amount of water for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1.5 acre feet per acre during any 30 day period from May 1 to July 31, and thereafter shall not exceed 1.0 acre foot per acre for the remainder of the irrigation season ending October 1, and the total quantity allowed under this and any other right for these lands described herein shall not at any time exceed the quantity of water allowed herein..

Period of Use: May 1 to October 1

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	11	NW SE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

20. Certificate 94160 does not describe the exact location of the point of diversion. However, based on current mapping and information available from the Applicants and the Watermaster, the headgate for the Cross Country Canal is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

21. Certificate 94160 is supplemental to the portions of Certificates 94782, 94906, 94780, and 94788 proposed to be transferred instream.
22. A total of 78.96 acre-feet of water may be beneficially used annually under Certificate 94160.
23. Transfer Application T-13431 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values for Certificates 94782, 94906, 94780, 94788 and 94160.
24. Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the points of diversion (PODs) (as described in Findings of Fact Nos. 9, 12, 14, 17, and 20) to the mouth of the Wallowa River.
25. The portion of the sixth right to be transferred is as follows:

Certificate: 94161 in the name of Minam Lake Reservoir Company (perfected under Permit S-3271)

Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES

Priority Date: MAY 29, 1916

Rate: 0.08 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

Source: MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

26. Transfer Application T-13431 proposes to change the place of use of Certificate 94161 to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	29	NE SW	9.4
1 N	42 E	WM	29	SE NW	3.2
1 N	42 E	WM	29	NE NW	1.5
Total					14.1

27. Transfer Application T-13431 proposes to change the place of use of the right to create an instream reach from the authorized points of diversion to the mouth of the Wallowa River at the confluence with the Grande Ronde River.
28. Certificates 94782, 94906, 94780, 94788, 94160, and 94161 do not list a period of use. Pursuant to the Wallowa River Decree, the irrigation season of use is May 1 to October 1.
29. The Applicants propose the following quantities of water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
		5/3 – 7/31	5/3 – 7/31	8/1 – 9/30	8/1 – 9/30	
94778	1883	0.086	15.30	0.028	3.40	May 3 through September 30
94906	1889	0.098	17.55	0.032	3.90	
94780	1883	0.002	1.35	0.002	0.30	
94782	1882	0.330	29.25	0.054	6.50	
94160(IS)	6/6/1935	0.355	63.45	0.117	14.10	
Totals		0.871	126.90	0.233	28.20	

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

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

31. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
32. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13431.
33. A portion of the water diverted at the points of diversion returns to the Lostine and Wallowa Rivers and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for immediately below each point of diversion. The reduction in the instream water rights from the original quantities identified in Finding of Fact No. 29 is as follows:

Reach	Percent
From immediately below each of the points of diversion to the Clearwater Ditch Point of Diversion located in the SWSW Section 33, T1N, R43E, W.M.	5%
From the Clearwater Ditch Point of Diversion to the Mouth of the Lostine River at the confluence with the Wallowa River	10%
In the Wallowa River from the confluence with the Lostine River (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133 to the Wallowa River (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.49803	40%
From the Wallowa River at Latitude: 45.55639, Longitude: -117.49803 to Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa (approx. RM 23.8)	60%
From the Wallowa River at Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa to the mouth of the Wallowa River at the confluence with the Grande Ronde River	70%

OAR 690-077-0015(8).

34. Transfer application requests to protect water instream from the Lostine River into the Wallowa River. An instream reach is generally from the point of diversion to the mouth of the source stream (Lostine), but may be protected further if measurable in the receiving stream (Wallowa) (OAR 690-077-0015(8)). The quantity of water that may be transferred instream in the Lostine River is measurable into the Wallowa River and may be protected instream in the Wallowa River.
35. Certificate 94160 is supplemental to Certificates 94782, 94906, 94780, and 94788. The portion of Certificate 94160 being transferred instream shall only be protected instream if the full rate and duty under Certificates 94782, 94906, 94780, and 94788 is not available.

36. The instream right has been modified to prevent injury and enlargement and shall allow the use and protection of flows as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At the Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.07	38.91	8.46	

37. The proposed changes would not result in enlargement of the right.
38. The proposed changes would not result in injury to other water rights.
39. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
40. The protection of flows within the proposed reaches is appropriate, considering:

- a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Return flows resulting from the exercise of the existing water rights would re-enter the river within the reaches of the instream water right below the points of diversions.
The quantity of water to be protected has been reduced to account for return flows.
41. Within the proposed reaches there are several existing instream water rights for the same reaches as that proposed for the new instream water right. One existing instream water right, Certificate 59814 on the Lostine River, established under ORS 537.346 (minimum streamflow conversion) is for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. There is an instream water right, Certificate 73023 on the Wallowa River, established under ORS 537.341 (state agency application process) for the purposes of anadromous and resident fish habitat and carries a priority date of November 22, 1991. The remaining instream water rights, Certificates 87709, 59808, and 93535, were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process).
42. The existing instream water rights, established under ORS 537.346 (minimum stream flow conversion, and ORS 537.341 (state agency application process), within the proposed reaches are sufficient to protect the monthly quantities of water necessary for support aquatic life and anadromous and resident fish habitat. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under earlier priority dates.
43. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process) within the proposed reaches, any new instream water right established by the transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
44. During the period of May 1 through September 30, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346, and may be in addition to instream water rights established pursuant to ORS 537.348 and ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.

45. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-13431 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13431 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-13431 are approved.*
2. *Water right certificates 94906, 94782, 94780, 94778, and 94160 are cancelled. A new certificate confirming the instream water rights shall be issued. New certificates will be issued describing the portion of the rights not affected by this transfer.*
3. *Certificate 94161 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the PODs (as described in Findings of Fact Nos. 9, 12, 14, 17, and 20) to the mouth of the Wallowa River.*
5. *The quantities of water to be protected under the instream water right are:*

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

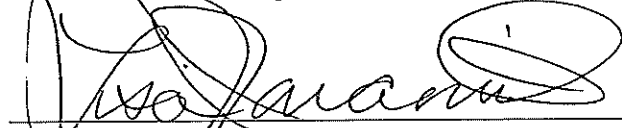
From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.070	38.91	8.46	

6. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
7. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
8. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
9. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 94906, 94782, 94780, 94778, 94160, and 94161 and any related decree.

10. The former places of use of the transferred water shall no longer receive water as part of these rights.
11. Water use measurement conditions for water right Certificate 94161 only:
- Before water use may begin under this order, the water user shall install a Weir, Parshall flume, or with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).*
 - The water user shall maintain the meters or measuring devices in good working order.*
 - The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
12. Full beneficial use of water shall be made, consistent with the terms of this order, on or before October 1, 2021. A Claim of Beneficial Use prepared by a Certified Water Right examiner shall be submitted by the Applicant to the Department within one year after the deadline for completion of the change in Certificate 94161 and full beneficial use of water.
13. After satisfactory proof of beneficial use is received for Certificate 94161, a new certificate confirming the right transferred will be issued in the name of Minam Lake Reservoir Company.

Dated at Salem, Oregon this day FEB 11 2021.



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

This Preliminary Determination was prepared by Sarah Henderson. If you have any questions about the information in this document, you may reach me at (503) 986-0884 or Sarah.A.Henderson@oregon.gov.

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

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

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



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

September 23, 2020

Applicants

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

Agent (via email)

THE FRESHWATER TRUST (TFT)
ATTN: JESSICA HUMPHREYS
401 NE 1ST STREET
ENTERPRISE, OREGON 97828

Reference: Water Right Transfer Application T-13431

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Instream Transfer Application T-13431. The document reflects the Department's conclusion that, based on the information currently available, the instream transfer will be approved.

Items needed before the next phase of processing...

1. Please review the draft carefully to see if it accurately reflects the changes you intend to make, and to become familiar with all proposed conditions. **You will need to respond in writing** by the deadline provided below, whether you agree with the proposed action and conditions. Also we will appreciate having you let us know if there are typographical errors that need to be corrected.
2. A report of landownership for the lands to which the water right(s) are appurtenant (the FROM lands) is required. **The report must be prepared by a title company and meet the criteria below.** (*Reports may be called by various names, such as Customer Service Report, Property Analysis Report (PAR), List Pack, Lot Book Report, etc.*)
 - a) The title company's report must either be:
 - i) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
 - ii) prepared within 3 months of recording of a water right conveyance agreement, or
 - iii) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
 - b) The ownership report shall include:
 - i) Date the ownership report was generated or prepared; and
 - ii) List of owners at that time; and
 - iii) Legal description of the property where the water right to be transferred is currently located.

- c) You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the transfer application, or other information such as a water right conveyance agreement, if applicable.
3. Notice of this transfer will need to be published in a newspaper with general circulation in the area where the water rights are currently located. You will be responsible for the charges. Please confirm the Wallowa County Chieftain as the newspaper you prefer to publish in so we can get an accurate estimate of the cost.

What happens next...

Once the Preliminary Determination is issued a publication period is required. Because of a change in character of use, the Department will publish notice of the transfer in a local newspaper having a general circulation in the area of the water right at least once per week for two consecutive weeks. You are responsible for sending a check to cover the cost of publication prior to the issuance of the Preliminary Determination and publication of notice.

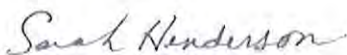
Issuance of the Preliminary Determination will occur shortly after we receive:

1. Your written response to the conditions and proposed action in the draft Preliminary Determination (e-mail is acceptable); and
2. Report of ownership, and affidavits of consent from any landowners shown in the ownership report who have not signed the transfer application or already signed affidavits of consent; and
3. Confirmation of the name of the newspaper you wish the Department to use for publication of the notice of the Preliminary Determination.

If we do not receive the items listed above by October 22, 2020, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 503-986-0884 or sarah.a.henderson@oregon.gov if I may be of assistance.

Sincerely,



Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-13431
David Bates, District 7 Watermaster (via e-mail)

encs

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

In the Matter of Instream Transfer
Application T-13431, Wallowa County

)
)
)
)
)
)

D R A F T PRELIMINARY
DETERMINATION PROPOSING APPROVAL
OF CHANGES IN PLACE OF USE AND
CHARACTER OF USE; AND APPROVING A
CHANGE IN PLACE OF USE UNDER
CERTIFICATE 94161

Authority

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

Applicants

KEN AND BOBBIE BAKER
81705 HWY 82
WALLOWA, OREGON 97885

PERRY JOHNSTON
81703 HWY 82
WALLOWA, OREGON 97885

Agent

THE FRESHWATER TRUST (TFT)
ATTN: JESSICA HUMPHREYS
401 NE 1ST STREET
ENTERPRISE, OREGON 97828

Findings of Fact

1. On April 29, 2020, Ken and Bobbie Baker, Perry Johnston and the Freshwater Trust filed an application to change the place of use and character of use under Certificates 94782, 94348, 94780, 94778, and 94160 to instream use; and change the place of use under Certificate 94161. The Department assigned the application number T-13431.
2. Notice of the application for transfer was published on May 12, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On June 19, 2020, the Department contacted TFT by written correspondence to notify the applicant's agent of the deficiencies in the application. On July 22, 2020, TFT submitted revised application pages resolving the deficiencies.

4. On July 23, 2020, Certificate 94348 was cancelled by Special Order Volume 117, pages 98-101, and superseded by Certificate 94906.
5. Consistent with land use requirements, prior to submitting the instream transfer application, the applicant provided notification of the intent to file the instream transfer application to Wallowa County. Additionally, the Department provided notice of the proposed action to the Wallowa County upon receipt of Transfer Application T-13431.
6. The applicants also submitted a signed Supplemental Form D from Cross Country Canal Company and Minam Lake Reservoir Company.
7. The portion of the first right to be transferred is as follows:

Certificate: 94782 in the name of S.W. Miles (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County, the decree is of record at Salem, in the Order Record of the Water Resources Director, in Volume 5 at Pages 184-185)

Use: IRRIGATION OF 6.5 ACRES

Priority Date: 1882 for Tract 1

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1

Authorized Place of Use:

TRACT 1 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1882	1 N	43 E	WM	32	NW SE	1.7	1
	1 N	43 E	WM	32	SW SE	4.8	
Total						6.5	

8. Certificate 94782 does not provide a full description of the point of diversion of the Miles Ditch. However, based upon additional information provided by the Applicants, the Department's Watermaster and a review of the Department's records, the Applicants have been utilizing the downstream Foster Ditch for a point of diversion. Therefore, the point of diversion from the Lostine River, is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances Latitude / Longitude
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST OF THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

9. A total of 36.40 acre-feet of water may be beneficially used annually under the existing right.

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

Certificate: 94906 in the name of S L. Magill (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 181)

Use: IRRIGATION of 3.9 ACRES

Priority Date: 1889 for Tract No. 3

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.5 acre feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitation contained in said decree.

Source: SOUTH FORK OF WALLOWA RIVER (LOSTINE RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

TRACT NO. 3 – PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SE NW	3.9
Total					3.9

11. Certificate 94906 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	9	SE NE	MILES DITCH: LATITUDE: 45.494134, LONGITUDE: 117.438922

12. A total of 21.84 acre-feet of water may be beneficially used annually under the existing right.

13. The third right to be transferred is as follows:

Certificate: 94780 in the name of Kenneth M. and Bobbie Lou Baker, Perry M. Johnston (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5 at Page 177)

Use: IRRIGATION OF 0.3 ACRES AND STOCK

Priority Date: 1883

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre feet per acre for any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season; and said right shall be subject to all other conditions and limitations contained in said decree.

Source: LOSTINE RIVER, tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4; LATITUDE: 45.50716, LONGITUDE: -117.45096

Authorized Place of Use:

IRRIGATION AND STOCK					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3

14. A total of 1.68 acre-feet of water may be beneficially used annually under the existing right.

15. The portion of the fourth right to be transferred is as follows:

Certificate: 94778 in the name of William Sherod (confirmed by decree of the Circuit Court of the State of Oregon for Wallowa County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 5, at Page 193)

Use: IRRIGATION 3.4 ACRES

Priority Date: 1883

Limit/Duty: The amount of water to which this 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 1.5 acre feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), tributary to the WALLOWA RIVER

Authorized Point of Diversion: None listed on Certificate

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW NW	3.4
Total					3.4

16. Certificate 94778 does not provide the location of the point of diversion. Based upon additional information provided by the Applicants and the Department's records, the point of diversion on the Lostine River is described and located approximately as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; Latitude: 45.518688; Longitude: -117.469878

17. A total of 19.04 acre-feet of water may be beneficially used annually under the existing right.

18. The portion of the fifth right to be transferred is as follows:

Certificate: 94160 in the name of Cross Country Canal Company (perfected under Permit S-11695)
Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES
Priority Date: JUNE 6, 1935
Rate: 0.355 CUBIC FEET PER SECOND
Limit/Duty: The amount of water for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1.5 acre feet per acre during any 30 day period from May 1 to July 31, and thereafter shall not exceed 1.0 acre foot per acre for the remainder of the irrigation season ending October 1, and the total quantity allowed under this and any other right for these lands described herein shall not at any time exceed the quantity of water allowed herein..

Period of Use: May 1 to October 1

Source: WALLOWA RIVER, tributary to the GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	11	NW SE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

19. Certificate 94160 does not describe the exact location of the point of diversion. However, based on current mapping and information available from the Applicants and the Watermaster, the headgate for the Cross Country Canal is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

20. Certificate 94160 is supplemental to the portions of Certificates 94782, 94906, 94780, and 94788 proposed to be transferred instream.
21. A total of 78.96 acre-feet of water may be beneficially used annually under Certificate 94160.
22. Transfer Application T-13431 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values for Certificates 94782, 94906, 94780, 94788 and 94160.
23. Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the points of diversion (PODs) (as described in Findings of Fact Nos. 8, 11, 13, 16, and 19) to the mouth of the Wallowa River.
24. The portion of the sixth right to be transferred is as follows:

Certificate: 94161 in the name of Minam Lake Reservoir Company (perfected under Permit S-3271)

Use: SUPPLEMENTAL IRRIGATION of 14.1 ACRES

Priority Date: MAY 29, 1916

Rate: 0.08 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated during the irrigation season of each year.

Source: MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	32	SW NE	0.3
1 N	43 E	WM	32	NW NW	3.4
1 N	43 E	WM	32	SE NW	3.9
1 N	43 E	WM	32	NW SE	1.7
1 N	43 E	WM	32	SW SE	4.8
Total					14.1

25. Transfer Application T-13431 proposes to change the place of use of Certificate 94161 to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	42 E	WM	29	NE SW	9.4
1 N	42 E	WM	29	SE NW	3.2
1 N	42 E	WM	29	NE NW	1.5
Total					14.1

26. Transfer Application T-13431 proposes to change the place of use of the right to create an instream reach from the authorized points of diversion to the mouth of the Wallowa River at the confluence with the Grande Ronde River.
27. Certificates 94782, 94906, 94780, 94788, 94160, and 94161 do not list a period of use. Pursuant to the Wallowa River Decree, the irrigation season of use is May 1 to October 1.
28. The Applicants propose the following quantities of water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
		5/3 – 7/31	5/3 – 7/31	8/1 – 9/30	8/1 – 9/30	
94778	1883	0.086	15.30	0.028	3.40	May 3 through September 30
94906	1889	0.098	17.55	0.032	3.90	
94780	1883	0.002	1.35	0.002	0.30	
94782	1882	0.330	29.25	0.054	6.50	
94160(IS)	6/6/1935	0.355	63.45	0.117	14.10	
Totals		0.871	126.90	0.233	28.20	

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

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

30. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
31. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13431.
32. A portion of the water diverted at the points of diversion returns to the Lostine and Wallowa Rivers and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for immediately below each point of diversion. The reduction in the instream water rights from the original quantities identified in Finding of Fact No. 28 is as follows:

Reach	Percent
From immediately below each of the points of diversion to the Clearwater Ditch Point of Diversion located in the SWSW Section 33, T1N, R43E, W.M.	5%
From the Clearwater Ditch Point of Diversion to the Mouth of the Lostine River at the confluence with the Wallowa River	10%
In the Wallowa River from the confluence with the Lostine River (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133 to the Wallowa River (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.49803	40%
From the Wallowa River at Latitude: 45.55639, Longitude: -117.49803 to Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa (approx. RM 23.8)	60%
From the Wallowa River at Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa to the mouth of the Wallowa River at the confluence with the Grande Ronde River	70%

OAR 690-077-0015(8).

33. Transfer application requests to protect water instream from the Lostine River into the Wallowa River. An instream reach is generally from the point of diversion to the mouth of the source stream (Lostine), but may be protected further if measurable in the receiving stream (Wallowa) (OAR 690-077-0015(8)). The quantity of water that may be transferred instream in the Lostine River is measurable into the Wallowa River and may be protected instream in the Wallowa River.
34. Certificate 94160 is supplemental to Certificates 94782, 94906, 94780, and 94788. The portion of Certificate 94160 being transferred instream shall only be protected instream if the full rate and duty under Certificates 94782, 94906, 94780, and 94788 is not available.

35. The instream right has been modified to prevent injury and enlargement and shall allow the use and protection of flows as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At the Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.552272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River

Instream Reach No. 4:

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1-7/31	8/1-9/30	5/1-7/31	8/1-9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.07	38.91	8.46	

36. The proposed changes would not result in enlargement of the right.
37. The proposed changes would not result in injury to other water rights.
38. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
39. The protection of flows within the proposed reaches is appropriate, considering:

- a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Return flows resulting from the exercise of the existing water rights would re-enter the river within the reaches of the instream water right below the points of diversions.
The quantity of water to be protected has been reduced to account for return flows.
40. Within the proposed reaches there are several existing instream water rights for the same reaches as that proposed for the new instream water right. One existing instream water right, Certificate 59814 on the Lostine River, established under ORS 537.346 (minimum streamflow conversion) is for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. There is an instream water right, Certificate 73023 on the Wallowa River, established under ORS 537.341 (state agency application process) for the purposes of anadromous and resident fish habitat and carries a priority date of November 22, 1991. The remaining instream water rights, Certificates 87709, 59808, and 93535, were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process).
41. The existing instream water rights, established under ORS 537.346 (minimum stream flow conversion, and ORS 537.341 (state agency application process), within the proposed reaches are sufficient to protect the monthly quantities of water necessary for support aquatic life and anadromous and resident fish habitat. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under earlier priority dates.
42. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process) within the proposed reaches, any new instream water right established by the transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
43. During the period of May 1 through September 30, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346, and may be in addition to instream water rights established pursuant to ORS 537.348 and ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.

44. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-13431 appear to be consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-13431 is approved, the final order will include the following:

1. *The changes in character of use and place of use to instream use proposed in application T-13431 are approved.*
2. *Water right certificates 94906, 94782, 94780, 94778, and 94160 are cancelled. A new certificate confirming the instream water rights shall be issued. New certificates will be issued describing the portion of the rights not affected by this transfer.*
3. *Certificate 94161 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
4. *Transfer Application T-13431 proposes to change the character of use and places of use of the rights to create an instream reach from the PODs (as described in Findings of Fact Nos. 8, 11, 13, 16, and 19) to the mouth of the Wallowa River.*
5. *The quantities of water to be protected under the instream water right are:*

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Miles Ditch POD (described below):

<i>Twp</i>	<i>Rng</i>	<i>Mer</i>	<i>Sec</i>	<i>Q-Q</i>	<i>Measured Distances</i>
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>		<i>Instream Volume (AF)</i>		<i>Period Protected</i>
		<i>5/1 – 7/31</i>	<i>8/1 – 9/30</i>	<i>5/1 – 7/31</i>	<i>8/1 – 9/30</i>	
94906	1889	0.098	0.032	17.94	3.90	May 1 through September 30

Instream Reach No. 1:

From: Immediately below the Miles Ditch POD to the Foster Ditch POD (described below):

<i>Certificate</i>	<i>Priority</i>	<i>Instream Rate (CFS)</i>		<i>Instream Volume (AF)</i>		<i>Period Protected</i>
		<i>5/1 – 7/31</i>	<i>8/1 – 9/30</i>	<i>5/1 – 7/31</i>	<i>8/1 – 9/30</i>	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30

Foster POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER DITCH: 320 FEET SOUTH AND 625 FEET WEST FROM THE CENTER OF SECTION 4 LATITUDE: 45.50716, LONGITUDE: -117.45096

Instream Point No. 2:

At Foster POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.164	0.054	29.90	6.50	
94780	1883	0.008	0.002	1.38	0.30	
Total		0.265	0.087	48.32	10.51	

Instream Reach No. 2:

From: Immediately below the Foster POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
Total		0.256	0.084	46.76	10.18	

Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST OF THE SW CORNER OF SECTION 33; LATITUDE: 45.518688; LONGITUDE: -117.469878

Instream Point No. 3:

At the Clearwater Ditch POD (described above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.093	0.031	17.04	3.71	May 1 through September 30
94782	1882	0.156	0.051	28.41	6.18	
94780	1883	0.007	0.002	1.31	0.29	
94778	1883	0.086	0.028	15.64	3.40	
Total		0.342	0.112	62.40	13.58	

Instream Reach No. 3:

From: Immediately below the Clearwater Ditch POD to the mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.088	0.029	16.15	3.51	May 1 through September 30
94782	1882	0.147	0.048	26.91	5.85	
94780	1883	0.007	0.002	1.24	0.27	
94778	1883	0.077	0.025	14.08	3.06	
Total		0.319	0.104	58.38	12.69	

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 4:**

From the authorized POD for Certificate 94160 (as described below) to the confluence of the Lostine River:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94160 (IS)	6/6/1935	0.355	0.117	64.86	14.10	May 1 through September 30

Instream Reach No. 5:

From the mouth of the Lostine River (approx. RM 25.9) to a location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.48803:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 - 7/31	8/1 - 9/30	5/1 - 7/31	8/1 - 9/30	
94906	1889	0.059	0.019	10.76	2.34	May 1 through September 30
94782	1882	0.098	0.032	17.94	3.90	
94780	1883	0.005	0.001	0.83	0.18	
94778	1883	0.051	0.017	9.38	2.04	
94160 (IS)	6/6/1935	0.213	0.070	38.92	8.46	
Total		0.426	0.139	77.83	16.92	

Instream Reach No. 6:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 25.6) to the location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.039	0.013	7.18	1.56	May 1 through September 30
94782	1882	0.066	0.021	11.96	2.60	
94780	1883	0.003	0.001	0.55	0.12	
94778	1883	0.034	0.011	6.26	1.36	
94160 (IS)	6/6/1935	0.142	0.047	25.94	5.64	
Total		0.284	0.093	51.89	11.28	

Instream Reach No. 7:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.8) at Latitude: 45.57406, Longitude: -117.52571 to the mouth of the Wallowa River at the confluence with the Grande Ronde River

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/1 – 7/31	8/1 – 9/30	5/1 – 7/31	8/1 – 9/30	
94906	1889	0.029	0.010	5.38	1.17	May 1 through September 30
94782	1882	0.049	0.016	8.97	1.95	
94780	1883	0.002	0.001	0.41	0.09	
94778	1883	0.026	0.008	4.69	1.02	
94160 (IS)	6/6/1935	0.107	0.035	19.46	4.23	
Total		0.213	0.070	38.91	8.46	

6. Water rights upstream of the original point of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original point of diversion.
7. Within the specified stream reach, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original point of diversion. Stream channel losses and gains calculated based on available data and the use of senior appropriators will determine the amount of water to which this right is entitled downstream from the original point of diversion within the specified stream reach.
8. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470 unless otherwise specified by an order approving a new instream water right under these statutes.
9. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 94906, 94782, 94780, 94778, 94160, and 94161 and any related decree.

10. *The former places of use of the transferred water shall no longer receive water as part of these rights.*
11. *Water use measurement conditions:*
- a. *Before water use may begin under this order, the water user shall install a Weir, Parshall flume, or with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).*
 - b. *The water user shall maintain the meters or measuring devices in good working order.*
 - c. *The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
12. *Full beneficial use of water shall be made, consistent with the terms of this order, on or before October 1, 2021. A Claim of Beneficial Use prepared by a Certified Water Right examiner shall be submitted by the Applicant to the Department within one year after the deadline for completion of the change in Certificate 94161 and full beneficial use of water.*
13. *After satisfactory proof of beneficial use is received for Certificate 94161, a new certificate confirming the right transferred will be issued in the name of Minam Lake Reservoir Company.*

Dated at Salem, Oregon this day _____.

D R A F T

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

This draft Preliminary Determination was prepared by Sarah Henderson. If you have any questions about the information in this document, you may reach me at (503) 986-0884 or Sarah.A.Henderson@oregon.gov.
--

Part 5 of 6 – Proposed Instream Use Information

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

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

Received by OWRD

JUL 22 2020

Instream use proposed to be created by the instream transfer:

Salem, OR

Originating Water Right Number (as identified in Part 5)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
94778	1883	Lostine River	May 3 -July 31; Aug. 1-Sept. 30	May 3-July 31 0.086 cfs; Aug 1- Sept 30 0.028 cfs	May 3- July 31 15.3 af; Aug 1- Sept 30 3.4 af
94348 94906	12/31/1889	Lostine River	May 3- July 31; Aug. 1-Sept. 30	May 3-July 31 0.098 cfs; Aug 1- Sept 30 0.032 cfs	May 3- July 31 17.55 af; Aug 1- Sept 30 3.9 af
94780	12/31/1883	Lostine River	May 3 -July 31; Aug. 1-Sept. 30	May 3-July 31 0.002cfs; Aug 1- Sept 30 0.002 cfs	May 3- July 31 1.35 af; Aug 1- Sept 30 0.3 af
94782	12/31/1882	Lostine River	May 3 -July 31; Aug. 1-Sept. 30	May 3 -July 31 0.33 cfs; Aug 1- Sept 30 0.054 cfs	May 3 - July 31 29.25 af; Aug 1- Sept 30 6.5 af
94160 (Supplemental)	6/6/1935	Wallowa River	May 3 -July 31; Aug. 1-Sept. 30	May 3-July 31 0.355 cfs; Aug. 1-Sept. 30 0.117 cfs	May 3-July 31 63.45 af; Aug. 1- Sept. 30 14.1 af
TOTAL VOLUME					June 15- July 31 63.45 af; Aug 1- Sept 30 14.1 af Total = 77.55 af

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

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

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

Additional Information: _____.

T-13431
Amended
Pages

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

Table 2. Description of Change to Water Right Certificate # 94782

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 POD #2
“	“	“	“	“	“	“	“	“	EXAMPLE	“	“	“
1	N	43	E	32	N W	SE	8800		1.7	Irrigation	1882	Miles
1	N	43	E	32	SW	SE	8800		4.8	Irrigation	1882	Miles
TOTAL ACRES									6.5			

Additional remarks:_____.

Received by OWRD

JUL 22 2020

Salem, OR

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

Table 2. Description of Change to Water Right Certificate # 94160

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 POD #2
“	“	“	“	“	“	“	“	“	“
1	N	43	E 32	NW SE	8800	1.7	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SW SE	8800	4.8	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SE NW	8600	3.9	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	NW NW	7000	3.4	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SW NE	8600	0.3	Supplemental Irrigation	1935	Cross Country Canal
TOTAL ACRES						14.1			

Received by OWRD
JUL 22 2020
Salem, OR

Additional remarks:_____.

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 # 94161

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) The listing that appears on the certificate BEFORE PROPOSED CHANGES 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) 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									
EXAMPLE																													
1	S	43	E	32	NW	NW	7000		3.4	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	SW	4700		3.4	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	SE	NW	8600		3.9	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	SW	4700		3.9	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	NW	SE	8800		1.7	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	SW	4700		1.7	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	SW	SE	8800		0.4	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	SW	4700		0.4	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	SW	SE	8800		3.2	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	SE	NW	4700		3.2	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	SW	SE	8800		1.2	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	NW	4700		1.2	Supplemental Irrigation	Minam Lake Reservoir	1916			
1	S	43	E	32	SW	NE	8600		0.3	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E	29	NE	NW	4700		0.3	Supplemental Irrigation	Minam Lake Reservoir	1916			
TOTAL ACRES:									14.1				Received by OWRD										TOTAL ACRES:			14.1			



Oregon
Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

May 7, 2020

KENNETH & BOBBIE BAKER
81705 HWY 82
WALLOWA, OR 97885

Reference: Instream Transfer T- 13431

On , we received your water right Transfer application. The application was accompanied by \$2345.00. Our receipt number CA0008.

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

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

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

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

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

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

If you have any questions, please contact the Transfer Section at (503) 986-0815.

Cc: Watermaster Dist. #7 (via email)
Jessica Humphreys, Agent
Perry Johnston, Applicant
Cross Country Canal Company
Wallowa County

Enclosure



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

Application for Water Right Instream Transfer

Part 1 of 6 – Minimum Requirements Checklist

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

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

RECEIVED

APR 29 2020

OWRD

FOR ALL INSTREAM TRANSFER APPLICATIONS

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801. **Please charge fee to The Freshwater Trust customer account**
Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Completed Instream Use Information.
- ☒ Part 6 – Information about the Transferred Water Rights: **How many water rights are to be transferred? 6 List them here: 94348, 94778, 94782, 94780 Supplemental Rights 94161 and 94160**
Please include a separate Part 6 for each water right. (See instructions on page 8)

Attachments:

- ☒ Completed Instream Transfer Application Map.
- ☒ Completed Evidence of Use Affidavit and supporting documentation.
- ☐ ☒ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☒ ☐ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☒ Land Use Notice - Notice of the intent to file an instream transfer application must be provided to each affected local government along the proposed reach. Copies of the notices must be enclosed with the instream transfer application.

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

- ☐ Application fee not enclosed/insufficient ☐ Map not included or incomplete
- ☐ Land Use Form not enclosed or incomplete
- ☐ Additional signature(s) required ☐ Part _____ is incomplete

Other/Explanation _____

Staff: _____ 503-986-0 _____

Date: ____ / ____ / ____

Part 2 of 6 – Map Checklist

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

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

- ☐ ☒ 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/. RECEIVED
APR 29 2020
OWRD
- 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.

APR 29 2020

OWRD

Part 3 of 6 – Fee Worksheet

FEE WORKSHEET for INSTREAM TRANSFER			
1	Base Fee (includes Place of Use and Character of Use to Instream changes to one water right for up to 1 cfs)	1	\$2,090
2	Number of water rights included in transfer <u>6 (2a)</u> Subtract 1 from the number in 2a above: <u>5 (2b)</u> <i>If only one water right, this will be 0</i> Multiply line 2b by \$520 and enter » » » » » » » » » » » » » » »	2	2600
3	Enter the cfs for the portions of the rights to be transferred (see example below*): <u>.36 (3a)</u> Subtract 1.0 from the number in 3a above: <u> (3b)</u> If 3b is 0, enter 0 on line 3 » » » » » » » » » » » » » » » If 3b is greater than 0, round up to the nearest whole number: <u> (3c)</u> and multiply 3c by \$350, then enter on line 3 » » » » » » » » »	3	0
4	Add entries on lines 1 through 3 above » » » » » » » » » » Subtotal:	4	4690
5	Multiply line 4 by 0.5 and enter on line 5 » » » » » » » » » » » » » » »	5	2345
6	Subtract line 5 from line 4 » » » » » » » » » » » » » » » Transfer Fee:	6	2345

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

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

Part 4 of 6 – Applicant Information and Signature

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

Applicant Information

APPLICANT/BUSINESS NAME Ken and Bobbie Baker			541.263.0342	ADDITIONAL CONTACT NO.
ADDRESS 81705 Hwy 82			FAX NO.	
CITY Wallowa	STATE Oregon	ZIP 97885	E-MAIL kbbaker@eoni.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

RECEIVED
APR 29 2020
OWRD

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

AGENT/BUSINESS NAME Jessica Humphreys/The Freshwater Trust			PHONE NO. 541.913.3750	ADDITIONAL CONTACT NO.
ADDRESS 401 NE 1st st			FAX NO.	
CITY Enterprise	STATE Oregon	ZIP 97828	E-MAIL jessica@thefreshwatertrust.org	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

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

Applicant proposes to transfer the water rights appurtenant to ~~12.8~~ ^{14.5} acres instream permanently for the benefit of native aquatic species and ecological health.

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: The Wallowa County Chieftain.

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

Kenneth M. Baker
Applicant Signature

Kenneth M. Baker
Print Name (and Title if applicable)

4-15-2020
Date

Bobbie L. Baker
Applicant Signature

Bobbie L. Baker
Print Name (and Title if applicable)

4-15-2020
Date

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

Part 4 of 6 – Applicant Information and Signature

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

Applicant Information

APPLICANT/BUSINESS NAME Perry Johnston		541.263.0386	ADDITIONAL CONTACT NO.
ADDRESS 81703 Hwy 82			FAX NO.
CITY Wallowa	STATE Oregon	ZIP 97885	E-MAIL
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.			

RECEIVED

APR 29 2020

OWRD

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

AGENT/BUSINESS NAME Jessica Humphreys/The Freshwater Trust		PHONE NO. 541.913.3750	ADDITIONAL CONTACT NO.
ADDRESS 401 NE 1st st			FAX NO.
CITY Enterprise	STATE Oregon	ZIP 97828	E-MAIL jessica@thefreshwatertrust.org
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

Applicant proposes to transfer the water rights appurtenant to 12.8 acres instream permanently for the benefit of native aquatic species and ecological health.

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

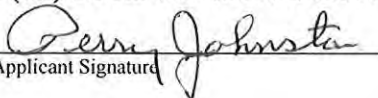
☐ Check this box if this project is fully or partially funded by the American Recovery and Reinvestment Act. (Federal stimulus dollars)

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: The Wallowa County Chieftain.

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


Applicant Signature

Perry Johnston
Print Name (and Title if applicable)

4/15/20
Date

Applicant Signature

Print Name (and Title if applicable)

Date

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

APR 29 2020

OWRD

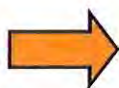
Check the following boxes that apply:

- ☒ 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 Cross Country Canal Company	ADDRESS 1120 SE Florence St	
CITY Enterprise	STATE Oregon	ZIP 97828

- ☒ 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 Minam Reservoir Company	ADDRESS 1120 SE Florence St	
CITY Enterprise	STATE Oregon	ZIP 97828



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 Wallowa County	ADDRESS 101 South River Street	
CITY Enterprise	STATE Oregon	ZIP 97828

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

Part 5 of 6 – Proposed Instream Use Information

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

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

RECEIVED

APR 29 2020

OWRD

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)**
94778	1883	Lostine River	June 15-July 31; Aug. 1-Sept. 30	June 15-July 31 0.164 cfs; Aug 1- Sept 30 0.028 cfs	June 15- July 31 15.3 af; Aug 1- Sept 30 3.4 af
94348	12/31/1889	Lostine River	June 15-July 31; Aug. 1-Sept. 30	June 15-July 31 0.188 cfs; Aug 1- Sept 30 0.032 cfs	June 15- July 31 17.55 af; Aug 1- Sept 30 3.9 af
94780	12/31/1883	Lostine River	June 15-July 31; Aug. 1-Sept. 30	June 15-July 31 0.014 cfs; Aug 1- Sept 30 0.002 cfs	June 15- July 31 1.35 af; Aug 1- Sept 30 0.3 af
94782	12/31/1882	Lostine River	June 15-July 31; Aug. 1-Sept. 30	June 15-July 31 0.33 cfs; Aug 1- Sept 30 0.057 cfs	June 15- July 31 31.05 af; Aug 1- Sept 30 6.9 af
94160 (Supplemental)	6/6/1935	Wallowa River	June 15-July 31; Aug. 1-Sept. 30	June 15-July 31 0.855 cfs; Aug. 1-Sept. 30 0.12 cfs	June 15-July 31 79.75 af ; Aug. 1- Sept. 30 14.5 af
TOTAL VOLUME					June 15- July 31 65.25 af; Aug 1- Sept 30 14.5 af Total = 79.75 af

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

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

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

Additional Information: _____.

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):
94778 from Clearwater Ditch to the mouth of the Wallowa River.
94348 from Miles Ditch to the mouth of the Wallowa River
94780 from the Foster Ditch to the mouth of the Wallowa River
94782 From the Foster Ditch to the mouth of the Wallowa River

RECEIVED
APR 29 2020
OWRD

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

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

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

☐ No ☒ Yes (identify other instream water rights): 59814, 93535, 94162, 87709, 73023, 59808, 94777.

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

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

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

_____.

RECEIVED

APR 29 2020

OWRD

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: _____.

Part 6 of 6 – Water Right Information

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

CERTIFICATE # 94778

Name on Certificate: William Sherod

Date(s) of Priority: 1883

Source(s) of Water to be Affected by the Transfer: Lostine River

Description of Water Delivery System

System capacity: 55 cubic feet per second (cfs) OR

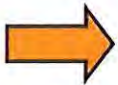
_____ gallons per minute (gpm)

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. Water is diverted from the Lostine River and conveyed via the Clearwater Ditch, an open earth ditch, to a pump that supplies a pivot that irrigates 75.1 acres.

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: 94160, 94161.



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)
Clearwater	1883	1	N	43	E	33	SW	SW		1283 feet north and 313 feet east from the SW corner of section 33

Will the proposed instream transfer affect the entire water right?

☐ Yes Then Table 2 on Page 10 does not need to be completed.

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

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

Table 2. Description of Change to Water Right Certificate # 94788

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 POD #2
"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
1	N	43	E	32	NW	NW	7000		3.4	Irrigation	1883	Clearwater
TOTAL ACRES									3.4			

Additional remarks:_____.

Part 6 of 6 – Water Right Information

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

CERTIFICATE # 94348

Name on Certificate: S.L. Magill

Date(s) of Priority: 1889

Source(s) of Water to be Affected by the Transfer: Lostine River

Description of Water Delivery System

System capacity: 25 cubic feet per second (cfs) OR

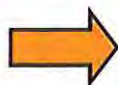
_____ gallons per minute (gpm)

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. Water is diverted from the Lostine River and conveyed via the Miles Ditch, an open earthen ditch, to gravity fed laterals.

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: 94160, 94161.



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)
Miles	1889	1	S	43	E	9	SE	NE		45.494134, 117.438922

Will the proposed instream transfer affect the entire water right?

☐ Yes Then Table 2 on Page 10 does not need to be completed.

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

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

Table 2. Description of Change to Water Right Certificate # 94788

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 POD #2
"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
1	N	43	E	32	SE	NW	8600		3.9	Irrigation	1889	Miles Ditch
TOTAL ACRES									3.9			

Additional remarks:_____.

Part 6 of 6 – Water Right Information

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

CERTIFICATE # 94780

Name on Certificate: William Sherod

Date(s) of Priority: 1883

Source(s) of Water to be Affected by the Transfer: Lostine River

Description of Water Delivery System

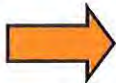
System capacity: 37 cubic feet per second (cfs) OR
 _____ gallons per minute (gpm)

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. Water is diverted from the Lostine River and conveyed via the Foster Ditch, an open earth ditch, to a pipe and then a pump that supplies a full circle pivot that irrigates 125.7 acres.

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: 94160, 94161.



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)
Foster	1883	1	S	43	E	4	NE	SW		320' South and 625' West of the Center of section 4

Will the proposed instream transfer affect the entire water right?

☒ Yes Then Table 2 on Page 10 does not need to be completed.

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

CERTIFICATE # 94782

Name on Certificate: S.W. Miles

Date(s) of Priority: 1883

Source(s) of Water to be Affected by the Transfer: Lostine River

Description of Water Delivery System

System capacity: 37 cubic feet per second (cfs) OR

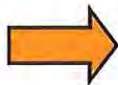
_____ gallons per minute (gpm)

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. **Water is diverted from the Lostine River and conveyed via the Foster Ditch, an open earth ditch, to a pipe and then a pump that supplies a two half circle pivots that irrigates 34.8 acres.**

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: 94160, 94161.



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)
Foster	1883	1	S	43	E	4	NE	SW		320' South and 625' West of the Center of section 4

Will the proposed instream transfer affect the entire water right?

☐ Yes Then Table 2 on Page 10 does not need to be completed.

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

RECEIVED
APR 29 2020
OWRD

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

Table 2. Description of Change to Water Right Certificate # 94788

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 POD #2
"	"	"	"	"	"	"	"	"	EXAMPLE	"	"	"
1	N	43	E	32	N W	SE	8800		1.7	Irrigation	1882	Miles
1	N	43	E	32	SW	SE	8800		5.2	Irrigation	1882	Miles
TOTAL ACRES									6.9			

Additional remarks:_____.

RECEIVED
APR 29 2020
OWRD

CERTIFICATE # 94160

RECEIVED

APR 29 2020

OWRD

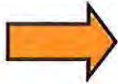
Name on Certificate: Cross Country Canal CoDate(s) of Priority: June 6th, 1935Source(s) of Water to be Affected by the Transfer: Wallowa River**Description of Water Delivery System**System capacity: 88.63 cubic feet per second (cfs) OR gallons per minute (gpm)

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. Water is diverted from the Wallowa River and conveyed via the Cross Country Canal to the Lostine River where it is distributed via multiple ditches to land in the lower Lostine and Bear creek. Water is applied to land via flood, sprinklers and pivots..

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)
Cross Country Canal	6/6/1935	1	S	43	E	11	NW	SE		912 ft North and 2000 ft West of the SE corner of section 11

Will the proposed instream transfer affect the entire water right?

☐ Yes Then Table 2 on Page 10 does not need to be completed.

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

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

Table 2. Description of Change to Water Right Certificate # 94160

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 POD #2
SS	SS	SS	SS	SS	SS	SS	EXAMPLE	SS	SS
1	N	43	E 32	NW SE	8800	1.7	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SW SE	8800	5.2	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SE NW	8600	3.9	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	NW NW	7000	3.4	Supplemental Irrigation	1935	Cross Country Canal
1	N	43	E 32	SW NE	8600	0.3	Supplemental Irrigation	1935	Cross Country Canal
TOTAL ACRES						14.5			

RECEIVED
APR 29 2020
OWRD

Additional remarks:_____.

Check the following boxes that apply:

- ☒ The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- ☐ The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- ☐ Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold? ☐ Yes ☒ No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

RECEIVING LANDOWNER NAME Woody Wolfe			PHONE NO. 541.263.0802	ADDITIONAL CONTACT NO.
ADDRESS 81544 Hwy 82			FAX NO.	
CITY Wallowa	STATE Oregon	ZIP 97885	E-MAIL woodywolfe@yahoo.com	

RECEIVED
APR 29 2020
OWRD

Describe any special ownership circumstances here: _____

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

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

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

ENTITY NAME Minam Lake Reservoir Co.	ADDRESS 1120 SE Florence St.	
CITY Enterprise	STATE Oregon	ZIP 97828

 To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME Wallowa County	ADDRESS 101 South River Street	
CITY Enterprise	STATE Oregon	ZIP 97828

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # **94161**

RECEIVED

APR 29 2020

OWRD

Description of Water Delivery System

System capacity: **34.25** 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. **Water is stored in minam lake, located in the Eagle Cap Wildernes,s and is trasnported via the Lostine River to a series of earthen ditches that serve more than 6,000 acres with supplemental water.**

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)
Minam Lake Reservoir	☒ Authorized ☐ Proposed		4	S	44	E	29	NW	SW		Not given
	☐ Authorized ☐ Proposed										
	☐ Authorized ☐ Proposed										
	☐ Authorized ☐ Proposed										

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

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

RECEIVED

APR 29 2020

OWRD

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 # 94161

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.

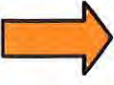
AUTHORIZED (the “from” or “off” lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.											Proposed Changes (see “CODES” from previous page)	PROPOSED (the “to” or “on” lands) The listing as it would appear 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				
EXAMPLE																								
1	S	43	E 32	NW	NW	7000		3.4	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	SW	4700		3.4	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	SE	NW	8600		3.9	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	SW	4700		3.9	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	NW	SE	8800		1.7	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	SW	4700		1.7	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	SW	SE	8800		0.8	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	SW	4700		0.8	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	SW	SE	8800		3.2	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	SE	NW	4700		3.2	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	SW	SE	8800		1.2	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	NW	4700		1.2	Supplemental Irrigation	Minam Lake Reservoir	1916
1	S	43	E 32	SW	NE	8600		0.3	Supplemental Irrigation	Minam Lake Reservoir	1916	POU	1	N	42	E 29	NE	NW	4700		0.3	Supplemental Irrigation	Minam Lake Reservoir	1916
TOTAL ACRES:						14.5					TOTAL ACRES:						14.5							

13431

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: 93529, 94348, 94778, 94782, 94780, 94160.

 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

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-specific rate (cfs or gpm). If less than full rate of water right

13431

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 WALLOW)

RECEIVED

APR 29 2020

OWRD

I, PERRY JOHNSTON, in my capacity as LANDOWNER,
mailing address 81703 HWY 82 WALLOWA, OREGON 97885

telephone number (541)263-0386, 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)
94778	1	N	43	E	WM	32	NW	NW		3.4
94348	1	N	43	E	WM	9	SE	NE		3.9
94780	1	N	43	E	WM	32	SW	NE		0.3
94782	1	N	43	E	WM	32	NW	SE		1.7
94782	1	N	43	E	WM	32	SW	SE		5.2

OR

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

(continues on reverse side)

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

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

Perry Johnston
Signature of Affiant

4/15/20
Date

RECEIVED
APR 29 2020
OWRD

Signed and sworn to (or affirmed) before me this _____ day of _____, 20____.

Notary Public for Oregon

My Commission Expires: _____

Supporting Documents	Examples
☐ Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
☐ Copies of receipts from sales of irrigated crops or for expenditures related to use of water	• Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
☐ Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	• District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
☒ Aerial photos containing sufficient detail to establish location and date of photograph	Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added. Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com
☒ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number SL-45

APR 29 2020

OWRD

Supplemental Form D

Water Right Transfers Within the Boundaries of or Served by an Irrigation District or other Water Supplier (Association, Ditch Co., etc.)

[For transfers submitted under OAR Chapter 690 Division 380]



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

The Department requires non-district applicants to communicate with districts/water suppliers during the planning and preparation of transfer applications involving water rights having a point of diversion or appropriation (POD/POA) or place of use (POU) served by or located within the boundaries of an irrigation district, or other type of water supplier to which assessments are paid. In some cases consent will be required from the district or water supplier.

This form must be included with any transfer application that involves rights served by or located within the boundaries of a district or other type of water supplier.

1. APPLICANT INFORMATION

NAME KEN AND BOBBIE BAKER AND PERRY JOHNSTON			PHONE (HM)
PHONE (WK)	CELL 541.263.0342		FAX
ADDRESS 81705 HWY 82			
CITY WALLOWA	STATE OREGON	ZIP 97885	E-MAIL** KBBAKER@EONI.COM

2. DISTRICT or WATER SUPPLIER INFORMATION

DISTRICT/WATER SUPPLIER NAME CROSS COUNTRY CANAL CO.			PHONE (HM)
PHONE (WK)	CELL 541.263.1321		FAX
ADDRESS 1120 SE FLORENCE STREET			
CITY ENTERPRISE	STATE OREGON	ZIP 97885	E-MAIL**

** By providing an e-mail address, the applicant and/or the district/water supplier consents to receive all correspondence from the Department electronically. Copies of final order documents will also be mailed.

3. WATER RIGHTS ISSUED IN THE NAME OF, or LOCATED WITHIN, or SERVED BY AN IRRIGATION DISTRICT, OTHER DISTRICT, OR WATER SUPPLIER

a. List the water right(s) involved in this transfer:

	Application / Decree	Permit / Previous Transfer	Certificate	Is the water right in the name of a district, water supplier, or BOR*?
1.	S-15860	S-11695	94160	YES ☒
2.		-		YES ☐
3.		-		YES ☐

Attach additional pages for additional water rights if necessary.

*Bureau of Reclamation

- b. Determine a district's/water supplier's connection to your points of diversion (POD) or appropriation (POA) and places of use (POU). [You may need to consult with your district/water supplier.]

CURRENT ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES ☒ NO ☐ One or more of the current POD(s) / POA(s) involved in the transfer are served by a district/water supplier or rely on BOR water.
- YES ☒ NO ☐ All or a portion of the current POU involved in this proposed transfer receives water for either primary or supplemental irrigation from the district/water supplier; i.e., the POU is currently layered with a district or BOR water supplied water right(s).

PROPOSED ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES ☒ NO ☐ One or more of the proposed POD(s) / POA(s) involved in the transfer are currently served or will be served by a district/water supplier if the transfer is approved, or rely on BOR water.
- YES ☒ NO ☐ All or a portion of the proposed POU involved in this proposed transfer currently receives or will receive either primary or supplemental irrigation from the district/water supplier; i.e., the POU will be layered with a district/water supplier or BOR water supplied water right(s).

RECEIVED

COMMENTS OR ADDITIONAL INFORMATION

APR 29 2020

4. APPLICANT'S SIGNATURE

OWRD

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____

- (2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Kenneth M. Baker

Kenneth M. Baker

4/14-2020

Applicant Signature

Name (print)

Date

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____

- (2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Robbie L. Baker

Robbie L. Baker

4/14/2020

Applicant Signature

Name (print)

Date

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____

(2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Perry Johnston
Applicant Signature

Perry Johnston
Name (print)

4/15/20
Date

5. (WHEN REQUIRED) DISTRICT or WATER SUPPLIER CONSENT TO THE PROPOSED WATER RIGHT TRANSFER

District Manager or Water Supplier consent is required if any box on this form is marked "YES."

The district/water supplier certifies the following:

(1) The district/water supplier has reviewed the applicant's proposed water right transfer application and maps; and

(2) The district/water supplier consents to the proposed water right transfer application.

YES ☒ NO ☐ After proof of completion, the confirming water right certificate is to remain in the name of the U.S. Bureau of Reclamation or the district/water supplier.

YES ☐ NO ☒ The district/water supplier will be responsible for submitting the claim of beneficial use prepared by a Certified Water Rights Examiner (CWRE).

Dennis Anderson
Signature of District Manager /Water Supplier

Dennis Anderson
Name (print), Title

4/19/20
Date

RECEIVED

APR 29 2020

OWRD

Supplemental Form D

Water Right Transfers Within the Boundaries of or Served by an Irrigation District or other Water Supplier (Association, Ditch Co., etc.)

[For transfers submitted under OAR Chapter 690 Division 380]



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

The Department requires non-district applicants to communicate with districts/water suppliers during the planning and preparation of transfer applications involving water rights having a point of diversion or appropriation (POD/POA) or place of use (POU) served by or located within the boundaries of an irrigation district, or other type of water supplier to which assessments are paid. In some cases consent will be required from the district or water supplier.

This form must be included with any transfer application that involves rights served by or located within the boundaries of a district or other type of water supplier.

RECEIVED

APR 29 2020

1. APPLICANT INFORMATION

NAME KEN AND BOBBIE BAKER AND PERRY JOHNSTON		PHONE (HM) OWRD	
PHONE (WK)	CELL 541.263.0342	FAX	
ADDRESS 81705 HWY 82			
CITY WALLOWA	STATE OREGON	ZIP 97885	E-MAIL** KBBAKER@EONI.COM

2. DISTRICT or WATER SUPPLIER INFORMATION

DISTRICT/WATER SUPPLIER NAME MINAM LAKE RESERVOIR COMPANY		PHONE (HM)	
PHONE (WK)	CELL 541.263.1321	FAX	
ADDRESS 1120 SE FLORENCE STREET			
CITY ENTERPRISE	STATE OREGON	ZIP 97885	E-MAIL**

** By providing an e-mail address, the applicant and/or the district/water supplier consents to receive all correspondence from the Department electronically. Copies of final order documents will also be mailed.

3. WATER RIGHTS ISSUED IN THE NAME OF, or LOCATED WITHIN, or SERVED BY AN IRRIGATION DISTRICT, OTHER DISTRICT, OR WATER SUPPLIER

a. List the water right(s) involved in this transfer:

	Application / Decree	Permit / Previous Transfer	Certificate	Is the water right in the name of a district, water supplier, or BOR*?
1.	S-4936	S-3271	94161	YES ☒
2.		-		YES ☐
3.		-		YES ☐

Attach additional pages for additional water rights if necessary.

*Bureau of Reclamation

- b. Determine a district's/water supplier's connection to your points of diversion (POD) or appropriation (POA) and places of use (POU). [You may need to consult with your district/water supplier.]

CURRENT ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES ☒ NO ☐ One or more of the current POD(s) / POA(s) involved in the transfer are served by a district/water supplier or rely on BOR water.
- YES ☒ NO ☐ All or a portion of the current POU involved in this proposed transfer receives water for either primary or supplemental irrigation from the district/water supplier; i.e., the POU is currently layered with a district or BOR water supplied water right(s).

PROPOSED ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES ☒ NO ☐ One or more of the proposed POD(s) / POA(s) involved in the transfer are currently served or will be served by a district/water supplier if the transfer is approved, or rely on BOR water.
- YES ☒ NO ☐ All or a portion of the proposed POU involved in this proposed transfer currently receives or will receive either primary or supplemental irrigation from the district/water supplier; i.e., the POU will be layered with a district/water supplier or BOR water supplied water right(s).

COMMENTS OR ADDITIONAL INFORMATION

RECEIVED

APR 29 2020

OWRD

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____
- (2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Kenneth M. Baker Kenneth M. Baker 4-14-2020
Applicant Signature Name (print) Date

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____
- (2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Robbie L. Baker Robbie L. Baker 4-14-2020
Applicant Signature Name (print) Date

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
☐ email, ☐ phone, ☐ postal mail, ☒ in person, or ☐ other (please specify) _____

(2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Perry Johnston
Applicant Signature

Perry Johnston
Name (print)

4/15/20
Date

5. (WHEN REQUIRED) DISTRICT or WATER SUPPLIER CONSENT TO THE PROPOSED WATER RIGHT TRANSFER

District Manager or Water Supplier consent is required if any box on this form is marked "YES."

The district/water supplier certifies the following:

(1) The district/water supplier has reviewed the applicant's proposed water right transfer application and maps; and

(2) The district/water supplier consents to the proposed water right transfer application.

YES ☒ NO ☐ After proof of completion, the confirming water right certificate is to remain in the name of the U.S. Bureau of Reclamation or the district/water supplier.

YES ☐ NO ☒ The district/water supplier will be responsible for submitting the claim of beneficial use prepared by a Certified Water Rights Examiner (CWRE).

Dennis Henderson
Signature of District Manager /Water Supplier

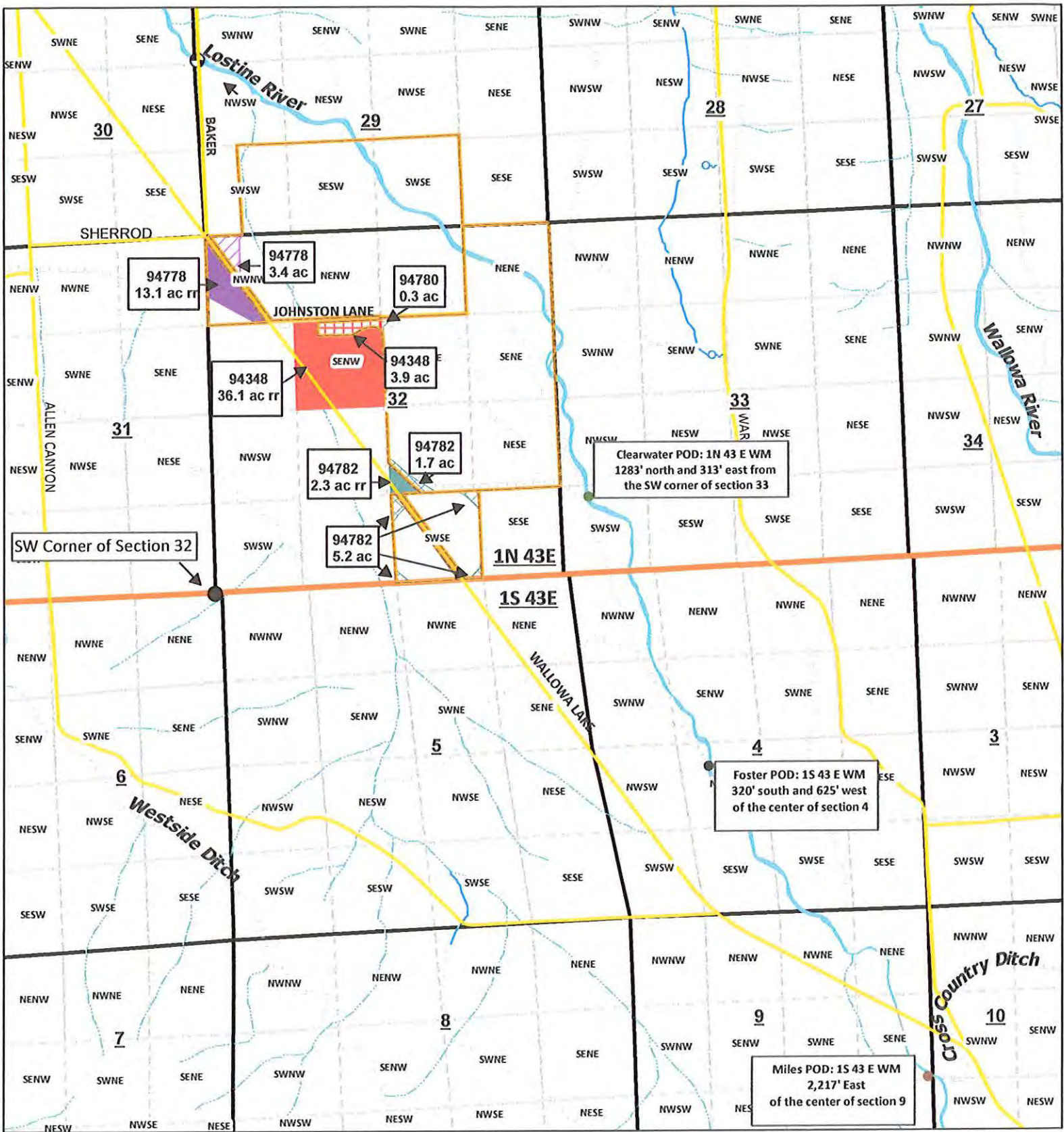
Dennis Henderson
Name (print), Title

4/14/20
Date

RECEIVED

APR 29 2020

OWRD



Proposed Acres for Instream Transfer JCLP

RECEIVED

APR 29 2020

OWRD

N

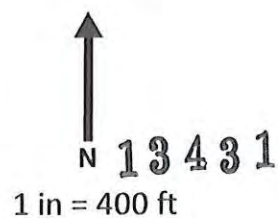
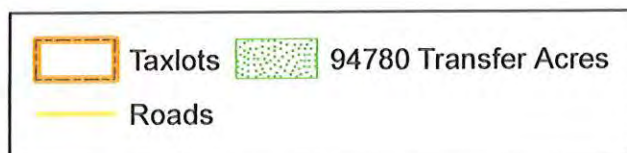
1 in = 2,000 ft

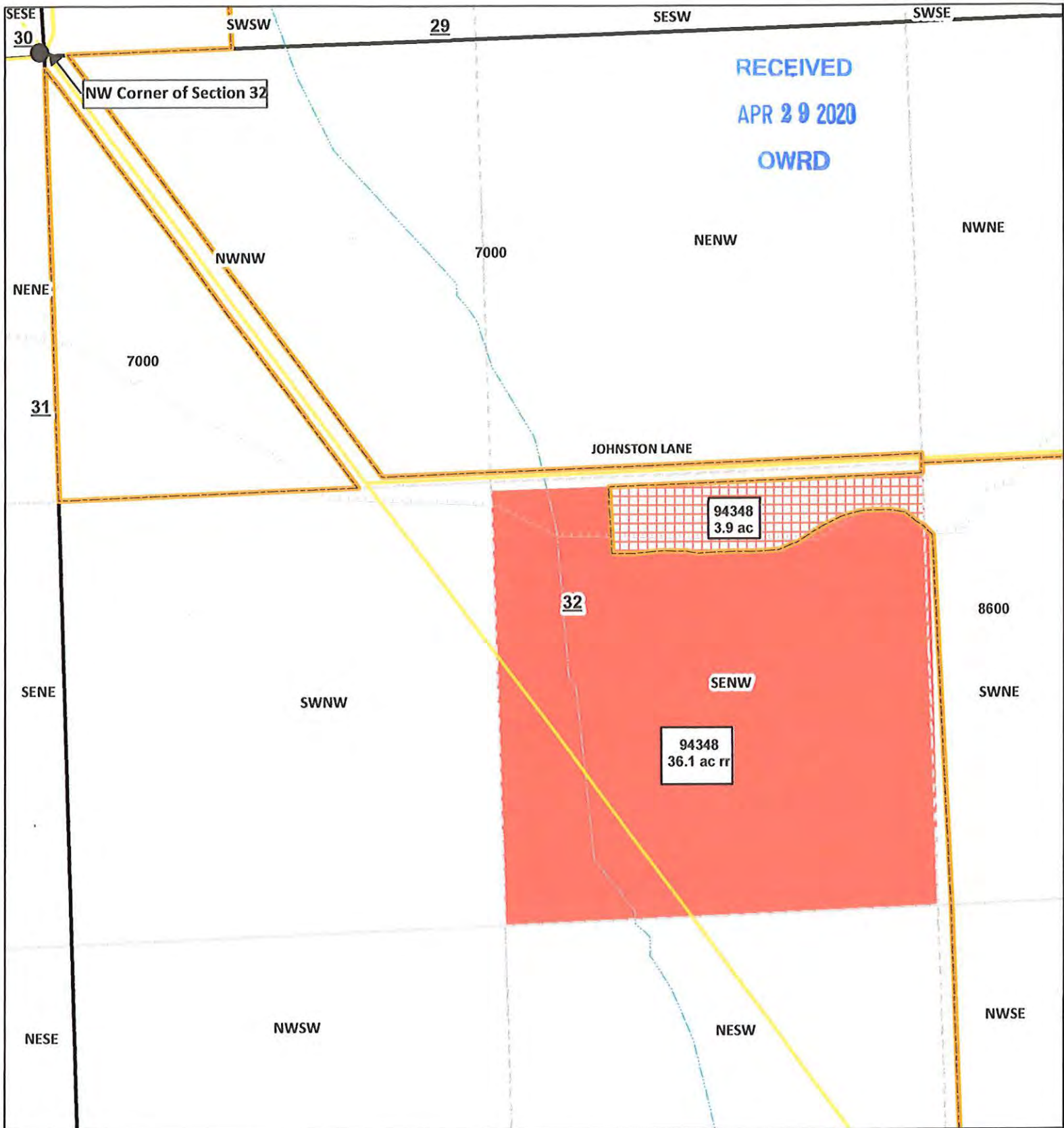
● Miles POD	94778 Transfer Acres	94348 Transfer Acres	D7_SEC
● Foster POD	94778 Remaining	94348 Remaining	D7_QQ
● Clearwater POD	94782 Transfer Acres	94780 Transfer Acres	
Taxlots	94782 Remaining	D7_TWP	

13431

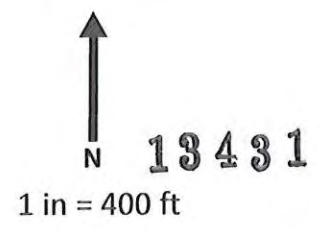
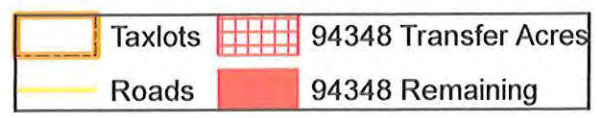


Proposed Acres for Instream Transfer 94780

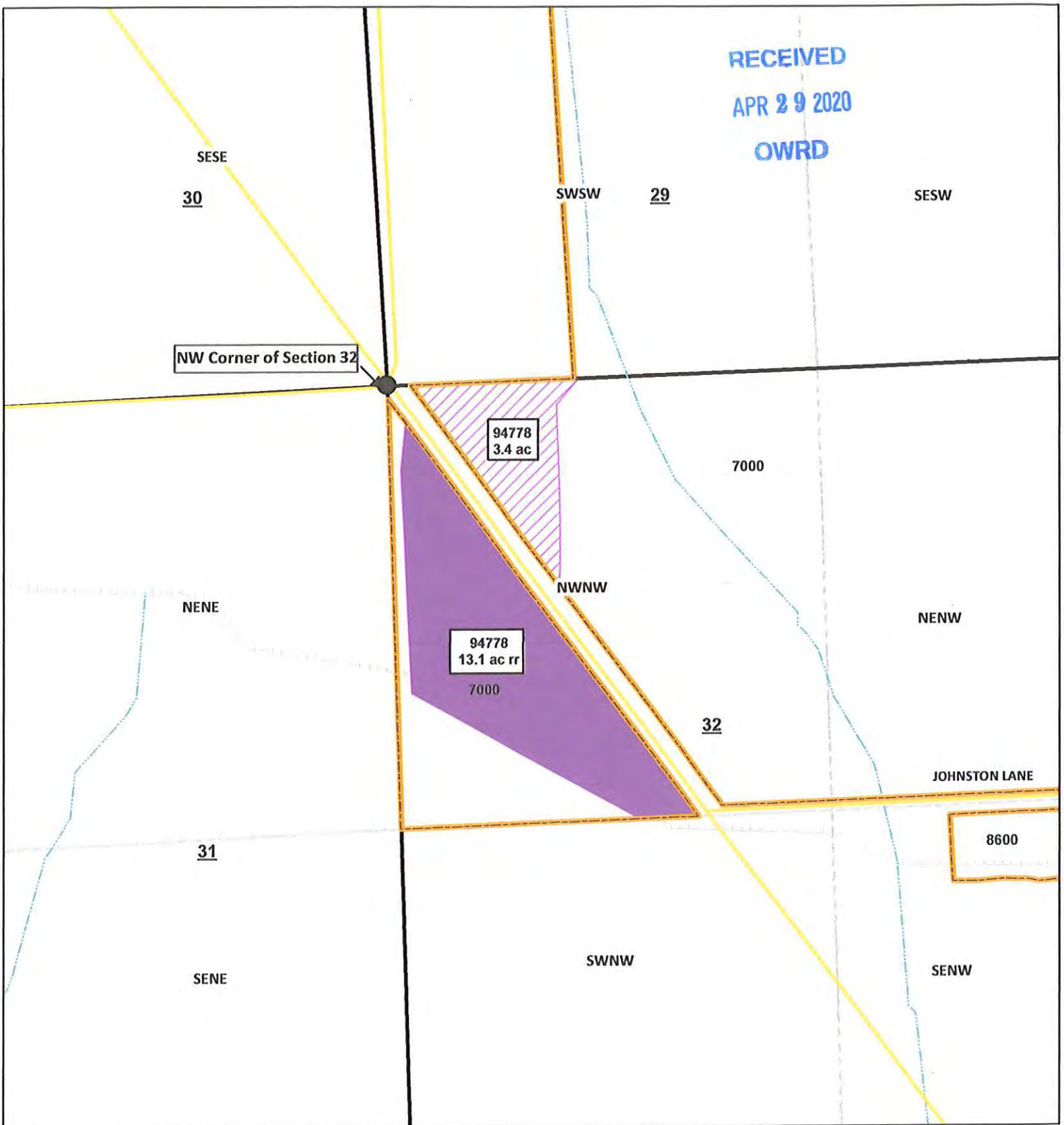




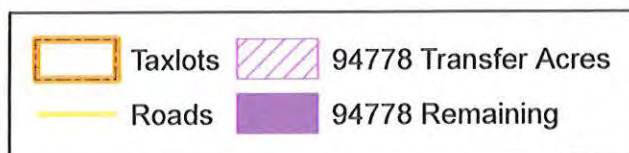
Proposed Acres for Instream Transfer 94348



RECEIVED
APR 29 2020
OWRD



Proposed Acres for Instream Transfer 94778



1 in = 400 ft

13431



1N 43E
1S 43E

~~1~~ 3 4 3 1

Land Use Information Form



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

Applicant(s): Ken and Bobbie Baker and Perry Johnston

Mailing Address: 81705 Hwy 82

City: Wallowa

State: OR

Zip Code: 97885

Daytime Phone: 541.263.0342

RECEIVED

APR 29 2020

OWRD

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:	Proposed Land Use:
<u>1N</u>	<u>43E</u>	<u>32</u>	<u>NWNW</u>	<u>7000</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☒ Used	<u>Instream</u>
<u>1N</u>	<u>43E</u>	<u>32</u>	<u>SEnw</u>	<u>8600</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☒ Used	<u>Instream</u>
<u>1N</u>	<u>43E</u>	<u>32</u>	<u>NWSE</u>	<u>8600</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☒ Used	<u>Instream</u>
<u>1N</u>	<u>43E</u>	<u>32</u>	<u>SWNE</u>	<u>8600</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☒ Used	<u>Instream</u>
<u>1N</u>	<u>43E</u>	<u>32</u>	<u>SWSE</u>	<u>8800</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☒ Used	<u>Instream</u>

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Wallowa County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☐ Permit to Use or Store Water ☒ Water Right Transfer ☐ Permit Amendment or Ground Water Registration Modification
☐ Limited Water Use License ☐ Allocation of Conserved Water ☐ Exchange of Water

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) Lostine River

Estimated quantity of water needed: 79.75 ☐ cubic feet per second ☐ gallons per minute ☒ acre-feet

Intended use of water: ☐ Irrigation ☐ Commercial ☐ Industrial ☐ Domestic for _____ household(s)
☐ Municipal ☐ Quasi-Municipal ☒ Instream ☐ Other _____

Briefly describe:

The landowners have converted from flood irrigation to center pivots. With the new irrigation system some acres in the corners of the fields are no longer practical to irrigate so they would like to transfer the water rights from those acres instream.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

RECEIVED

APR 29 2020

OWRD

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s):
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

Name: *Franz Gebel* Title: *Planning Director*
 Signature: *Franz Gebel* Phone: *541 426 4543* Date: *3/2/2020*
 Government Entity: *Wallowa County*

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

Jessica Humphreys

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Monday, April 13, 2020 8:24 AM
To: Jessica Humphreys
Subject: RE: Transfer question

Hi Jessica,

"Yes" submit the affidavit as a placeholder and when you are able to get the form notarized you can do so and then send it to the Department.

Please include a copy of this email so that whoever takes in the application will know that this is acceptable.

Also, include "Attention: Sarah Henderson" on the application.

I hope you are staying safe and well.

Have a most excellent day.

Sarah

Sarah A. Henderson

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

RECEIVED

APR 29 2020

OWRD

From: Jessica Humphreys [mailto:Jessica@thefreshwatertrust.org]
Sent: Monday, April 13, 2020 8:07 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Subject: RE: Transfer question

Hi Sarah,

I almost have all the transfer paperwork complete and hope to send it in by the end of the week. I had a question on affidavit of use paperwork in light of COVID 19. This paperwork requires the landowner to sign with a notary. The landowner is in his mid 80s and I hesitate to ask him to do that right now. Is there any way we could submit this form signed but not notarized as a placeholder and then perhaps later in the summer submit a notarized copy?

Best,
Jessica

Jessica Humphreys

PHILLIPS Stacy H * WRD

From: HENDERSON Sarah A * WRD
Sent: Monday, May 04, 2020 10:15 AM
To: PHILLIPS Stacy H * WRD
Subject: RE: Transfer question
Attachments: fee for baker transfer app.pdf

Hi Stacy,

The fee for this transfer will be \$2345.00, I have attached the fee schedule that I used ☺

Thank you for the help on this.

Sarah

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: PHILLIPS Stacy H * WRD
Sent: Monday, May 4, 2020 8:28 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Subject: RE: Transfer question

Here you go!

[Stacy H. Phillips](#)

Restoration Program Technician

725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898

Email: stacy.h.phillips@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Monday, May 04, 2020 8:23 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Subject: RE: Transfer question

Yes I can do that for you, scan and send to me and I will tell you how much ☺

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: PHILLIPS Stacy H * WRD

Sent: Monday, May 4, 2020 8:22 AM

To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Subject: RE: Transfer question

On the front page it's highlighted to "Please charge fee to The Freshwater Trust customer account". Problem is, there is no check in sheet by a caseworker or pink slip, so I don't know how much to charge.

Would you know? I can scan the application to you so you can give it a quick look at.

Thanks,

[Stacy H. Phillips](#)

Restoration Program Technician

725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898

Email: stacy.h.phillips@oregon.gov



OREGON
WATER
RESOURCES
DEPARTMENT

[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Sent: Monday, May 04, 2020 8:15 AM

To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>

Subject: RE: Transfer question

are they asking for it to be taken from tft account? For some reason I thought they were sending in a check, I could be thinking of a different one.

If they are asking for fees from tft account, please just assign a T number and move forward, processing, pub notice, etc, then just put file in my inbox.

This application has been worked on with Jessica (TFT) and I, so I'm assuming all is ok,,, if not I will take care of it later
😊

Thank you much Stacy

Sarah

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator
Transfer and Conservation Section
725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884
Email: sarah.a.henderson@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: PHILLIPS Stacy H * WRD
Sent: Monday, May 4, 2020 8:00 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Subject: RE: Transfer question

Hi Sarah,

No it doesn't, the fees still have to be charged to TFT's account. There is no pink slip so it didn't go through the normal check in process. Let me know what you'd like me to do for you.

Thanks,

[Stacy H. Phillips](#)

Restoration Program Technician
725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898
Email: stacy.h.phillips@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Monday, May 04, 2020 7:47 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Subject: RE: Transfer question

Yes, this is the one I am waiting for 😊 I will have to pick it up next Monday, already went in this morning. Thank you 😊

Does it have a number yet?

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator
Transfer and Conservation Section
725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884
Email: sarah.a.henderson@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: PHILLIPS Stacy H * WRD
Sent: Monday, May 4, 2020 7:32 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>; BAUSTIAN Julie C * WRD <Julie.C.Baustian@oregon.gov>
Subject: RE: Transfer question

Good Morning Sarah,

I have an Instream Transfer in my box this morning for Ken and Bobbie Baker. Is this the one you were waiting for from TFT?

Thanks,

[Stacy H. Phillips](#)

Restoration Program Technician

725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898

Email: stacy.h.phillips@oregon.gov



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Friday, May 01, 2020 7:28 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>; BAUSTIAN Julie C * WRD <Julie.C.Baustian@oregon.gov>
Cc: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: Transfer question

Hi Julie and Stacy,

Please see the below message, when I sent it out yesterday I forgot to include you both!!!! Sorry about that.

Have a most excellent day.

Sarah

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

From: HENDERSON Sarah A * WRD
Sent: Thursday, April 30, 2020 11:54 AM

To: Jessica Humphreys <Jessica@thefreshwatertrust.org>

Subject: RE: Transfer question

Hi Jessica,

I will let you know when I see it in my box and I am cc'ing Stacy and Julie to let them know an instream transfer is on its way.

Stacy and Julie,

Please let me know if you see an instream transfer filed this week, please and thank you.

Sarah

Sarah A. Henderson

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



OREGON
WATER
RESOURCES
DEPARTMENT

[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]

Sent: Thursday, April 30, 2020 10:42 AM

To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Subject: RE: Transfer question

Hi Sarah,

I was finally able to get all documents for this transfer we have been discussing signed and mailed to you this week. It looks like it is supposed to be delivered tomorrow. I assume you will give me a heads up when you have received it? Just want to let you know it was on its way so you were keeping an eye out and could let me know if you do not receive it soon.

Thank you,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Sent: Monday, April 13, 2020 8:24 AM

To: Jessica Humphreys <Jessica@thefreshwatertrust.org>

Subject: RE: Transfer question

Hi Jessica,

"Yes" submit the affidavit as a placeholder and when you are able to get the form notarized you can do so and then send it to the Department.

Please include a copy of this email so that whoever takes in the application will know that this is acceptable.

Also, include "Attention: Sarah Henderson" on the application.

I hope you are staying safe and well.

Have a most excellent day.

Sarah

Sarah A. Henderson

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct: 503-986-0884

Email: sarah.a.henderson@oregon.gov



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]

Sent: Monday, April 13, 2020 8:07 AM

To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Subject: RE: Transfer question

Hi Sarah,

I almost have all the transfer paperwork complete and hope to send it in by the end of the week. I had a question on affidavit of use paperwork in light of COVID 19. This paperwork requires the landowner to sign with a notary. The landowner is in his mid 80s and I hesitate to ask him to do that right now. Is there any way we could submit this form signed but not notarized as a placeholder and then perhaps later in the summer submit a notarized copy?

Best,

Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Sent: Tuesday, March 24, 2020 4:13 PM

To: Jessica Humphreys <Jessica@thefreshwatertrust.org>

Subject: RE: Transfer question

Hi,

If you could find a "like primary" I do not see why it couldn't go to the neighboring property...

I believe that you would only include the receiving landowner on the regular transfer application, however the instream transfer application does not have this option...

Because this place of use change is going to be included in the instream transfer application https://www.oregon.gov/OWRD/WRDFormsPDF/instream_transfer_app.pdf like we have done in the past one, I would recommend including a couple pages from the regular transfer application (page 5 for the receiving landowner information) (pages 7, 8, 9 for the place of use information) https://www.oregon.gov/owrd/WRDFormsPDF/permanent_wr_transfer_app.pdf

I don't know that there is a form that the receiving landowner will need to sign..

Even though you have this place of use change the application will still be an instream transfer application. Make sure your main application is the instream transfer form. When the application is received, I will work with you if there are items needed...

Have a wonderful evening, I am signing off for the day.

Stay safe

sarah

From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]

Sent: Tuesday, March 24, 2020 2:03 PM

To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Subject: Re: Transfer question

Hi Sarah,

Thank you for looking in to it, that was the answer I was expecting.

Last follow up for now... could it be transferred to a like primary on a neighboring property? If so what would be the correct form for the landowner on the receiving property to sign?

It will take me a while to get live signatures on all the necessary forms, especially those that need to be notarized, but I am planning to submit this transfer by mid April.

Best,
Jessica

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Sent: Tuesday, March 24, 2020 1:31 PM

To: Jessica Humphreys

Cc: HENDERSON Sarah A * WRD

Subject: RE: Transfer question

Hi Jessica,

I had some discussion with the transfer staff that work on issues like this almost daily. The conclusion we have is that when we looking for a "like primary" we are saying that it is "similar reliability". One that relies on the same source, is regulated similarly and affects junior users similarly.

In the case of the primaries that will be transferred instream (94348, 94778, 94782, 94780) all have priority dates of 1882-1896. The primary 64780 has a very junior priority date of 1973 which would not qualify as a similar reliability.

I'm sorry that this wasn't a yes answer. I was hoping that I would be able to help them out somehow.

Please let me know if you have any other questions.

Take care and stay safe.

Sarah

[Sarah A. Henderson](#)

Flow Restoration Program Coordinator

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Direct; 503-986-0884



[Integrity](#) | [Service](#) | [Technical Excellence](#) | [Teamwork](#) | [Forward-Looking](#)

From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]

Sent: Saturday, March 21, 2020 11:23 AM

To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>

Subject: RE: Transfer question

Hi Sarah,

The primaries being transferred are 94348, 94778, 94782 and 94780. They all have both supplemental 94160 (being transferred instream) and 94161 the stored water right that can't be transferred instream.

Glad to hear you can work from home and sorry for the delays on my end.

Thank you,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Thursday, March 19, 2020 2:29 PM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: Re: Transfer question

Hi Jessica,

sorry for not responding sooner, I started working from home yesterday and had to get things situated before responding to all emails, just for future reference all processes are continuing as usual, I'm just working from home until further notice. 😊

Can you tell me what cert number the primary being transferred is? I don't have my notes from when we talked..

From: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Sent: Wednesday, March 18, 2020 11:07 AM
To: HENDERSON Sarah A * WRD
Subject: Re: Transfer question

Hi Sarah,

Would WR 64780 be eligible to receive the 94161 acres? This WR is on their property and does not already have supplemental rights but I don't think it meets the criteria for 'like primaries'. They would like to not have to cancel the 94161 WR just because it cannot be transferred instream.

Thank you,
Jessica

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Thursday, March 12, 2020 10:55 AM
To: Jessica Humphreys
Subject: RE: Transfer question

Hi Jessica,

Yes the only other option would be to cancel that portion of the supplemental right. You would submit a partial cancellation affidavit (see attached) with the submittal of the application.

Please let me know if you have any other questions.

Have a most awesome day.

Sarah

Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Division

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503.986.0884 | Fax: 503.986.0901

Email: sarah.a.henderson@oregon.gov | Web: <http://www.oregon.gov/owrd>

From: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Sent: Thursday, March 12, 2020 9:03 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Cc: JARAMILLO Lisa J * WRD <Lisa.J.Jaramillo@oregon.gov>
Subject: RE: Transfer question

Hi Sarah,

Thanks for the response. I have one follow up question. I don't think the landowners have any like primaries that don't already have the supplemental right so is my only other option to cancel that supplemental right? If so, how should I request that cancellation as part of the transfer application?

Thank you,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Thursday, March 12, 2020 8:54 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Cc: JARAMILLO Lisa J * WRD <Lisa.J.Jaramillo@oregon.gov>
Subject: RE: Transfer question

Hi Jessica,

Yes we would run into the same issue as before, because the stored water right is from a reservoir that is designated for storage of irrigation and domestic purposes only and the Department does not currently have the authority to "transfer" the character of use of the water right for a reservoir.

You can insert the place of use change into the instream transfer application and it can be processed that way.

Please let me know if you have any other questions or concerns and we can talk them through.

Have a most excellent day.

Sarah

Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Division

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503.986.0884 | Fax: 503.986.0901
Email: sarah.a.henderson@oregon.gov | Web: <http://www.oregon.gov/owrd>

From: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Sent: Wednesday, March 11, 2020 8:06 AM
To: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Subject: Transfer question

Hi Sarah,

Thanks for returning my call last week, my apologies for not getting back to you sooner. I am preparing to submit a permanent instream transfer for the Lostine. The rights that I am requesting to transfer have 2 supplemental rights associated with them. I am requesting that one be transferred instream with the primaries but the other is a stored water right from Minam Reservoir 94161. I ran in to this exact same issue with a transfer last year and was told that because that right could not be transferred instream I would have to either transfer to like primaries or cancel. In that case I was able to insert, into my instream transfer application, table 2 from a regular transfer application to denote "to" and "from" lands for the supplemental I was transferring to a like primary. Is this still the case? I wanted to check in about how you would want to handle this situation since it was a different case worker last time and I want to get it correct before I submit.

Thanks so much for your help.

Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org



Oregon Water Resources Department Transfer Fee Calculation for Instream Transfer

[Main](#)
[Help](#)
[Return](#)
[Contact Us](#)

Today's Date: Monday, May 4, 2020

Fee Calculation

Base Fee (includes place of use and character of use to instream for one water right for up to 1 cfs)

\$2,090.00

Fill in information below-- Check each box that applies.

Enter total number of water rights included in transfer.

\$2,600.00

☐ Check this box if you propose to change one or more NON-irrigation rights.

☒ Check this box if you propose to change one or more irrigation rights.

Enter the following for the primary certificates on the land included in the transfer.

(If a supplemental certificate also covers the same land as an included primary right, only list the primary.)

Certificate #	Total acres in the water right	# of acres to be transferred	Total cfs in the water right certificate	OR If certificate does not list cfs, enter 1/___ cfs per acre	Transfer cfs
94348	399.5	3.9	1.6645		0.016249
94778	194.9	3.4	2.4362		0.042499
94782	142.1	6.9	1.5437		0.074958
94780	.3	.3	.0037		0.0037

Total Transfer CFS(rounded up to the next whole cfs): 1.00

Subtotal:

\$4,690.00

Fish-Friendly Discount:

(\$2,345.00)

Transfer Fee:

\$2,345.00
[Return to Edit](#)
[Clear](#)

OREGON WATER RESOURCES DEPARTMENT
ACCOUNT ACTIVITY RECORD

Account Name: The Freshwater Trust – CA0008

Activity Date: May 4, 2020

Please complete and leave at the WRIG counter.

Transaction Description	# of items or hours	Project Name	Customer contact name	Department personnel providing service	Amount of Activity
Deposit to account					
Copying					
Faxing					
Research					
Other: Instream Transfer Application	1	T-13431-Baker-TFT: 1 @\$2,345.00 ea.	The Freshwater Trust	Stacy Phillips for Sarah Henderson	TOTAL: \$2,3450.00

PHILLIPS Stacy H * WRD

From: HUNGATE Abby J * WRD
Sent: Monday, May 04, 2020 2:55 PM
To: PHILLIPS Stacy H * WRD
Subject: RE: T-13431 Instream Transfer CA Withdrawal - TFT

I have deducted \$2345.00. The remaining balance in their account is \$1880.29.

Abby Hungate | Accounts Payable, Administrative Services

Oregon Water Resources Department

725 Summer St. NE, Suite A
Salem, Oregon 97301
Desk: 503.986.0926 | Fax: 503.986.0904

From: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Sent: Monday, May 04, 2020 1:11 PM
To: HUNGATE Abby J * WRD <Abby.J.Hungate@oregon.gov>
Subject: FW: T-13431 Instream Transfer CA Withdrawal - TFT

Hey Abby,

Please see the attached documents as well as the below correspondence confirming a withdrawal from TFT's customer account for an Instream Transfer application. I have also attached the form for withdrawal specifying the total amount to be deducted.

Please let me know if you need any further information. Please confirm for me when you have deducted the fees from TFT's account.

Thanks,

Stacy H. Phillips

Restoration Program Technician

725 Summer Street NE, Suite A, Salem, OR 97301 | Office: 503-986-0898

Email: stacy.h.phillips@oregon.gov



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

From: HENDERSON Sarah A * WRD <Sarah.A.Henderson@oregon.gov>
Sent: Monday, May 04, 2020 10:15 AM
To: PHILLIPS Stacy H * WRD <Stacy.H.Phillips@oregon.gov>
Subject: RE: Transfer question

Hi Stacy,

The fee for this transfer will be \$2345.00, I have attached the fee schedule that I used ☺

Thank you for the help on this.

HENDERSON Sarah A * WRD

From: JOYE Jessica L * WRD
Sent: Thursday, August 02, 2018 8:54 AM
To: 'Jessica Humphreys'
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Good morning Jessica,

The amended table 2 for Certificate 81507 (IS) is over 0.1 acres (23.3 acres). The primary water right C93532 authorizes the use of 23.2 acres in the NW NW, Sec. 29, T1N, R43E, WM. I wanted to check and see if I'm missing something here, or if it's a scrivener's error. Could you please confirm the error or provide clarification?

Thank you,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



From: Jessica Humphreys [mailto:Jessica@thefreshwatertrust.org]
Sent: Monday, July 30, 2018 2:54 PM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I have attached a section 5/Table 2 for 81507. Please let me know if you need anything else. Oh and thank you for the description of the administrative rules regarding instream transfer of stored water.

Best,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Monday, July 30, 2018 7:19 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Good morning Jessica,

Yes, the table below is the one you'll need to fill out. Please send to me if submission is prior to August 2nd. If submission is after August 3rd, please send to Teri.

Thank you,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Friday, July 27, 2018 3:03 PM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica

No worries. I think this answers my questions. Just to confirm, I need to fill out this table (below) for 81507 and send it to you to amend T12853 and indicate that we want the supplementals from 81507 transferred and not cancelled? I may have to be out in the field Monday but I should be able to get this back to you by Tuesday next week at the latest. Should I send to both you and Teri?

Thanks,

Jessica

Table 2. Description of Changes to Water Right Certificate # 81507

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) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (to The listing as it would appear after)											
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			
EXAMPLE																						
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
														2	S	9	E	2	SW	NW	500	
TOTAL ACRES:														TOTAL ACRES:								

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Friday, July 27, 2018 12:12 PM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

Thank you for being patient with the Department. I've addressed each of your questions below in red. Please let me know if you need further clarification. I'm waiting for clarification from Lisa Jaramillo, my supervisor, on addressing your question regarding the Department's authority to not allow the permanent transfer of storage water sources in stream. Also, I will be starting a new job with DEQ and my last day with WRD will be August 2nd. Teri Hranac will be taking over this transfer and be your point of contact on this instream transfer after August 2nd.

Sincerely,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Thursday, July 26, 2018 2:28 PM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I have a couple clarifying questions...

1. If we were to cancel the supplemental right that would mean that the Minam lake reservoir company's storage right would be diminished, correct? (This is not what we want to do I am just trying to understand all of the scenarios). **Correct. Certificate 81507 would be less the acres and rate that was cancelled.**
2. Since it is not possible to transfer it instream we will want to transfer to like primaries. Would there be any issue with transferring to like primaries that were part of the conserved water application on this property and therefore have a reduced duty May-July? **In speaking with Teri, she said it would be ok to transfer the supplemental water rights to like primaries under the reduced remaining right portion of CW-95.**
3. Do I need to submit a different application to transfer the supplemental to like primaries, or can I somehow amend the current application? **No, I would only need a Revised Table 2 demonstrating the "from" lands to the "to" lands. Please refer to the Permanent Regular Transfer Application.**
4. If a new place of use transfer application has to be submitted won't that delay the application process significantly? **This is unnecessary. We will be able to change the place of use of a supplemental irrigation wr under this transfer application (T-12853).**

Thank you,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Thursday, July 26, 2018 1:05 PM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

So, it was brought to my attention by Teri Hranac that Certificate 81507 water source is stored water (Minam Reservoir), therefore it cannot be transferred instream. The layered portions of Certificate 81507 will need to be cancelled or moved to a like primary.

Sincerely,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Wednesday, July 18, 2018 12:46 PM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Jessica,

Yes I can see my mistake there. I did not realize that is was a deficient rate supplemental right and treated it the same as the supplemental 11642. Based on the deficient rate I agree with your calculations of 0.42 cfs and 90.3 AF for rate and volume. Do you need me to change the table in Part 5?

Thanks
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Wednesday, July 18, 2018 11:55 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I'm looking at the amended application and the supplemental water rights that were included. I have a question about the rate and volume calculations for Certificate 81507. It appears that Certificate 81507 is a deficient rate certificate at 0.0054 cfs/ac (34.67 cfs/6455.35 acres). Therefore, it appears for the period proposed to be protected instream (6/15-9/30) the rate, by my calculations, would be 0.42 cfs and 90.3 AF. Could you please take a closer look at the rate and volume for this Certificate and let me know your thoughts?

Thank you and have a great day,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503 986-0814 | Fax: 503 986-0901
Email: Jessica.L.Joye@oregon.gov



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Tuesday, July 10, 2018 10:06 AM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I am still trying to track down a signature for the form D. Looks like the person I am trying to get a hold of might be out of town. I don't expect it will be a problem getting the signatures once I am able to connect with him. I thought I would send along the revised application and map waiver in case you needed me to make any more changes and then I will get the form D's to you hopefully by the end of the week.

I apologize for the delay.

Thanks,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Thursday, July 5, 2018 9:31 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Good morning Jessica,

Yes, the Department will need a signed form D for each of the supplemental rights. New signatures are not necessary, since you are acting on behalf of the applicant as their agent.

Have a great day,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Ph: 503 986-0814 | Fax: 503 986-0901
Email: Jessica.L.Joye@oregon.gov



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Thursday, July 05, 2018 8:54 AM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I have completed a revised application for T-12853 to include the supplemental rights and received a map waiver from Jason Spriet. Do we need a form D or Land use notification form for the supplemental rights? Also, I believe you said we do not need to have the landowner sign the application again (I have discussed the amendment with him and he agrees) but I wanted to confirm that we do not need a new signature before I re-submit.

Thank you,
Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Tuesday, June 26, 2018 10:32 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

If you could please submit a revised part 5 of 6 (page 7) of the application that would be great.

The supplemental rights could be transferred to like primary water rights under T-12853. The Department will need to re-notice the application and request another Watermaster review. A map and associated application materials (i.e. Table 1 and 2) will also need to be submitted for each water right to change place of use. The like primary rights will also need to be mapped for the "to" lands.

Another option is to transfer the supplemental portions instream with the primary water rights. A map (unless a mapping waiver is submitted with approval for the supplemental portions to be transferred instream) and associated application materials will also need to be submitted.

I hope this helps. Let me know if something is unclear or you have further questions.

Sincerely,

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



From: Jessica Humphreys [<mailto:Jessica@thefreshwatertrust.org>]
Sent: Monday, June 25, 2018 4:00 PM
To: JOYE Jessica L * WRD
Subject: RE: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Hi Jessica,

I have reviewed the three items you describe below and agree with you on all of them. #1 we mistakenly applied the wrong duty to 62054 causing the discrepancy that you pointed out. #2 should be 521.05 AF based off of the correction of the error detailed in #1. #3 appears to be a typo as I agree with your calculation.

As these three issues are calculation errors or typos what kind of documentation do you need from me to officially correct the three errors? Will you just be able to reflect the changes in the final order?

I had some questions about the transfer or cancellation of the supplemental rights. Do the supplemental rights have to be transferred as part of this application, i.e. included in the amount we transfer instream? Or does he have the option to transfer the supplemental to other lands? I am assuming that the supplemental rights either have to be cancelled or go with this transfer. If that is the case would we just supply an amendment to this application?

Thanks so much for your help,

Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

From: JOYE Jessica L * WRD <Jessica.L.Joye@oregon.gov>
Sent: Thursday, June 21, 2018 8:45 AM
To: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Subject: RA ISWR Transfer T-12853 - Woody and Megan Wolfe

Good morning Jessica,

I'm finishing up the draft Preliminary Determination for T-12853 and will be sending it off for peer review shortly. There is a few items in the application that I will need clarification and/or amendments.

- 1) The proposed instream use information for Certificate 62054 lists the rate instream for the period 6/15-7/1 as 1.0 cfs (93.6 AF) and for 8/1-9/30 as 0.17 cfs (20.8 AF). However, Certificate 62054 lists the rate as 1/40th per acre (0.52 cfs) and 3.5 acre-feet per acre (72.8 AF). Please provide clarification and/or amendments.
- 2) The total volume (AF) proposed for instream use is listed as 562.65 AF, with the adjustment of rate and duty for Certificate 62054 the total would be 521.05 AF. Please provide amendments.
- 3) The proposed instream use information for Certificate 93525 (1882) lists the rate for the period of 8/1-9/30 as 0.3 cfs. In converting the volume to cfs for 28.3 acres, I arrived at a rate of 0.23 cfs ((28.3 acres/1.983471)/61 days). It appears this may be a scrivener's error. Please provide clarification and/or amendments.

If you have any questions, please don't hesitate to contact me.

Sincerely,

Jessica L Joye | Reimbursement Authority Transfers, Transfer and Conservation Section

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301

Ph: 503 986-0814 | Fax: 503 986-0901

Email: Jessica.L.Joye@oregon.gov

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.



HENDERSON Sarah A * WRD

From: Jessica Humphreys <Jessica@thefreshwatertrust.org>
Sent: Wednesday, March 11, 2020 8:06 AM
To: HENDERSON Sarah A * WRD
Subject: Transfer question

Hi Sarah,

Thanks for returning my call last week, my apologies for not getting back to you sooner. I am preparing to submit a permanent instream transfer for the Lostine. The rights that I am requesting to transfer have 2 supplemental rights associated with them. I am requesting that one be transferred instream with the primaries but the other is a stored water right from Minam Reservoir 94161. I ran in to this exact same issue with a transfer last year and was told that because that right could not be transferred instream I would have to either transfer to like primaries or cancel. In that case I was able to insert, into my instream transfer application, table 2 from a regular transfer application to denote "to" and "from" lands for the supplemental I was transferring to a like primary. Is this still the case? I wanted to check in about how you would want to handle this situation since it was a different case worker last time and I want to get it correct before I submit.

Thanks so much for your help.

Jessica

Jessica Humphreys
Restoration Project Manager
Enterprise, Oregon
541.913.3750 (c)
www.thefreshwatertrust.org

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

In the Matter of Instream Transfer	)	FINAL ORDER APPROVING A CHANGE IN
Application T-12853, Wallowa County	)	PLACE OF USE AND CHARACTER OF USE;
	)	AND APPROVING A CHANGE IN PLACE OF
	)	USE UNDER CERTIFICATE 81507

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

Applicants

WOODY AND MEGAN WOLFE
81544 HWY 82
WALLOWA, OR 97885

Agent

THE FRESHWATER TRUST (TFT)
ATTN: JESSICA HUMPHREYS
700 SW TAYLOR STREET, SUITE #200
PORTLAND, OR 97205

Findings of Fact

1. On February 12, 2018, Woody and Megan Wolfe filed a transfer application to change the place of use and the character of use under Certificates 62054, 93513, 93515, 93517, 93519, 93523, 93525, 93527, 93531, 93533, and 93536 to instream use. The Department assigned the application number T-12853.
2. Notice of the application for transfer was published on February 27, 2018, pursuant to ORS 540.520 and OAR 690-380-4000. No comments were filed in response to the notice.
3. Consistent with land use requirements and prior to submission of the instream transfer, the applicant provided a Land Use Information Form to Wallowa County, notifying them of the instream transfer. The Land Use Information Form was completed February 2, 2018, by Wallowa County indicating the proposed water use was allowed outright or is not regulated by Wallowa County comprehensive plan.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On June 21, 2018, the Department contacted the Applicants' agent regarding a few items in the application that needed clarification.
5. On July 10, 2018, the Department received an amended application including the underlying supplemental irrigation water rights, Certificates 11642 and 81507.
6. On July 16, 2018, the Department received signed Supplemental Form D from Cross Country Canal Company and Minam Lake Reservoir Company.
7. On July 30, 2018, the Department received a Table 2 of the application for a supplemental water right Certificate 81507 proposing to change the place of use.
8. On August 8, 2018, the Applicants submitted an amended Table 2 for Certificate 81507.
9. On August 9, 2018, the Applicants amended Page 8 of the July 10, 2018 amended application clarifying the proposed instream period and use.
10. On September 6, 2018, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-12853 to the Applicants. The draft Preliminary Determination cover letter set forth a deadline of October 1, 2018, for the applicants to respond. The Applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicants are authorized to pursue the transfer.
11. On October 29, 2018, the Department issued a Preliminary Determination proposing to approve Transfer Application T-12853 and sent a copy to the Applicants. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on October 30, 2018, and in the Wallowa Chleftain newspaper on November 7 and 14, 2018, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
12. The portion of the first right to be transferred is as follows:

Certificate: 62054 in the name of THOMAS J. WILLET
(perfected under Permit S-44750)

Use: IRRIGATION OF 20.8 ACRES

Priority Date: OCTOBER 30, 1979

Rate: 0.52 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-FORTIETH 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 3.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	19	SE NE	3200 FEET NORTH AND 920 FEET WEST FROM THE SE CORNER OF SECTION 19

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	19	SE NE	3.0
1 N	43 E	WM	19	NE SE	2.3
1 N	43 E	WM	20	NE SW	6.6
1 N	43 E	WM	20	NW SW	3.0
1 N	43 E	WM	20	NW SE	5.9
Total					20.8

13. An annual volume of 72.8 acre-feet of water may be beneficially used under this right.
14. The portion of the second right to be transferred is as follows:

Certificate: 93513 in the name of H E. DRIVER (confirmed by the Wallowa River Decree, of record at Salem, in the Order Record of the State Water Board of the State of Oregon in Volume 5 at Page 162)

Use: IRRIGATION OF 13.9 ACRES, DOMESTIC AND LIVESTOCK

Priority Date: 1883

Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31st of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	29	NW SW	0.3
1 N	43 E	WM	30	NE SE	2.0
1 N	43 E	WM	30	NW SE	1.5
1 N	43 E	WM	30	SW SE	2.5
1 N	43 E	WM	30	SE SE	7.6
Total					13.9

15. Certificate 93513 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

16. An annual volume of 76.45 acre-feet of water may be beneficially used under this right.

17. The portion of the third right to be transferred is as follows:

Certificate: 93515 in the name of CLEARWATER DITCH COMPANY
(confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 115-156)

Use: IRRIGATION OF 1.3 ACRES, DOMESTIC AND LIVESTOCK

Priority Date: MAY 1897

Limit/Duty: The amount of water to which this right is entitled for irrigation shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre foot per acre during the entire remainder of the Irrigation season

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	31	NE NE	1.3

18. Certificate 93515 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

19. A total of 7.15 acre-feet of water may be beneficially used annually under this right.

20. The portion of the fourth right to be transferred is as follows:

Certificate: 93517 in the name of J.T. WILLETT BY C.N. WILLETT
(confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 202)

Use: IRRIGATION OF 8.2 ACRES, DOMESTIC AND LIVESTOCK

Priority Date: 1883

Limit/Duty: The amount of to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	30	NW NE	2.3
1 N	43 E	WM	30	SW NE	1.0
1 N	43 E	WM	30	SE NE	4.9
Total					8.2

21. Certificate 93517 does not describe the location of the point of diversion. However, information is available from the Applicants indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

22. A total of 45.1 acre-feet of water may be beneficially used annually under this right.
23. The portion of the fifth right to be transferred is as follows:

Certificate: 93519 in the name of GIDEON WOLFE
(confirmed under the Willowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 205)

Use: IRRIGATION OF 7.9 ACRES AND LIVESTOCK

Priority Date: 1883 FOR 1.3 ACRES and 1889 FOR 6.6 ACRES

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the Irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Place of Use:

IRRIGATION						
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres
1889	1 N	43 E	WM	31	NE NE	2.1
1883	1 N	43 E	WM	31	NE NE	1.3
1889	1 N	43 E	WM	31	NW NE	4.5
Total						7.9

24. Certificate 93519 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER/MID VALLEY DITCH: 350 FEET SOUTH AND 800 FEET WEST FROM THE CENTER OF SECTION 4 (Latitude: 45.50716; Longitude: -117.45096)

25. An annual volume of 43.45 acre-feet (AF) of water; being 7.15 AF with a priority date of 1883 and 36.3 AF with a priority date of 1889, may be beneficially used under this right.

26. The portion of the sixth right to be transferred is as follows:

Certificate: 93523 in the name of ESTATE OF ADDISON L. TULLEY, JESSE E. TULLEY, ADMINSTRATOR (confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 197)

Use: IRRIGATION OF 15.1 ACRES, DOMESTIC AND LIVESTOCK

Priority Date: 1900 FOR TRACT 3

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY HILL DITCH

Authorized Place of Use:

IRRIGATION							
Twp	Rng	Mer	Sec	Q-Q	Acres	Tract	Priority
1 N	43 E	WM	19	NE SE	4.0	3	1900
1 N	43 E	WM	19	NW SE	10.3	3	1900
1 N	43 E	WM	19	SE SE	0.8	3	1900
Total					15.1		

27. Certificate 93523 does not describe the measured distances of the point of diversion. However, information is available from the Applicants and Department records indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY HILL DITCH – 1080 FEET NORTH AND 2559 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

28. An annual volume of 83.05 acre-feet of water may be beneficially used under this right.

29. The portion of the seventh right to be transferred is as follows:

Certificate: 93525 in the name of S.W. MILES
(confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Pages 184-185)

Use: IRRIGATION OF 31.0 ACRES
Priority Date: 1882 for Tract 1 and 1896 for Tract 3
Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.
Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Latitude/Longitude
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1
1 S	43 E	WM	9	NE SE	POD 3: MILES MAGILL DITCH; TRACT 3

Authorized Place of Use:

TRACT 1 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1882	1 N	43 E	WM	32	SE SE	4.2	1
1882	1 S	43 E	WM	4	NW NW	3.3	
1882	1 S	43 E	WM	4	SW NW	2.7	
1882	1 S	43 E	WM	4	NE SW	1.9	
1882	1 S	43 E	WM	4	NW SW	0.8	
1882	1 S	43 E	WM	4	SW SW	0.5	
1882	1 S	43 E	WM	4	SE SW	1.4	
1882	1 S	43 E	WM	5	NE NE	3.4	
1882	1 S	43 E	WM	5	SE NE	7.1	
1882	1 S	43 E	WM	5	NE SE	0.6	
1882	1 S	43 E	WM	9	NW NE	2.4	
Total						28.3	

TRACT 3 – PRIMARY IRRIGATION							
Priority	Twp	Rng	Mer	Sec	Q-Q	Acres	POD ID
1896	1 S	43 E	WM	9	NE NW	2.7	3

30. An annual volume of 170.5 acre-feet (AF) of water; being 155.65 AF with a priority date of 1882 and 14.85 AF with a priority date of 1896, may be beneficially used under this right.
31. Certificate 93525 does not describe the coordinates for the points of diversion. However, information is available from the Applicants and Department records indicating that the points of diversion is located are further described follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude/Longitude
1 S	43 E	WM	9	SE NE	POD 1: MILES DITCH; TRACT 1 Latitude: 45.494134; Longitude: -117.438922
1 S	43 E	WM	9	NE SE	POD 3: MILES MAGILL DITCH; TRACT 3 Latitude: 45.4920258487; Longitude: -117.4380355698

32. The portion of the eighth right to be transferred is as follows:

Certificate: 93527 in the name of C. J. ALLEN (confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Pages 143-144)

Use: IRRIGATION OF 0.2 ACRE, DOMESTIC AND LIVESTOCK

Priority Date: 1889 for Tract 4

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season.

Source: LOSTINE RIVER (aka SOUTH FORK OF WALLOWA RIVER), a tributary of the WALLOWA RIVER

Authorized Place of Use:

TRACT 4 – PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	5	NW NE	0.2

33. Certificate 93527 does not describe the location of the point of diversion. However, information is available from the Applicants and Department records indicating the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER/MID VALLEY DITCH: 350 FEET SOUTH AND 800 FEET WEST FROM THE CENTER OF SECTION 4 (Latitude: 45.50716; Longitude: -117.45096)

34. A total of 1.1 acre-feet of water may be beneficially used annually under the existing right.

35. The portion of the ninth right to be transferred is as follows:

Certificate: 93531 in the name of WOLFE HEREFORD RANCH, WTK, INC. (confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 182)

Use: IRRIGATION OF 1.7 ACRES

Priority Date: 1881

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season, if available at the original point of diversions, or its equivalent in case of rotation, measured at the points of diversion from the source.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2559 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	29	NW NW	1.7

36. An annual volume of 9.35 acre-feet of water may be beneficially used under this right.

37. The portion of the tenth right to be transferred is as follows:

Certificate: 93533 in the name of WOLFE HEREFORD RANCH, WTK, INC.
(confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 200-202)

Use: IRRIGATION OF 1.0 ACRES, DOMESTIC AND STOCK

Priority Date: MARCH 27, 1901

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season, if available at the original point of diversion, or its equivalent in case of rotation, measured at the points of diversion from the source.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY HILL DITCH - 1080 FEET NORTH AND 2559 FEET EAST FROM THE SW CORNER OF SECTION 29

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	20	SW SW	1.0

38. An annual volume of 5.5 acre-feet of water may be beneficially used under this right.

39. Certificate 93533 contains a scrivener's error in the priority date. The certificate incorrectly lists the priority date as March 7, 1901. The priority date should be March 27, 1901.

40. The portion of the eleventh right to be transferred is as follows:

Certificate: 93536 in the name of WESTSIDE IRRIGATION AND WATER DITCH CO.
(confirmed under the Wallowa River Decree, of record at Salem, in the Order of the State Water Board of the State of Oregon in Volume 5 at Page 200-202)

Use: IRRIGATION OF 1.2 ACRES, DOMESTIC AND LIVESTOCK

Priority Date: MARCH 27, 1901

Limit/Duty: The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.5 acre-feet per acre during any period of 30 days prior to July 31 of each year, and thereafter not to exceed 1.0 acre-foot per acre during the entire remainder of the irrigation season, if available at the original point of diversions, or its equivalent in case of rotation, measured at the points of diversion from the source.

Source: LOSTINE RIVER (aka SOUTH FORK WALLOWA RIVER), a tributary to the WALLOWA RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW SE	WESTSIDE DITCH: 152 FEET SOUTH AND 200 FEET EAST FROM THE CENTER OF SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	31	NW SE	1.2

41. An annual volume of 6.6 acre-feet of water may be beneficially used under this right.

42. The portion of the twelfth right to be transferred is as follows:

Certificate: 11642 in the name of CROSS COUNTRY CANAL COMPANY
(perfected under Permit S-11695)

Use: SUPPLEMENTAL IRRIGATION of 49.5 ACRES

Priority Date: JUNE 6, 1935

Rate: 1.24 CUBIC FEET PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall not exceed 1 1/2 acre feet per acre during any thirty-day period from May 1 to July 31, and thereafter shall not exceed 1.0 acre foot per acre for the remainder of the irrigation season ending October 1, and the total

quantity allowed under this and any other right for these lands described herein shall not at any time exceed the quantity of water allowed herein.

Source: WALLOWA RIVER, a tributary of GRANDE RONDE RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	11	NW SE

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	29	NW SW	0.3
1 N	43 E	WM	30	NW NE	2.3
1 N	43 E	WM	30	SW NE	1.0
1 N	43 E	WM	30	SE NE	4.9
1 N	43 E	WM	30	NE SE	2.0
1 N	43 E	WM	30	NW SE	1.5
1 N	43 E	WM	30	SW SE	2.5
1 N	43 E	WM	30	SE SE	7.6
1 N	43 E	WM	31	NE NE	1.3
1 N	43 E	WM	32	SE SE	4.2
1 S	43 E	WM	4	NW NW	3.3
1 S	43 E	WM	4	SW NW	2.7
1 S	43 E	WM	4	NE SW	1.9
1 S	43 E	WM	4	NW SW	0.8
1 S	43 E	WM	4	SW SW	0.5
1 S	43 E	WM	4	SE SW	1.4
1 S	43 E	WM	5	NE NE	3.4
1 S	43 E	WM	5	SE NE	7.1
1 S	43 E	WM	5	NE SE	0.6
1 S	43 E	WM	9	NW NE	0.2
Total					49.5

43. Certificate 11642 does not describe the exact location of the point of diversion. However, based on current mapping and information available from the Applicants and the Watermaster, the headgate for the Cross Country Ditch is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

44. Certificate 11642 is supplemental to the portions of Certificates 93513, 93515, 93517, and 93525 proposed to be transferred instream.
45. Transfer Application T-12853 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and any other ecological values for Certificates 62054, 93513, 93515, 93517, 93519, 93523, 93525, 93527, 93531, 93533, 93536, and 11642.

46. Transfer Application T-12853 proposes to change the character of use and places of use of the rights to create an instream reach from the PODs (as described in Findings of Fact Nos. 12, 15, 18, 21, 24, 27, 31, 33, 35, 37, 40, and 43) to the mouth of the Wallowa River.

47. The portion of the thirteenth right to be transferred is as follows:

Certificate: 81507 in the name of MINAM LAKE RESERVOIR COMPANY
(perfected under Permit S-3271)

Use: SUPPLEMENTAL IRRIGATION of 78.8 ACRES

Priority Date: MAY 29, 1916

Rate: 0.42 CUBIC FOOT PER SECOND

Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigate during the irrigation season of each year.

Source: MINAM LAKE RESERVOIR, CONSTRUCTED UNDER PERMIT R-396, a tributary of MINAM LAKE

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q
1 S	43 E	WM	27	NE NW

Authorized Place of Use:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	19	NE SE	4.0
1 N	43 E	WM	19	NW SE	10.3
1 N	43 E	WM	19	SE SE	0.8
1 N	43 E	WM	29	NW SW	0.3
1 N	43 E	WM	30	NW NE	2.3
1 N	43 E	WM	30	SW NE	1.0
1 N	43 E	WM	30	SE NE	4.9
1 N	43 E	WM	30	NE SE	2.0
1 N	43 E	WM	30	NW SE	1.5
1 N	43 E	WM	30	SW SE	2.5
1 N	43 E	WM	30	SE SE	7.6
1 N	43 E	WM	31	NE NE	4.7
1 N	43 E	WM	31	NW NE	4.5
1 N	43 E	WM	31	NW SE	1.2
1 N	43 E	WM	32	SE SE	4.2
1 S	43 E	WM	4	NW NW	3.3
1 S	43 E	WM	4	SW NW	2.7
1 S	43 E	WM	4	NE SW	1.9
1 S	43 E	WM	4	NW SW	0.8
1 S	43 E	WM	4	SW SW	0.5
1 S	43 E	WM	4	SE SW	1.4
1 S	43 E	WM	5	NE NE	3.4
1 S	43 E	WM	5	NW NE	0.2

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 S	43 E	WM	5	SE NE	7.1
1 S	43 E	WM	5	NE SE	0.6
1 S	43 E	WM	9	NW NE	2.4
1 S	43 E	WM	9	NE NW	2.7
Total					78.8

48. Transfer Application T-12853 proposes to change the place of use of Certificate 81507 to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
1 N	43 E	WM	20	SW SW	5.9
1 N	43 E	WM	29	NW NW	23.2
1 N	43 E	WM	29	SW NW	37.8
1 N	43 E	WM	29	SE NW	8.8
1 N	43 E	WM	29	NW SW	3.1
Total					78.8

49. Certificates 11642, 62054, 81507, 93513, 93515, 93517, 93519, 93523, 93525, 93527, 93531, 93533, and 93536 do not list a period of use. Pursuant to Wallowa River Decree, the irrigation season of use is May 1 to October 1.
50. Transfer Application T-12853 proposes to change the place of use of the right to create an instream reach from the authorized points of diversion to the mouth of the Wallowa River at the confluence with the Grande Ronde River.
51. The Applicants propose the following quantities of water to be transferred instream to be protected as follows:

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
		5/3 - 7/31	5/3 - 7/31	8/1 - 9/30	8/1 - 9/30	
93513	1883	0.350	62.6	0.115	13.9	May 3 through September 30
93515	May, 1897	0.033	5.9	0.011	1.3	
93517	1883	0.207	36.9	0.068	8.2	
93519	1883	0.033	5.9	0.011	1.3	
93519	1889	0.166	29.7	0.055	6.6	
93523	1900	0.381	68.0	0.125	15.1	
93525	1882	0.713	127.4	0.234	28.3	
93525	1896	0.068	12.2	0.022	2.7	
93527	1889	0.005	0.9	0.002	0.2	
93531	1881	0.043	7.7	0.014	1.7	
93533	3/27/1901	0.025	4.5	0.008	1.0	
93536	3/27/1901	0.030	5.4	0.010	1.2	
11642(IS)	6/6/1935	1.238	222.8	0.041	49.5	
62054	10/30/1979	0.240	43.4	0.240	29.4	
Totals		3.532	633.3	0.956	160.4	

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

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

53. Water has been used within the last five years according to the terms and condition of the rights, and no evidence is available that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
54. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right are present.
55. A portion of the water diverted at the points of diversion returns to the Lostine and Wallowa Rivers and is available to downstream water right holders. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream requires modification and return flows should be accounted for immediately below each point of diversion. The reduction in the instream water rights from the original quantities identified in Finding of Fact No. 51 is as follows:

Reach	Percent
From Immediately below each of the points of diversion to the Clearwater Ditch Point of Diversion located in the SWSW Section 33, T1N, R43E, W.M.	2%
From the Clearwater Ditch Point of Diversion to the Mouth of the Lostine River at the confluence with the Wallowa River	10%
In the Wallowa River from the confluence with the Lostine River (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133 to the Wallowa River (approx. RM 25.6) at Latitude: 45.55639, Longitude: -117.49803	40%
From the Wallowa River at Latitude: 45.55639, Longitude: -117.49803 to Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa (approx. RM 23.8)	60%
From the Wallowa River at Latitude: 45.57406, Longitude: -117.52571 near the town of Wallowa to the mouth of the Wallowa River at the confluence with the Grande Ronde River	70%

OAR 690-077-0015(8).

56. The instream-right shall allow the use and protection of flows as follows:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Westside Ditch Point of Diversion (POD), described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW SE	WESTSIDE DITCH: 152 FEET SOUTH AND 200 FEET EAST FROM THE CENTER OF SECTION 27

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.030	0.010	5.40	1.20	May 3 through September 30

Instream Reach No. 1:

From immediately below the Westside Ditch POD to Miles-Magill Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30

To: Miles-Magill Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	NE SE	MILES - MAGILL DITCH: Latitude: 45.4920258487; Longitude: -117.4380355698

Instream Point No. 2:

At the Miles-Magill Ditch POD:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.068	0.022	12.20	2.70	
Total		0.097	0.032	17.49	3.88	

Instream Reach No. 2:

Immediately below the Miles-Magill Ditch POD to the Miles Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
Total		0.096	0.032	17.25	3.83	

To: The Miles Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Instream Point No. 3:

At the Miles Ditch POD (described in Reach No. 2 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.713	0.234	127.40	28.30	
Total		0.809	0.266	144.65	32.13	

Instream Reach No. 3:

From: Immediately below the Miles Ditch POD to the Foster/Mid-Valley Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
Total		0.795	0.261	142.10	31.56	

To: Foster/Mid-Valley Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER/MID-VALLEY DITCH - 350 FEET SOUTH AND 800 FEET WEST FROM THE CENTER OF SECTION 4 (Latitude: 45.50716; Longitude: -117.45096)

Instream Point No. 4:

At Foster/Mid-Valley POD (described in Reach No. 3 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.166	0.055	29.70	6.60	
93519	1883	0.033	0.011	5.90	1.30	
93527	1889	0.005	0.002	0.90	0.20	
Total		0.999	0.329	178.60	39.66	

Instream Reach No. 4:

From: Immediately below the Foster/Mid-Valley Ditch POD to the Clearwater Ditch POD
(described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.163	0.054	29.11	6.47	
93519	1883	0.032	0.011	5.78	1.27	
93527	1889	0.005	0.002	0.88	0.20	
Total		0.995	0.328	177.87	39.50	

To: The Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

Instream Point No. 5:

At the Clearwater Ditch POD (described in Reach No. 4 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.163	0.054	29.11	6.47	
93519	1883	0.032	0.011	5.78	1.27	
93527	1889	0.005	0.002	0.88	0.20	
93513	1883	0.350	0.115	62.60	13.90	
93515	May 1897	0.033	0.011	5.90	1.30	
93517	1883	0.207	0.068	36.90	8.20	
Total		1.585	0.522	283.27	62.90	

Instream Reach No. 5:

From: Immediately below the Clearwater Ditch POD to the Tulley-Hill Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
Total		1.445	0.477	258.21	57.33	

To: The Tulley-Hill Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2559 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

Instream Point No. 6:

At the Tulley-Hill POD (described in Reach No. 5 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
93523	1900	0.381	0.125	68.00	15.10	
93531	1881	0.043	0.014	7.70	1.70	
93533	3/27/1901	0.025	0.008	4.50	1.00	
Total		1.894	0.624	338.41	75.13	

Instream Reach No. 6:

From: Immediately below the Tulley-Hill POD to the mouth of the Lostine River (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
93523	1900	0.343	0.113	61.20	13.59	
93531	1881	0.039	0.013	6.93	1.53	
93533	3/27/1901	0.023	0.007	4.05	0.90	
Total		1.850	0.610	330.39	73.35	

To: The mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133)

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 7:**

From the authorized POD for Certificate 11642 as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
11642 (IS)	6/6/1935	1.238	0.041	222.8	49.5	May 3 through September 30

To: The authorized POD for Certificate 62054 (as described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	19	SE NE	3200 FEET NORTH AND 920 FEET WEST FROM THE SE CORNER OF SECTION 19

Instream Reach No. 8:

At the authorized POD for Certificate 62054 to the confluence of the Lostine River (as described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
11642 (IS)	6/6/1935	1.238	0.041	222.8	49.5	May 3 through September 30
62054	10/30/1979	0.240	0.240	43.40	29.40	
Total		1.478	0.281	266.2	78.90	

To: The confluence with the Lostine River in the NWSE of Sec. 19, T1N, R43E, WM (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133

Instream Reach No. 9:

From the mouth of the Lostine River (approx. RM 25.9) (as described in Reach No. 6):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
11642 (IS)	6/6/1935	0.743	0.025	133.68	29.70	May 3 through September 30
62054	10/30/1979	0.144	0.144	26.04	17.64	
93536	3/27/1901	0.018	0.006	3.24	0.72	
93525	1896	0.041	0.013	7.32	1.62	
93525	1882	0.428	0.140	76.44	16.98	
93519	1889	0.100	0.033	17.82	3.96	
93519	1883	0.020	0.007	3.54	0.78	
93527	1889	0.003	0.001	0.54	0.12	
93513	1883	0.210	0.069	37.56	8.34	
93515	May 1897	0.020	0.007	3.54	0.78	
93517	1883	0.124	0.041	22.14	4.92	

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93523	1900	0.229	0.075	40.80	9.06	May 3 through September 30
93531	1881	0.026	0.008	4.62	1.02	
93533	3/27/1901	0.015	0.005	2.70	0.60	
Total		2.121	0.574	379.98	96.24	

To: A location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 26.4) at
Latitude: 45.55639, Longitude: -117.48803.

Instream Reach No. 10:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 26.4) (as described in Reach No. 9):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
11642 (IS)	6/6/1935	0.495	0.016	89.12	19.80	May 3 through September 30
62054	10/30/1979	0.096	0.096	17.36	11.76	
93536	3/27/1901	0.012	0.004	2.16	0.48	
93525	1896	0.027	0.009	4.88	1.08	
93525	1882	0.285	0.094	50.96	11.32	
93519	1889	0.066	0.022	11.88	2.64	
93519	1883	0.013	0.004	2.36	0.52	
93527	1889	0.002	0.001	0.36	0.08	
93513	1883	0.140	0.046	25.04	5.56	
93515	May 1897	0.013	0.004	2.36	0.52	
93517	1883	0.083	0.027	14.76	3.28	
93523	1900	0.152	0.050	27.20	6.04	
93531	1881	0.017	0.006	3.08	0.68	
93533	3/27/1901	0.010	0.003	1.80	0.40	
Total		1.411	0.382	253.32	64.16	

To: The location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.75) at
Latitude: 45.57406, Longitude: -117.52571

Instream Reach No. 11:

From the location in the SESE of Sec. 11, T1N, R42E, WM (at approx. RM 23.75) at
Latitude: 45.57406, Longitude: -117.52571

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
11642 (IS)	6/6/1935	0.371	0.012	66.84	14.85	May 3 through September 30
62054	10/30/1979	0.072	0.072	13.02	8.82	
93536	3/27/1901	0.009	0.003	1.62	0.36	
93525	1896	0.020	0.007	3.66	0.81	
93525	1882	0.214	0.070	38.22	8.49	
93519	1889	0.050	0.017	8.91	1.98	
93519	1883	0.010	0.003	1.77	0.39	

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93527	1889	0.002	0.001	0.27	0.06	May 3 through September 30
93513	1883	0.105	0.035	18.78	4.17	
93515	May 1897	0.010	0.003	1.77	0.39	
93517	1883	0.062	0.020	11.07	2.46	
93523	1900	0.114	0.038	20.40	4.53	
93531	1881	0.013	0.004	2.31	0.51	
93533	3/27/1901	0.008	0.002	1.35	0.30	
Total		1.060	0.287	189.99	48.12	

To: The mouth of the Wallowa River (RM 0.0) at the confluence with the Grande Ronde River (approx. RM 100.0) located within the SWNW of Sec. 23, R3N, R40E, WM.

57. Transfer application requests to protect water instream from the Lostine River into the Wallowa River. An instream reach is generally from the point of diversion to the mouth of the source stream (Lostine), but may be protected further if measurable in the receiving stream (Wallowa) (OAR 690-077-0015(8)). The quantity of water that may be transferred instream in the Lostine River is measurable into the Wallowa River and may be protected instream in the Wallowa River.
58. Certificate 11642 is supplemental to Certificates 93513, 93515, 93517, and 93525. The portion of Certificate 11642 being transferred instream shall only be protected instream if the full rate and duty under Certificates 93513, 93515, 93517, and 93525 is not available.
59. The proposed changes would not result in enlargement of the right.
60. The proposed changes would not result in injury to other water rights.
61. The amount of the proposed instream flow and the timing of the proposed instream flow are allowable within the limits and use of the original water right.
62. The protection of flows within the proposed reaches is appropriate, considering:
 - a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are no known areas of natural loss of streamflow to the river bed downstream from the point of diversion; and
 - d) Return flow resulting from the exercise of the existing water rights would re-enter the river within the reaches of the instream water rights below the points of diversions. The quantity of water to be protected has been reduced to account for return flows.
63. Within the proposed reaches there are several existing instream water rights for the same reaches as that proposed for the new instream water right. One existing instream water

right, Certificate 59814 on the Lostine River, established under ORS 537.346 (minimum streamflow conversion) for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. There is an instream water right, Certificate 73023 on the Wallowa River, established under ORS 537.341 (state agency application process) for the purposes of anadromous and resident fish habitat and carries a priority date of November 22, 1991. The remaining instream water rights, Certificates 87709, 59808, and 93535, were established under ORS 537.348 (instream transfer process) and ORS 537.470 (allocation of conserved water process).

64. The existing instream water rights, established under ORS 537.346 (minimum stream flow conversion, and ORS 537.341 (state agency application process), within the proposed reaches are sufficient to protect the monthly quantities of water necessary for support aquatic life and anadromous and resident fish habitat. By replacing a portion of these instream water rights, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life and anadromous and resident fish habitat under earlier priority dates.
65. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process) within the proposed reaches, and new instream water right established by the transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
66. During the period of May 3 through September 30, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346, and may be in addition to instream water rights established pursuant to ORS 537.348 and ORS 537.470, unless otherwise specified in an order approving a new instream water right under these statutes.
67. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Conclusions of Law

The proposed changes in place of use and changes in character of use to instream use proposed in application T-12853 are consistent with the requirements of ORS 540.505 to 540.580, ORS 537.348, OAR 690-380-5000, and OAR 690-077-0075.

Now, therefore, It is ORDERED:

1. The changes in character of use and place of use to instream use proposed in application T-12853 are approved.

2. The change in place of use of Certificate 81507 proposed in application T-12853 is approved.
3. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 11642, 62054, 81507, 93513, 93515, 93517, 93519, 93523, 93525, 93527, 93531, 93533, and 93536 and any related decree.
4. Certificates 11642, 62054, 93513, 93515, 93517, 93519, 93523, 93525, 93527, 93531, 93533, and 93536 are cancelled and a new instream water right for the portion of the right transferred to instream use shall be issued. New certificates for the remaining portions of the rights not modified by this transfer shall also be issued. Certificate 81507 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
5. The instream water right shall provide for the protection of streamflows from the points of diversion, as described in Findings of Fact Nos. 12, 15, 18, 21, 24, 27, 31, 33, 35, 37, 40, and 43, to the mouth of the Wallowa River.
6. The quantity of water to be protected under the instream water right is:

LOSTINE RIVER, tributary to the Wallowa River

Instream Point No. 1:

At the Westside Ditch Point of Diversion (POD) as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	27	NW SE	WESTSIDE DITCH: 152 FEET SOUTH AND 200 FEET EAST FROM THE CENTER OF SECTION 27

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.030	0.010	5.40	1.20	May 3 through September 30

Instream Reach No. 1:

From immediately below the Westside Ditch POD to Miles-Magill Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30

To: Miles-Magill Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	NE SE	MILES - MAGILL DITCH: Latitude: 45.4920258487; Longitude: -117.4380355698

Instream Point No. 2:

At the Miles-Magill Ditch POD:

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.068	0.022	12.20	2.70	
Total		0.097	0.032	17.49	3.88	

Instream Reach No. 2:

Immediately below the Miles-Magill Ditch POD to the Miles Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
Total		0.096	0.032	17.25	3.83	

To: The Miles Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	9	SE NE	MILES DITCH: Latitude: 45.494134; Longitude: -117.438922

Instream Point No. 3:

At the Miles Ditch POD (described in Reach No. 2 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.713	0.234	127.40	28.30	
Total		0.809	0.266	144.65	32.13	

Instream Reach No. 3:

From: Immediately below the Miles Ditch POD to the Foster/Mid-Valley Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3-7/31	8/1-9/30	5/3-7/31	8/1-9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
Total		0.795	0.261	142.10	31.56	

To: Foster/Mid-Valley Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	4	NE SW	FOSTER/MID-VALLEY DITCH - 350 FEET SOUTH AND 800 FEET WEST FROM THE CENTER OF SECTION 4 (Latitude: 45.50716; Longitude: -117.45096)

Instream Point No. 4:

At Foster/Mid-Valley POD (described in Reach No. 3 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.166	0.055	29.70	6.60	
93519	1883	0.033	0.011	5.90	1.30	
93527	1889	0.005	0.002	0.90	0.20	
Total		0.999	0.329	178.60	39.66	

Instream Reach No. 4:

From: Immediately below the Foster/Mid-Valley Ditch POD to the Clearwater Ditch POD (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.163	0.054	29.11	6.47	
93519	1883	0.032	0.011	5.78	1.27	
93527	1889	0.005	0.002	0.88	0.20	
Total		0.995	0.328	177.87	39.50	

To: The Clearwater Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	33	SW SW	CLEARWATER DITCH: 1283 FEET NORTH AND 313 FEET EAST FROM THE SW CORNER OF SECTION 33

Instream Point No. 5:

At the Clearwater Ditch POD (described in Reach No. 4 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.029	0.010	5.29	1.18	May 3 through September 30
93525	1896	0.067	0.022	11.96	2.65	
93525	1882	0.699	0.229	124.85	27.73	
93519	1889	0.163	0.054	29.11	6.47	
93519	1883	0.032	0.011	5.78	1.27	
93527	1889	0.005	0.002	0.88	0.20	
93513	1883	0.350	0.115	62.60	13.90	
93515	May 1897	0.033	0.011	5.90	1.30	
93517	1883	0.207	0.068	36.90	8.20	
Total		1.585	0.522	283.27	62.90	

Instream Reach No. 5:

From: Immediately below the Clearwater Ditch POD to the Tulley-Hill Ditch POD
(described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
Total		1.445	0.477	258.21	57.33	

To: The Tulley-Hill Ditch POD:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	29	SE SW	TULLEY-HILL DITCH: 1080 FEET NORTH AND 2559 FEET EAST FROM THE SW CORNER OF SECTION 29 (Latitude: 45.533175; Longitude: -117.469878)

Instream Point No. 6:

At the Tulley-Hill POD (described in Reach No. 5 above):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
93523	1900	0.381	0.125	68.00	15.10	
93531	1881	0.043	0.014	7.70	1.70	
93533	3/27/1901	0.025	0.008	4.50	1.00	
Total		1.894	0.624	338.41	75.13	

Instream Reach No. 6:

From: Immediately below the Tulley-Hill POD to the mouth of the Lostine River (described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
93536	3/27/1901	0.027	0.009	4.86	1.08	May 3 through September 30
93525	1896	0.061	0.020	10.98	2.43	
93525	1882	0.642	0.211	114.66	25.47	
93519	1889	0.149	0.050	26.73	5.94	
93519	1883	0.030	0.010	5.31	1.17	
93527	1889	0.005	0.002	0.81	0.18	
93513	1883	0.315	0.104	56.34	12.51	
93515	May 1897	0.030	0.010	5.31	1.17	
93517	1883	0.186	0.061	33.21	7.38	
93523	1900	0.343	0.113	61.20	13.59	
93531	1881	0.039	0.013	6.93	1.53	
93533	3/27/1901	0.023	0.007	4.05	0.90	
Total		1.850	0.610	330.39	73.35	

To: The mouth of the Lostine River at RM 0.00 at the Confluence with the Wallowa River (approx. RM 25.9), located within the NWSE of Sec. 19, T1N, R43E, W.M. (Latitude: 45.5522272; Longitude: -117.490133)

WALLOWA RIVER, tributary to the Grande Ronde River**Instream Reach No. 7:**

From the authorized POD for Certificate 11642, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 S	43 E	WM	11	SW SE	CROSS COUNTRY CANAL: 912 FEET NORTH AND 2000 FEET WEST FROM THE SE CORNER OF SECTION 11

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
11642	6/6/1935	1.238	0.041	222.8	49.5	May 3 through September 30

To: the authorized POD for Certificate 62054 (described below):

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	43 E	WM	19	SE NE	3200 FEET NORTH AND 920 FEET WEST FROM THE SE CORNER OF SECTION 19

Instream Reach No. 8:

At the authorized POD for Certificate 62054 to the confluence of the Lostine River
(described below):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
11642 (IS)	6/6/1935	1.238	0.041	222.8	49.5	May 3 through September 30
62054	10/30/1979	0.240	0.240	43.40	29.40	
Total		1.478	0.281	266.2	78.90	

To: The confluence with the Lostine River in the NWSE of Sec. 19, T1N, R43E, WM (approx. RM 25.9) at Latitude: 45.552227, Longitude: -117.490133

Instream Reach No. 9:

From the mouth of the Lostine River (approx. RM 25.9) (described in Reach No.8):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
11642 (IS)	6/6/1935	0.743	0.025	133.68	29.70	May 3 through September 30
62054	10/30/1979	0.144	0.144	26.04	17.64	
93536	3/27/1901	0.018	0.006	3.24	0.72	
93525	1896	0.041	0.013	7.32	1.62	
93525	1882	0.428	0.140	76.44	16.98	
93519	1889	0.100	0.033	17.82	3.96	
93519	1883	0.020	0.007	3.54	0.78	
93527	1889	0.003	0.001	0.54	0.12	
93513	1883	0.210	0.069	37.56	8.34	
93515	May 1897	0.020	0.007	3.54	0.78	
93517	1883	0.124	0.041	22.14	4.92	
93523	1900	0.229	0.075	40.80	9.06	
93531	1881	0.026	0.008	4.62	1.02	
93533	3/27/1901	0.015	0.005	2.70	0.60	
Total		2.121	0.574	379.98	96.24	

To: A location in the NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 26.4) at Latitude: 45.55639, Longitude: -117.48803.

Instream Reach No. 10:

From the location in NWNW of Sec. 19, T1N, R43E, W.M. (approx. RM 26.4) (as described in Reach No. 9):

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
11642 (IS)	6/6/1935	0.495	0.016	89.12	19.80	May 3 through September 30
62054	10/30/1979	0.096	0.096	17.36	11.76	
93536	3/27/1901	0.012	0.004	2.16	0.48	
93525	1896	0.027	0.009	4.88	1.08	
93525	1882	0.285	0.094	50.96	11.32	
93519	1889	0.066	0.022	11.88	2.64	
93519	1883	0.013	0.004	2.36	0.52	
93527	1889	0.002	0.001	0.36	0.08	
93513	1883	0.140	0.046	25.04	5.56	
93515	May 1897	0.013	0.004	2.36	0.52	
93517	1883	0.083	0.027	14.76	3.28	
93523	1900	0.152	0.050	27.20	6.04	
93531	1881	0.017	0.006	3.08	0.68	
93533	3/27/1901	0.010	0.003	1.80	0.40	
Total		1.411	0.382	253.32	64.16	

To: The location in the SESE of Sec. 11, T1N, R43E, WM (approx. RM 23.75) at Latitude: 45.57406, Longitude: -117.52571

Instream Reach No. 11:

From the location in the SESE of Sec. 11, T1N, R42E, WM (approx. RM 23.75) at Latitude: 45.57406, Longitude: -117.52571

Certificate	Priority	Instream Rate (CFS)		Instream Volume (AF)		Period Protected
		5/3 - 7/31	8/1 - 9/30	5/3 - 7/31	8/1 - 9/30	
11642 (IS)	6/6/1935	0.371	0.012	66.84	14.85	May 3 through September 30
62054	10/30/1979	0.072	0.072	13.02	8.82	
93536	3/27/1901	0.009	0.003	1.62	0.36	
93525	1896	0.020	0.007	3.66	0.81	
93525	1882	0.214	0.070	38.22	8.49	
93519	1889	0.050	0.017	8.91	1.98	
93519	1883	0.010	0.003	1.77	0.39	
93527	1889	0.002	0.001	0.27	0.06	
93513	1883	0.105	0.035	18.78	4.17	
93515	May 1897	0.010	0.003	1.77	0.39	
93517	1883	0.062	0.020	11.07	2.46	
93523	1900	0.114	0.038	20.40	4.53	
93531	1881	0.013	0.004	2.31	0.51	
93533	3/27/1901	0.008	0.002	1.35	0.30	
Total		1.060	0.287	189.99	48.12	

To: The mouth of the Wallowa River (RM 0.0) at the confluence with the Grande Ronde River (approx. RM 100.0) located within the SWNW of Sec. 23, R3N, R40E, WM.

7. Water rights upstream of the original points of diversion shall not be subject to regulation for flows in excess of the quantities to which this instream water right is entitled at the original points of diversion.
8. Within the specified stream reaches, the amount of water to which this right is entitled shall not exceed the quantity of water legally available at the original points of diversion.
9. The instream right established by this transfer shall replace a portion of instream water rights established pursuant to ORS 537.341 or 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or 537.470, unless otherwise specified by an order approving a new instream water right under these statutes.
10. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a Parshall flume, or with prior approval of the Director, another suitable measuring device, at each point of diversion (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring device(s); provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
11. The former places of use of the transferred water shall no longer receive water as part of these rights.
12. Full beneficial use of water shall be made, consistent with the terms of this order, on or before October 1, 2020. A Claim of Beneficial Use prepared by a Certified Water Right examiner shall be submitted by the Applicant to the Department within one year after the deadline for completion of the change in Certificate 81507 and full beneficial use of water.
13. After satisfactory proof of beneficial use is received for Certificate 81507, a new certificate confirming the right transferred will be issued in the name of Minam Lake Reservoir Company.

Dated at Salem, Oregon, DEC 28 2018.


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

Mailing date: DEC 31 2018