

T-13451

Instream TLIS

T-13451

Name C Glen d Ronda SmithAddress 5103 NW 21st Street
Pendleton Oregon 97801
glen.smith@cert.org.comChange in USE, POWDate Filed 6/3/2020Initial notice date 6/9/2020

DPD issued date

PD issued date 3/18/2021PD notice date 3/23/2021Date of FO 5/10/2021 Vol 120 Page 499

C-Date

COBU due date

COBU Received date

Certificate issued

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Catherine CreekTrib. of Grand Ronde riverUse Irrigation County Union

Quantity of water (CFS) No. of Acres

Name of ditch

App# Decree Per # Grand Ronde river Cert # 6459 PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

FEES PAID

Date	Amount	Receipt #
<u>6/3/2020</u>	<u>\$1,045.00</u>	<u>CA0008</u>

FEES REFUNDED

Date	Amount	Receipt #
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Assignments:

Irrigation District

Agent Jessica Humphreys jessica@thefreshwaterinst.org

CWRE

CC's list Union CountyCity of Union☐ - 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: MAY 10 2021

Applicant

C. Glen and Ronda G. Smith
563 NW 21st Street
Pendleton, Oregon 97801

Agent

The Freshwater Trust (TFT)
401 NE 1st Street
Enterprise, Oregon 97828

SUBJECT: Time-Limited Instream Transfer Application T-13451

Enclosed is a copy of the final order approving your TIME LIMITED instream water right transfer application.

The temporary change shall be effective upon approval of the final order. The use shall revert to the original authorized place of use on **November 1, 2033**.

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: T-13451
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

January 29, 2021, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

5. On March 18, 2021, the Department issued a Preliminary Determination proposing to approve Transfer T-13451 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 March 23, 2021, and in the La Grande Observer newspaper on March 20, 2021 and March 27, 2021, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.

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

Certificate: 6459 in the name of E. H. Miles (perfected under the Grande Ronde River Decree, of record at Salem, in the Order Record of the State Engineer, in Volume 8, at Page 1)

Use: Irrigation of 19.2 acres

Priority Date: 1872

Quantity: **Limit:** That the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed three acre feet per acre in any irrigation season, diverted at a rate of not to exceed one-fortieth of a cubic foot per second per acre;

Source: Catherine Creek, tributary to the Grande Ronde River

Authorized Point of Diversion (POD): Not described on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	40 E	WM	34	NE SW	7.0
4 S	40 E	WM	34	NW SW	12.2
Total:					19.2

7. Certificate 6459 does not provide a description of the location of the point of diversion. Based upon additional information provided by the Applicant and Agent, for purposes of this Time-Limited Instream Transfer, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
4 S	40 E	WM	34	SW SE	POD NO. 1 (SAMS DITCH): LATITUDE 45.167247, LONGITUDE -117.799479

8. Certificate 6459 does not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of this time-limited instream transfer, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream. However, additional information

is available from the Grande Ronde River Decree at Paragraph 18, Page 17, indicating a rate of 1/80th cfs per acre for 120 days was sufficient for irrigation.

9. The Grande Ronde Decree further states water may be used at a rate up to the equivalent of 1/40th cfs per acre but only on a rotation basis. The use of water at 1/80th cfs per acre is allowed at a continuous rate. The Department and the applicant identified that the instream rate is equivalent to 1/40th cfs per acre and cannot be maintained as a continuous flow without injury to other water rights. Water will be protected instream at rates equivalent to 1/80th cfs per acre.
10. A total of 57.6 acre-feet of water may be beneficially used annually under the existing right.
11. Transfer Application T-13451 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; and pollution abatement for a period of 13 years.
12. The applicant requests that the water use revert to its authorized use and place of use after 13 years from the date of the order beginning in 2021. Since water under a right may not be protected instream and diverted to out-of-stream use within the same irrigation season, the instream use may be allowed for a term of 13 (irrigation) seasons, ending October 31, 2033.
13. Transfer Application T-13451 proposes to change the place of use of the right to create an instream reach from the point of diversion to the mouth of Catherine Creek.
14. The applicant proposes the quantities water to be transferred instream be as protected follows:

Instream Period	Instream Rate (cfs)	Instream Volume (acre-feet)
July 1 through October 28	0.24	57.6

15. The applicant has requested the instream water right established as a result of this time-limited 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); and 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)

16. This portion of Certificate 6459 was leased instream under IL-1531 during the period of 2016 through 2020 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.

17. 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-13451.
18. A portion of the water diverted at the POD returns to Catherine Creek within the proposed reach and is available to downstream water right holders. Approximately 20% of return flows from the existing use return to the creek system below the POD. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream should be modified to account for return flows immediately below the POD.
19. In addition, there are known areas of natural streamflow loss to the river bed downstream from the point of diversion. The Watermaster has identified that below river mile 12 there is a loss of 1% per mile. The quantity that may be protected instream below river mile 12 will be adjusted to prevent injury to downstream users and enlargement of the right.
20. Based on the Finding of Fact Nos. 8, 9, 18, and 19, the quantities to be transferred and protected instream have been modified and are as follows:

Catherine Creek, tributary to the Grande Ronde River

Instream Point No. 1: At Sams Ditch POD (as described in Finding of Fact No. 7)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.24	57.6	July 1 through October 28

Instream Reach: From immediately below Sams Ditch POD to the River Mile 12

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.19	46.08	July 1 through October 28

From River Mile 12 to the mouth of Catherine Creek the amount protected instream will be reduced by 1% per mile

Instream Point No. 2: At mouth of Catherine Creek

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.17	40.42	July 1 through October 28

21. Other conditions to prevent injury and enlargement are:

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 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 reach to the mouth of Catherine Creek.

22. The proposed change, as modified, would not result in enlargement of the right.
23. The proposed change, as modified, would not result in injury to other water rights.
24. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
25. The protection of flows within the proposed reach is appropriate, considering:
 - a) The instream water right begins at the recorded point of diversion;
 - b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are known areas of natural loss of streamflow to the riverbed downstream from the point of diversion. The quantity of water to be protected instream has been reduced by 1% per mile below River Mile 12 to account for the loss; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right. The quantity of water to be protected instream has been reduced in the instream reach to account for return flows.
26. Within the proposed reach on Catherine Creek, there are several existing instream water rights. There is one instream water right, Certificate 59537, established under ORS 537.346 (minimum flow conversion) for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. This instream right overlaps with the proposed new instream water right over a short segment at the beginning of the reach from the POD as described in Finding of Fact No. 6, to the Swackhammer diversion at Union, located about 400 feet downstream from the POD. There are also other existing instream water rights established under ORS 537.348(2) (instream transfer and lease process) for fish and wildlife habitat.
27. The existing instream water right, established under ORS 537.346 (minimum streamflow conversion), within a portion of the reach on Catherine Creek is sufficient to protect the monthly quantities of water necessary for supporting aquatic life but is not always met. By replacing a portion of this instream water right, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life under an earlier priority date.
28. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process), located within the proposed reach, any new instream water right established by this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and pollution abatement.

29. During the period of July 1 through October 28, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving new instream water rights under these statutes.
30. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Conclusions of Law

The changes in character of use and place of use to instream use proposed in application T-13451 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-13451 are approved.
2. The exercise of the right evidenced by Certificate 6459 for irrigation at the former place of use as described in Finding of Fact No. 6 shall be SUSPENDED, without loss of priority, for the term of this order as authorized herein.
3. The instream water right established under this order shall provide for the protection of streamflows as follows:

Catherine Creek, tributary to the Grande Ronde River

Instream Point No. 1: At Sams Ditch POD (as described in Finding of Fact No. 7)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.24	57.6	July 1 through October 28

Instream Reach: From immediately below Sams Ditch POD to the River Mile 12

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.19	46.08	July 1 through October 28

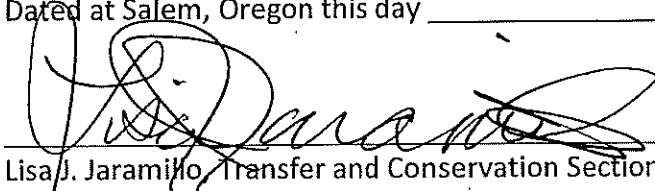
From River Mile 12 to the mouth of Catherine Creek the amount protected instream will be reduced by 1% per mile

Instream Point No. 2: At mouth of Catherine Creek

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.17	40.42	July 1 through October 28

4. 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.
5. 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 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 reach to the mouth of Catherine Creek.
6. During the term of this order, 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.
7. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 6459 and any related decree.
8. The term of this Final Order shall begin on the date this order is approved and continue through October 31, 2033.
9. Upon expiration of this time-limited instream transfer, the use of water shall revert to its original use and place of use as described by Certificate 6459. The use shall revert to the authorized use and place of use on November 1, 2033.
10. This order may be terminated prior to the end date of October 31, 2033, and revert back to the original use and place of use only upon submission of a termination request from The Freshwater Trust and the Landowner.

Dated at Salem, Oregon this day MAY 10 2021.



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

Mailing date: MAY 11 2021

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

RECEIPT # **134630**

INVOICE # _____

RECEIVED FROM: The Freshwater Trust

BY: _____

CASH: ☐ CHECK: # 1000415 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>1-13451</u>

TOTAL REC'D \$ 155.84

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES <u>4618</u>	\$
<u>0307</u> OTHER: (IDENTIFY) <u>Newspaper Notice</u>	\$ <u>155.84</u>

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	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		\$

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **134630**

DATED: 2-26-2021 BY: Mindy Corda

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

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APR 12 2021

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IN THE CIRCUIT COURT OF THE
STATE OF OREGON FOR UNION,
BAKER COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of Union, Baker } ss

I, Ramona V. Biogorkli being duly
sworn, depose and say that I am
the principal clerk of the publisher
of the La Grande Observer, Baker
City Herald, lagrandeobserver.com,
a newspaper of general circulation,
as defined by ORS 193.010 and
193.020; that the

Legal #230826 T-13451

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:
03/20/2021, 03/27/2021

Subscribed and sworn to before me
on this 6th day of April, A.D. 2021

Notice of Preliminary
Determination for Time
Limited Instream Water Right
Transfer T-13451

T-13451 filed by C. Glen and
Ronda G. Smith and the Fresh-
water Trust, proposes a change
in place of use and character
of use under Certificate 6459.
Certificate 6459 allows the use
of 0.24 cubic foot per second
from Catherine Creek in Sec. 34,
T4S, R40E, WM for irrigation in
Sec. 34. The applicant proposes
to create time-limited instream
use in Catherine Creek from the
point of diversion to the mouth of
the Creek. The Water Resour-
ces Department proposes to ap-
prove the transfer, based on the
requirements of ORS Chapter
540, OAR 690-380-5000 and
OAR 690-077-0075.

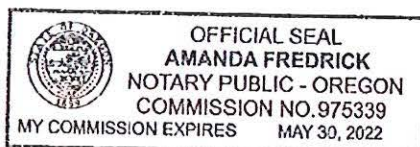
Any person may file, jointly or
severally, a protest or stand-
ing statement within 30 days
after the last date of news-
paper publication of this no-
tice, 03/27/2021. Call (503)
986-0815 to obtain additional
information. If no protests
are filed, the Department will
issue a final order consistent
with the preliminary determi-
nation.

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

Published: March 20, 27, 2021
Legal No.230826

Ramona V. Biogorkli

Amanda Fredrick
Notary Public of Oregon



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)
County of Multnomah) ss

I, Robert Kirschner, in my capacity as General Counsel for The Freshwater Trust
mailing address 700 SW Taylor St., Suite 200, Portland, OR 97205
telephone number (503) 222-9091 ext 50, 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	1/4 1/4	Gov't Lot or DLC	Acres (if applicable)

OR

☐ Confirming Certificate # _____ has been issued within the past five years; **OR**

☒ Part or all of the water right was leased instream at some time within the last five years. The
instream lease number is: IL-1531 (Note: If the entire right proposed for
transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**

☐ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for
non-use would be rebutted under ORS 540.610(2) is attached.

☐ Water has been used at the actual current point of diversion or appropriation for more than
10 years for Certificate # _____ (For Historic POD/POA Transfers)

(continues on reverse side)

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

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

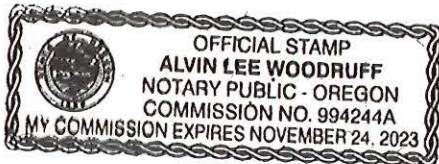


Signature of Affiant

1/27/2021

Date

Signed and sworn to (or affirmed) before me this 27 day of Jan, 2021.





Notary Public for Oregon
My Commission Expires: Nov. 24, 2023

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.terra-server.com
☒ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

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FEB 01

OW

In the Matter of Instream Lease Application)	DETERMINATION and
IL-1531, Union County)	FINAL ORDER ON PROPOSED
)	INSTREAM LEASE

Authority

Oregon Revised Statute (ORS) 537.348 establishes the process in which a water right holder may submit a request to lease an existing water right for instream purposes. Oregon Administrative Rule (OAR) Chapter 690, Division 077 implements the statutes and provides the Department's procedures and criteria for evaluating instream lease applications.

Lessors

C. Glen and Ronda G. Smith
563 NW 21st Street
Pendleton, OR 97801
glen.smith@pioneer.com

Lessee

The Freshwater Trust (TFT)
700 SW Taylor, Suite 200
Portland, Oregon 97205
rob@thefreshwatertrust.org

Findings of Fact

1. On April 25, 2019, C. Glen and Ronda Smith and TFT filed an application to renew instream lease IL-1531, involving a portion of Certificate 6459 for instream use.
2. The portion of the right to be leased is as follows:

Certificate: 6459 in the name of E. H. Miles (perfected under the Grande Ronde River Decree, of record at Salem, in the Order Record of the State Engineer, in Volume 8, at Page 1)

Use: Irrigation of 19.2 acres

Priority Date: 1872

Quantity: **Rate:** 0.48 Cubic Foot per Second (CFS)

Volume: 57.6 Acre-Feet (AF)

Limit: three acre-feet per acre in any irrigation season, diverted at a rate of not to exceed one-fortieth of a cubic foot per second per acre

Source: Catherine Creek, tributary to the Grande Ronde River

Authorized Point of Diversion (POD): Not described on Certificate

This is a final order in other than 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 either 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.

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	40 E	WM	34	NE SW	7.0
4 S	40 E	WM	34	NW SW	12.2
Total:					19.2

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3. Certificate 6459 does not provided a description of the location of the point of diversion. Based upon additional information provided by the Lessors and the Department's Watermaster, for purposes of this instream lease, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
4 S	40 E	WM	34	SW SE	POD NO. 1 (SAMS DITCH): LATITUDE 45.167247, LONGITUDE -117.799479

4. Certificate 6459 does not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of instream leasing, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream.
5. The lease application includes the information required under OAR 690-077-0076(3). The Department provided notice of the lease application pursuant to OAR 690-077-0077(1). No comments were received.
6. A portion of the water diverted at the POD returns to Catherine Creek within the proposed reach and is available to downstream water right holders. Approximately 20% of return flows from the existing use return to the creek system below the POD. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream should be modified to account for return flows immediately below the POD.
7. Under the Grande Ronde Decree water may be used at a rate up to the equivalent of 1/40th cfs per acre but only on a rotation basis. The use of water at 1/80th cfs per acre is allowed at a continuous rate. The Watermaster identified that the instream rate is equivalent to 1/40th cfs per acre and cannot be maintained as a continuous flow without injury to other water rights. Water may be protected instream at rates equivalent to 1/80th cfs per acre.
8. The instream is as follows:

Catherine Creek, tributary to the Grande Ronde River

Instream Point: At Sams Ditch POD (as described in Finding of Fact No. 3)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.24	57.6	July 1 through October 29

Instream Reach: From immediately below Sams Ditch POD to the mouth of Catherine Creek

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.19	46.08	July 1 through October 29

FEB 01 2021

9. Other conditions to prevent injury and enlargement are:

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 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 points of diversion within the specified stream reach.

10. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.

11. The protection of flows within the proposed reach is appropriate, considering:

- a. The instream water use 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. Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right. The quantity of water to be protected instream has been reduced to account for return flows.

12. 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.

13. The total monthly quantities of water to be protected instream under existing and proposed instream rights in the reach do not exceed the estimated average natural flow.

14. If approved, this instream lease is not reasonably expected to significantly affect land use as prescribed by ORS 197.180, OAR Chapter 660, Divisions 30 and 31, and OAR Chapter 690, Division 5.

15. Based upon review of the application, information provided by the Department's Watermaster, and other available information, the Department finds that the lease will not result in injury or enlargement. The order approving this instream lease may be modified or revoked under OAR 690-077-0077 if the Department later finds that the lease is causing injury to any existing water right or enlargement of the original right.

16. If a right which has been leased is later proposed to be leased again, transferred and/or reviewed under an allocation of conserved water, a new injury review shall be required. For example, instream transfers will be subject to a full and complete review to determine consistency with the requirements of OAR Chapter 690, Division 380 and Division 077. Approval of this lease does not establish a precedent for approval of any future transactions.

17. The Lessors and Lessee have requested that the lease terminate on October 31, 2020. The lease may commence on the date this final order is signed.

18. The Lessors and Lessee have requested the option of terminating the lease early but only with consent of all parties to the lease.

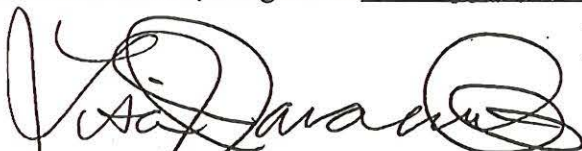
Conclusions of Law

The Department concludes that the lease will not result in injury or enlargement, OAR 690-077-0077. The lease conforms to the applicable provisions of OAR 690-077-0015.

Now, therefore it is ORDERED:

1. The Lease as described herein is APPROVED.
2. During each year of the term of the lease, the former place of use will no longer receive water as part of these rights, any supplemental rights, or any other layered irrigation water rights, including ground water registrations and permits.
3. The term of the lease will commence upon approval of the instream lease and terminate on October 29, 2020. For multiyear leases, the lessor and lessee *shall* have the option of terminating the lease any time each year with written notice to the Department. The Lessor and/or Lessee may only terminate the lease early with the consent of all parties to the lease. However, if the termination request is received less than 30-days prior to the instream use period (July 1 through October 29) or after the water rights' original period of allowed use has begun, the Department may issue an order terminating the lease but use of water may not be allowed until the following calendar year, unless the Director determines that enlargement would not occur.

Issued in Salem, Oregon this JUN 06 2019.



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

Mailing date: JUN 07 2019

This document was prepared by Corey Courchane and if you have any questions, please call 503-986-0825.

RECEIVED

FEB 01 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

March 18, 2021

VIA E-MAIL

Applicant

C. Glen and Ronda G. Smith
563 NW 21st Street
Pendleton, Oregon 97801
glen.smith@coreva.com

Agent

The Freshwater Trust (TFT)
401 NE 1st Street
Enterprise, Oregon 97828
rob@thefreshwatertrust.org

SUBJECT: Time-Limited Instream Transfer Application T-13451

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-13451. 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 Observer newspaper in La Grande, Oregon, 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,



Sarah Henderson
Flow Restoration Program Coordinator
Transfer and Conservation Section

cc: Transfer Application file T-13451
Shad Hattan, District 6 Watermaster *(via e-mail)*
Meg Belais, The Freshwater Trust, Agent for the applicant *(via e-mail)*
Jessica Humphreys, Agent for the applicant *(via e-mail)*

encs

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

In the Matter of Time Limited Instream	)	PRELIMINARY DETERMINATION
Transfer Application T-13451, Union	)	PROPOSING APPROVAL OF CHANGES IN
County	)	PLACE OF USE AND CHARACTER OF USE

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.

Applicant

C. Glen and Ronda G. Smith
563 NW 21st Street
Pendleton, Oregon 97801

Agent

The Freshwater Trust (TFT)
401 NE 1st Street
Enterprise, Oregon 97828

Findings of Fact

1. On May 15, 2020, C. Glen and Ronda G. Smith and TFT filed a time-limited instream transfer application to change the character of use and place of use under Certificate 6459 to instream use for a period of 13 years (2021-2033 irrigation seasons). The Department assigned the application number T-13451.
2. Notice of the application for transfer was published on June 9, 2020, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. Consistent with land use requirements, prior to submitting the time-limited instream transfer application, the applicant provided notification of the intent to file the instream transfer application to the Union County Planning Department and the City of Union.
4. On December 31, 2020, the Department mailed a copy of the draft Preliminary Determination proposing to approve Time-Limited Instream Transfer Application T-13451 to the applicants. The draft Preliminary Determination cover letter set forth a deadline of January 29, 2021, for the applicants to respond. The applicants requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

Certificate: 6459 in the name of E. H. Miles (perfected under the Grande Ronde River Decree, of record at Salem, in the Order Record of the State Engineer, in Volume 8, at Page 1)

Use: Irrigation of 19.2 acres

Priority Date: 1872

Quantity: **Limit:** That the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed three acre feet per acre in any irrigation season, diverted at a rate of not to exceed one-fortieth of a cubic foot per second per acre;

Source: Catherine Creek, tributary to the Grande Ronde River

Authorized Point of Diversion (POD): Not described on Certificate

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
4 S	40 E	WM	34	NE SW	7.0
4 S	40 E	WM	34	NW SW	12.2
Total:					19.2

6. Certificate 6459 does not provide a description of the location of the point of diversion. Based upon additional information provided by the Applicant and Agent, for purposes of this Time-Limited Instream Transfer, the point of diversion is described as follows:

Twp	Rng	Mer	Sec	Q-Q	Latitude / Longitude
4 S	40 E	WM	34	SW SE	POD NO. 1 (SAMS DITCH): LATITUDE 45.167247, LONGITUDE -117.799479

7. Certificate 6459 does not specify the irrigation season; nor is an irrigation season specified by Basin Program or Decree. For the purposes of this time-limited instream transfer, an irrigation season of March 1 through October 31, consistent with OAR 690-250, shall be used to establish when water may be protected instream. However, additional information is available from the Grande Ronde River Decree at Paragraph 18, Page 17, indicating a rate of 1/80th cfs per acre for 120 days was sufficient for irrigation.
8. The Grande Ronde Decree further states water may be used at a rate up to the equivalent of 1/40th cfs per acre but only on a rotation basis. The use of water at 1/80th cfs per acre is allowed at a continuous rate. The Department and the applicant identified that the instream rate is equivalent to 1/40th cfs per acre and cannot be maintained as a continuous flow without injury to other water rights. Water will be protected instream at rates equivalent to 1/80th cfs per acre.
9. A total of 57.6 acre-feet of water may be beneficially used annually under the existing right.

10. Transfer Application T-13451 proposes to change the character of use to instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values; and pollution abatement for a period of 13 years.
11. The applicant requests that the water use revert to its authorized use and place of use after 13 years from the date of the order beginning in 2021. Since water under a right may not be protected instream and diverted to out-of-stream use within the same irrigation season, the instream use may be allowed for a term of 13 (irrigation) seasons, ending October 31, 2033.
12. Transfer Application T-13451 proposes to change the place of use of the right to create an instream reach from the point of diversion to the mouth of Catherine Creek.
13. The applicant proposes the quantities water to be transferred instream be as protected follows:

Instream Period	Instream Rate (cfs)	Instream Volume (acre-feet)
July 1 through October 28	0.24	57.6

14. The applicant has requested the instream water right established as a result of this time-limited 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); and replace a portion of any existing instream rights established pursuant to ORS 537.346 (minimum streamflow conversion) and ORS 537.341 (state agency instream application process), with a more senior priority date.

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

15. This portion of Certificate 6459 was leased instream under IL-1531 during the period of 2016 through 2020 irrigation seasons and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-13451.
17. A portion of the water diverted at the POD returns to Catherine Creek within the proposed reach and is available to downstream water right holders. Approximately 20% of return flows from the existing use return to the creek system below the POD. To prevent injury to downstream water right holders and enlargement, the quantity of water that may be protected instream should be modified to account for return flows immediately below the POD.

18. In addition, there are known areas of natural streamflow loss to the river bed downstream from the point of diversion. The Watermaster has identified that below river mile 12 there is a loss of 1% per mile. The quantity that may be protected instream below river mile 12 will be adjusted to prevent injury to downstream users and enlargement of the right.
19. Based on the Finding of Fact Nos. 7, 8, 17, and 18, the quantities to be transferred and protected instream have been modified and are as follows:

Catherine Creek, tributary to the Grande Ronde River

Instream Point No. 1: At Sams Ditch POD (as described in Finding of Fact No. 6)

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.24	57.6	July 1 through October 28

Instream Reach: From immediately below Sams Ditch POD to the River Mile 12

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.19	46.08	July 1 through October 28

From River Mile 12 to the mouth of Catherine Creek the amount protected instream will be reduced by 1% per mile

Instream Point No. 2: At mouth of Catherine Creek

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.17	40.42	July 1 through October 28

20. Other conditions to prevent injury and enlargement are:
- 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 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 reach to the mouth of Catherine Creek.
21. The proposed change, as modified, would not result in enlargement of the right.
22. The proposed change, as modified, would not result in injury to other water rights.
23. The amount and timing of the proposed instream flow is allowable within the limits and use of the original water right.
24. The protection of flows within the proposed reach is appropriate, considering:
- a) The instream water right begins at the recorded point of diversion;

- b) The location of confluences with other streams downstream of the point of diversion;
 - c) There are known areas of natural loss of streamflow to the riverbed downstream from the point of diversion. The quantity of water to be protected instream has been reduced by 1% per mile below River Mile 12 to account for the loss; and
 - d) Any return flows resulting from the exercise of the existing water right would re-enter the river downstream of the reach of the instream water right. The quantity of water to be protected instream has been reduced in the instream reach to account for return flows.
25. Within the proposed reach on Catherine Creek, there are several existing instream water rights. There is one instream water right, Certificate 59537, established under ORS 537.346 (minimum flow conversion) for the purposes of supporting aquatic life and carries a priority date of November 3, 1983. This instream right overlaps with the proposed new instream water right over a short segment at the beginning of the reach from the POD as described in Finding of Fact No. 6, to the Swackhammer diversion at Union, located about 400 feet downstream from the POD. There are also other existing instream water rights established under ORS 537.348(2) (instream transfer and lease process) for fish and wildlife habitat.
26. The existing instream water right, established under ORS 537.346 (minimum streamflow conversion), within a portion of the reach on Catherine Creek is sufficient to protect the monthly quantities of water necessary for supporting aquatic life but is not always met. By replacing a portion of this instream water right, any instream water right created as a result of this transfer will provide protection of stream flows identified as necessary for supporting aquatic life under an earlier priority date.
27. By adding to other instream water rights, established pursuant to ORS 537.348 (instream transfer process and instream lease) and ORS 537.470 (allocation of conserved water process), located within the proposed reach, any new instream water right established by this transfer would provide protection for additional flows identified as necessary for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values, and pollution abatement.
28. During the period of July 1 through October 28, any instream water right established by this transfer application may replace a portion of instream water rights established pursuant to ORS 537.341 or ORS 537.346 and be in addition to instream water rights established pursuant to ORS 537.348 or ORS 537.470, unless otherwise specified in an order approving new instream water rights under these statutes.
29. The total monthly quantities of water to be protected under the existing and proposed instream rights in the reach will provide for a beneficial purpose and do not exceed the estimated average natural flow.

Determination and Proposed Action

The changes in character of use and place of use to instream use proposed in application T-13451 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-13451 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-13451 are approved.*
- 2. The exercise of the right evidenced by Certificate 6459 for irrigation at the former place of use as described in Finding of Fact No. 5 shall be SUSPENDED, without loss of priority, for the term of this order as authorized herein.*
- 3. The instream water right established under this order shall provide for the protection of streamflows as follows:*

Catherine Creek, tributary to the Grande Ronde River

Instream Point No. 1: *At Sams Ditch POD (as described in Finding of Fact No. 6)*

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.24	57.6	July 1 through October 28

Instream Reach: *From immediately below Sams Ditch POD to the River Mile 12*

Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.19	46.08	July 1 through October 28

From River Mile 12 to the mouth of Catherine Creek the amount protected instream will be reduced by 1% per mile

Instream Point No. 2: *At mouth of Catherine Creek*

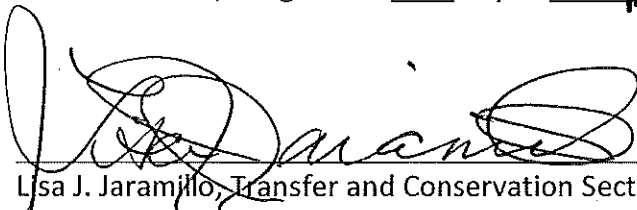
Certificate	Priority Date	Instream Rate (CFS)	Instream Volume (AF)	Period Protected Instream
6459	1872	0.17	40.42	July 1 through October 28

- 4. 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.*
- 5. 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 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 reach to the mouth of Catherine Creek.

6. During the term of this order, 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.
7. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 6459 and any related decree.
8. The term of this Final Order shall begin on the date this order is approved and continue through October 31, 2033.
9. Upon expiration of this time-limited instream transfer, the use of water shall revert to its original use and place of use as described by Certificate 6459. The use shall revert to the authorized use and place of use on November 1, 2033.
10. This order may be terminated prior to the end date of October 31, 2033, and revert back to the original use and place of use only upon submission of a termination request from The Freshwater Trust and the Landowner.

Dated at Salem, Oregon this ____ day of ~~____~~ **MAR 18 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 question 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.

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)
County of) ss
WALLOWA)

RECEIVED

MAY 15 2020

OWRD

I, JESSICA HUMPHREYS, in my capacity as PROJECT MANAGER FOR THE FRESHWATER TRUST,
mailing address 401 NE 1ST STREET ENTERPRISE, OREGON 97828
telephone number (541)913-3750, 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

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DEC 07 2020

OWRD

2. I attest that:

☐ Water was used during the previous five years on the entire place of use for
Certificate # ____; OR

☐ My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

☐ Confirming Certificate # ____ has been issued within the past five years; OR

☒ Part or all of the water right was leased instream at some time within the last five years. The
instream lease number is: IL-1531 (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)

13451 -

DEC 07 2020

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

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

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MAY 15 2020

[Signature]
Signature of Affiant

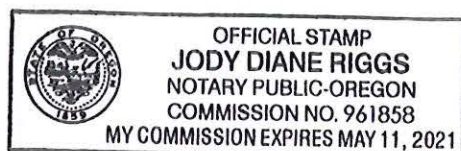
4-27-2020

Date

12-4-20

OWRD

Signed and sworn to (or affirmed) before me this 4 day of December, 2020.



[Signature]
Notary Public for Oregon

My Commission Expires: 5/11/2020

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.terra-server.com
☒ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number IL-1531



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

June 3, 2020

C GLEN SMITH
RONDA SMITH
563 NW 21ST STREET
PENDLETON, OR 97801

Reference: Instream Transfer T- 13451

On June 3, 2020, we received your water right Transfer application. The application was accompanied by \$1045.00. Our receipt number CA0008 was used to identify a transfer.

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. #6 (via email)
Union County
City of Union
Jessica Humphreys, Agent

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.

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MAY 15 2020

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FOR ALL INSTREAM TRANSFER APPLICATIONS

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
Note: Instream transfers are considered both a change in place of use and character of use. In addition, an automatic 50% fee waiver applies to all instream transfers.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Completed Instream Use Information.
- ☒ Part 6 – Information about the Transferred Water Rights: **How many water rights are to be transferred? 1 List them here: 6459**
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/.
- OR**
- ☒ ☐ N/A Waiver of requirement that map be prepared by a CWRE. Completed map waiver form is signed by the Department's Regional Manager and included in the application. The map **must** still meet Department mapping requirements described below.
- ☐ ☒ N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- ☒ Permanent quality printed with dark ink on good quality paper.
- ☒ The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- ☒ A north arrow, a legend, and scale.
- ☒ The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- ☒ Township, Range, Section, quarter-quarter, DLC, Government Lot, and other recognized public land survey lines.
- ☒ Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- ☒ Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- ☒ Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- ☒ Existing place of use that includes separate hachuring for each water right, priority date and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- ☒ Existing diversion point(s) with distance and bearing or coordinates from a recognized survey corner. This information can generally be found in your water right certificate or permit.

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Part 3 of 6 – Fee Worksheet

FEE WORKSHEET for INSTREAM TRANSFER			
1	Base Fee (includes Place of Use and Character of Use to Instream changes to one water right for up to 1 cfs)	1	\$2,090
2	Number of water rights included in transfer <u>1 (2a)</u> Subtract 1 from the number in 2a above: <u>0 (2b)</u> <i>If only one water right, this will be 0</i> Multiply line 2b by \$520 and enter » » » » » » » » » » » » » »	2	0
3	Enter the cfs for the portions of the rights to be transferred (see example below*): <u>0.24 (3a)</u> Subtract 1.0 from the number in 3a above: <u>0 (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>0 (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	\$2,090
5	Multiply line 4 by 0.5 and enter on line 5 » » » » » » » » » » » » » »	5	\$1,045
6	Subtract line 5 from line 4 » » » » » » » » » » » » » » Transfer Fee:	6	\$1,045

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

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

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Part 4 of 6 – Applicant Information and Signature

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

Applicant Information

APPLICANT/BUSINESS NAME C. Glen and Ronda G. Smith			PHONE NO. 541-701-7895	ADDITIONAL CONTACT NO.
ADDRESS 563 NW 21st Street			FAX NO.	
CITY Pendleton	STATE OR	ZIP 97801	E-MAIL glen.smith@corteva.com	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

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

AGENT/BUSINESS NAME Jessica Humphreys			PHONE NO. 541.913.3750	ADDITIONAL CONTACT NO.
ADDRESS 401 NE 1st Street			FAX NO.	
CITY Enterprise	STATE OR	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: This transfer will accomplish several goals that are consistent with the conservation, maintenance, and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values, including: (1) supporting aquatic habitat; (2) increasing streamflow to support juvenile salmonid rearing and outmigration; (3) increasing streamflow to support adult salmonid passage; and (4) reducing water temperatures that are lethal to salmonids. Applicant proposes to accomplish these goals because applicant wants to help improve the aquatic ecosystem of Catherine Creek.

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: _____.

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


Applicant Signature

C. Glen Smith
Print Name (and Title if applicable)

3/12/2020
Date


Applicant Signature

Ronda G. Smith
Print Name (and Title if applicable)

3-12-20
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.*

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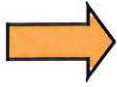
Check the following boxes that apply:

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

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

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

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



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

ENTITY NAME Union County	ADDRESS 1106 K Ave	
CITY La Grande	STATE OR	ZIP 97850

ENTITY NAME City of Union	ADDRESS PO Box 529	
CITY Union	STATE OR	ZIP 97883

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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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

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)**
6459	1872	Catherine Creek, tributary to the Grande Ronde River	July 1 st through October 29 th	0.24	57.6
TOTAL VOLUME					57.6

***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: _____.

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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): Applicant requests the instream reach extend from the point of diversion to the mouth of Catherine Creek.

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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): 59537.

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:

_____.

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:

2021 Begin Year to 2033 End Year

☐ Time-limited instream transfer is to terminate based upon other conditions:

Conditions: _____.

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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 # 6459

Name on Certificate: E.H. Miles

Date(s) of Priority: 1872

Source(s) of Water to be Affected by the Transfer: Catherine Creek, tributary to the Grande Ronde River

Description of Water Delivery System

System capacity: 1.5813 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. _____.

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: _____.

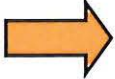
 Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

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)
Sams Ditch		4	S	40	E	34	SW	SE		Latitude 45.167247, Longitude -117.799479

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 # 6459

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	"	"	"
4	S	40	E	34	NE	SW			7.0	Irrigation	1872	Sams Ditch
4	S	40	E	34	N W	SW			12.2	Irrigation	1872	Sams Ditch
TOTAL ACRES									19.2			

Additional remarks:_____.

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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)
County of) ss
WALLOWA)

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I, JESSICA HUMPHREYS, in my capacity as PROJECT MANAGER FOR THE FRESHWATER TRUST,
mailing address 401 NE 1ST STREET ENTERPRISE, OREGON 97828
telephone number (541)913-3750, being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- ☐ Personal observation ☒ Professional expertise

2. I attest that:

- ☐ Water was used during the previous five years on the **entire** place of use for Certificate # ____; **OR**
☐ My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

- ☐ Confirming Certificate # ____ has been issued within the past five years; **OR**
☒ Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: SL-34 (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.): HAY/PASTURE

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

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Signature of Affiant

4-27-2020
Date

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.terra-server.com
☒ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number SL-34

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Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Water Right Transfer Supplemental Form Waiver of Mapping Requirements

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

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

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

Transfer Applicant: Glen and Ronda Smith

Water Right(s) to be transferred: 6459

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



An instream transfer application filed pursuant to ORS 537.348.



A transfer application necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.375; or



The transfer application is determined and endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat.

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



The entirety of the right is being transferred to an instream water right and the location of the instream water right can be clearly delineated through reference to the existing point of diversion for the transferred right and other points of diversion or geographic reference points such as the mouth of the stream; or



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

13451 -

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

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

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

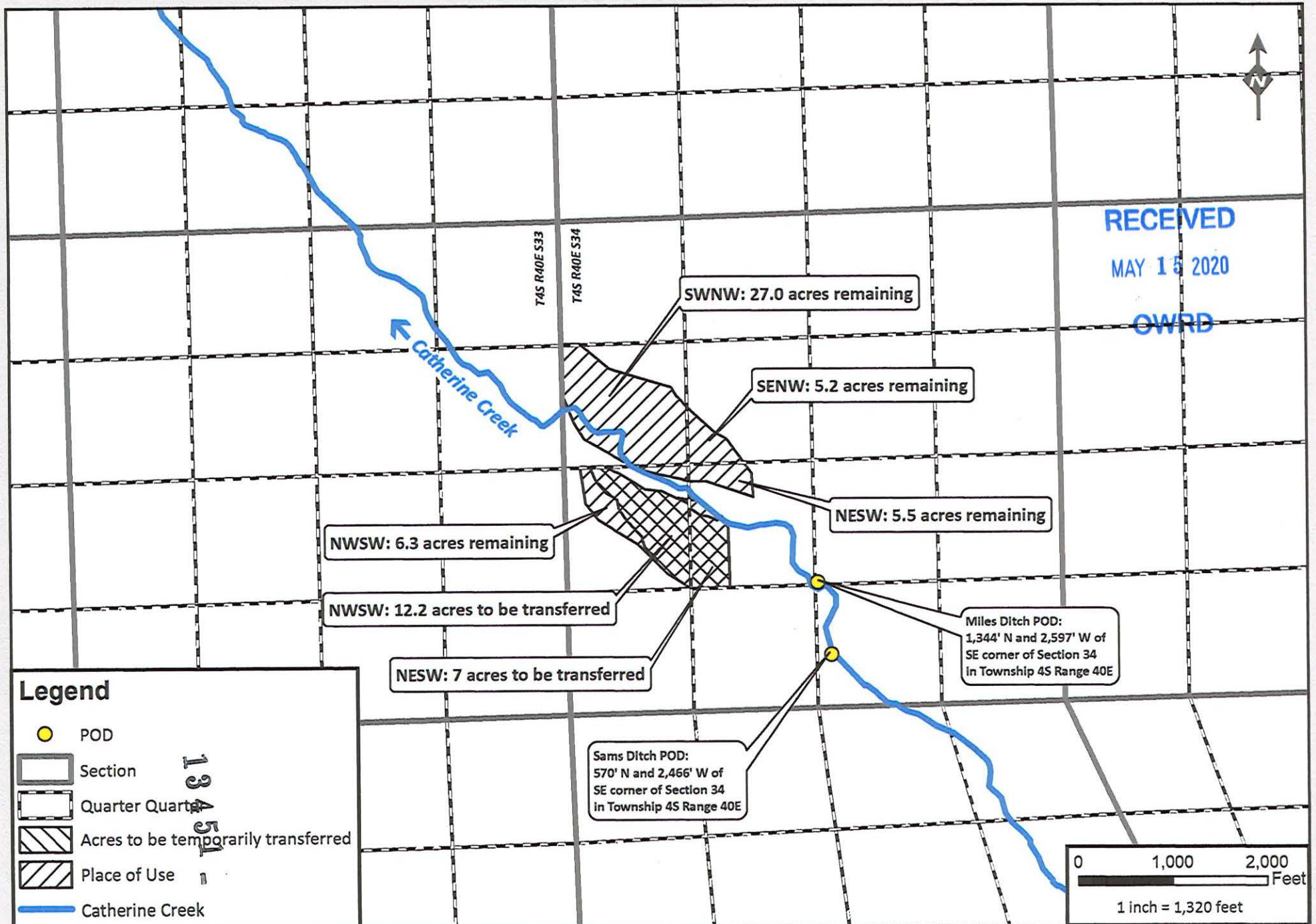
Signature: _____

OWRD Regional Manager, EAST Region

Date: _____

4/21/2020

6459 Time-Limited Transfer Application Map



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): C. Glen and Ronda G. Smith

Mailing Address: 563 NW 21st Street

City: Pendleton

State: OR

Zip Code: 97801

Daytime Phone: 541-701-7895

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>4S</u>	<u>40E</u>	<u>34</u>	<u>NESW</u>	<u>6600</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☐ Used	<u>Dry land farming</u>
<u>4S</u>	<u>40E</u>	<u>34</u>	<u>NWSW</u>	<u>6600</u>	<u>EFU</u>	☐ Diverted ☐ Conveyed ☐ Used	<u>Dry land farming</u>
_____	_____	_____	_____	_____	_____	☐ Diverted ☐ Conveyed ☐ Used	_____
_____	_____	_____	_____	_____	_____	☐ Diverted ☐ Conveyed ☐ Used	_____

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

City of Union
Union County

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B. Description of Proposed Use

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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) Catherine Creek

Estimated quantity of water needed: 57.6 ☐ 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:

This is a proposed temporary transfer (years 2021-2033) of 57.6 acre-feet of irrigation water to instream use to support fish and wildlife.

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.

MAY 15 2020

For Local Government Use Only

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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): UCZPSO Sec. 24.01
- ☐ 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

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: Stacy Warren Title: Associate Planner
 Signature: Stacy Warren Phone: 541-963-1014 Date: June 10, 2019
 Government Entity: Union County Planning

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: _____

Instream Water Right Transfer Application Checklist

Checked by Sarah Date 6/3

(If OK, check box to left; if not, fill in the blank)

- ☒ 1. Page 1 of application: Are all attachments that have been checked actually included?
If not, what is missing? _____
- ☒ 2. Are fees included and correct?
If not, the correct fee would be: _____, so the amount missing is: _____
- ☒ 3. Page 3 of application: Have all the applicants listed at the top of the page signed at the bottom?
If not, whose signature is missing? _____
- ☒ 4. Are all signatures on the application and any affidavits "original"?
If not, whose "original" signature is missing? _____
- ☒ 5. Are all listed certificates or permits shown by WRIS as non-cancelled?
If not, which are cancelled? _____
For each cancelled certificate, if there has been a remaining right certificate issued that covers the lands in the left side of Table 2, list its number _____ and check the #4 box at left on this checklist.
- ☐ 6. If any certificate is in the name of a "district", is a Supplemental Form D from that district enclosed?
☒ N/A ☐ Form D needed from _____ (district)
7. If all #1-#6 boxes on this checklist are checked (with no remaining deficiencies identified), accept the application. Put this check sheet in the transfer folder. If #1, #2, #3, #4, #5 or #6 is deficient, the application cannot be accepted. It should be returned and the **deficiencies listed in the "staff" section at the bottom of Application Page 1**, unless the applicant or agent can resolve the deficiencies within 2-3 days.

OREGON WATER RESOURCES DEPARTMENT
ACCOUNT ACTIVITY RECORD

Account Name: The Freshwater Trust – CA0008

Activity Date: June 3, 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-13451-Smith-TFT: 1 @\$1,045.00 ea.	The Freshwater Trust	Stacy Phillips for Sarah Henderson	TOTAL: \$1,045.00