

THREE SISTERS IRRIGATION DISTRICT

P. O. Box 2230
SISTERS, OR 97759

541-549-8815 (OFFICE)
541-549-8070 (FAX)

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February 26, 2008

FEB 28 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Bob Rice
Water Resources Department
725 Summer Street NE, Suite "A"
Salem, OR 97301-1271

RE: McKenzie Canyon Black Butte and Association Canal Conserved Water Project

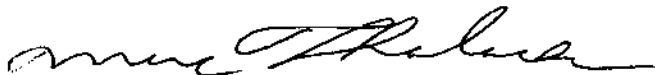
Dear Bob:

Enclosed please find an application for an Allocation and use of Conserved Water. In addition to the complete application, I have enclosed the following exhibits for your information.

- Exhibit A: Evidence of Use Affidavit
- Exhibit B: Map of McKenzie Piping Project
- Exhibit E: Confirmation of District Approval
- Exhibit F: TSID Conserved Water Policy
- Exhibit G: Land-Use Information Form
- Exhibit I: Support Letters from ODFW, DEQ and OP&RD
- Exhibit H: Ownership and Lien Information
- Agency Support Letters
- Exhibit L: Water Right Holders Signature Pages

Please find enclosed a check for the \$350 fee. If you have any questions about the application please feel free to contact me at 541-419-5850 (cell) or at TSID@uci.net.

Sincerely,



Marc Thalacker,
Manager

TSID Piping- McKenzie Canyon Phase 1 Conserved Water Checklist

Landowner		Mailing Address		Landowner Checklist			
Last	First	Address	City, State, Zip	Phone Number	Deed	Affidavit	Signature
Brandon	William & Pamela	2219 Day Island Blvd W. P.O. Box 944	University Place, WA 98466	(503) 260-7931	X	X	X
Burdick	Randy & Mary	70345 McKenzie Canyon	Sisters, OR 97759	(541) 923-1371	X	X	X
Calavan	Steve	15000 Lower Bridge Rd.	Terrebonne, OR 97760	(541) 383-1733	X	X	X
Cooper	Glen	4306 Arrowhead Circle	Terrebonne, OR 97760	(541) 548-4681	X	X	X
Dutson	Thayne & Margaret	70520 McKenzie Canyon	Corvallis, OR 97330	(541) 752-8183	X	X	X
Dykes	Dana & Evelyn	70177 McKenzie Canyon	Terrebonne, OR 97760	(541) 548-6360	X	X	X
Gibbs	Ken & Jacqueline	P.O. Box 341	Silverton, OR 97381	(503) 931-7824	X	X	X
Giegerich	Joseph & Dana	70105 Holmes Rd.	Sisters, OR 97759	(541) 923-0509	X	X	X
Kelley	William	1457 12th Street	Santa Monica, CA 90401	(310) 395-6337	X	X	X
Kidson	Don	70955 Lower Bridge Rd	Terrebonne, OR 97760	(541) 548-6870	X	X	X
Lawrence	Chris & David	71105 Holmes Rd.	Sisters, OR 97759	(541) 923-5540	X	X	X
Long Hollow Ranch	c/o Richard Bloomfield	P.O. Box 81	Terrebonne, OR 97760	(541) 548-2116	X	X	X
McKibbin	Darwin & Josephine	501 Delay Dr.	Eugene, OR 97404	(541) 688-7146	X	X	X
Mulkey	David & Phyllis	70425 McKenzie Canyon	Terrebonne, OR 97760	(503)-362-7657	X	X	X
Parks	David & Ruth	197 Rainier Dr	Salem, OR 97306	(541) 754-4656	X	X	X
Smith	Lee & Debra	2125 NW Jackson Creek	Corvallis, OR 97330	(541) 548-5800	X	X	X
Shirazi	Mostafa & Shirazi	16600 NW Lower Bridge	Terrebonne, OR 97760	(301) 299-2219	X	X	X
Simpson	Steve & Kathy	12021 Wetherfield Lane	Potomac, MD 20854	(541) 548-7612	X	X	X
Sparks	Stephen & Elisabeth	70915 Lower Bridge	Terrebonne, OR 97760	(541) 548-1981	X	X	X
Spear	Stephen	70290 McKenzie Canyon	Terrebonne, OR 97760	(541) 419-5850	X	X	X
Taylor	Kenneth	70625 Lower Bridge	Portland, OR 97221	(503) 671-2651	X	X	X
Thalacker	Marc & Pamela	911 SW 57th Ave	Terrebonne, OR 97760	(541) 501-0029	X	X	X
Thomas & McCoy	Jaqueline & Dee Ann	P.O. Box 335	Terrebonne, OR 97760	(503) 668-5280	X	X	X
Veirostek	William	19595 SE Martin Road	Sandy, OR 97055	(541) 514-0177	X	X	X
Ludi	David	9479 SW Meadow Road	Terrebonne, OR 97760	(415) 868-0239	X	X	X
Mohr	Steven and Linda	P.O. Box 724	Bollinas, CA 94924	(541) 365-1033	X	X	X
DIPablo	Tim	2044 NW Trenton	Bend, OR 97701		X	X	X
Tisher	Kenneth R.				X	X	X
McKenzie Canyon Group:							
Barry	John	70104 Running Horse Ct.	Sisters, OR 97759	(541) 923-8792	X	X	X
Bigelow	Clive	18630 McSwain Drive	Sisters, OR 97759	(541) 504-1672	X	X	X
Ferera	John	70105 Holmes Rd.	Sisters, OR 97759	(541) 548-5470	X	X	X
Leigh	R. Hunter	515 S. McLoughlin Blvd	Oregon City, OR 97045	(503) 803-1222	X	X	X
Monte L. Kline Family Limited Partnership		70090 Holmes Rd.	Sisters, OR 97759		X	X	X

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State of Oregon
Water Resources Department
 725 Summer Street NE, Suite "A"
 Salem, Oregon 97301-1271
 (503) 986-0900

Application for Allocation and Use of Conserved Water

Please type or print in dark ink. If your application is found to be incomplete, inaccurate or does not include the required fees, we will return it to you. If any requested information does not apply to your application, insert "n/a." If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publications/report/index.shtml.

1. APPLICANT INFORMATION

Name: Landowners and the Lower Bridge Sub-district #2 of TSID
 Address: (Landowners see Exhibit L) (Lower Bridge Sub-district #2 of TSID see address in question #3)
 Phone(s): _____
 *Fax: _____ *E-Mail address: _____
 *Optional information

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2. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this allocation of conserved water application)

Name: Three Sisters Irrigation District
 Address: PO Box 2230 Sisters Oregon 97759
 Phone(s): 541-549-8815
 *Fax: 541-549-8070 *E-Mail address: tsid@uci.net
 *Optional information

3. IRRIGATION & WATER CONTROL DISTRICTS

Is the project within the boundaries of an irrigation district or water control district?

Yes No

If yes, include Exhibit E and list the name and mailing address of the district:

Lower Bridge Sub-district #2 of TSID
 PO Box 2230
 Sisters, OR 97759

Did an irrigation district organized under ORS Chapter 545 or a water control district organized under ORS Chapter 553 file this allocation of conserved water?

Yes No

If yes, when was the District's OAR 690-018-0025 allocation of conserved water policy adopted? 7/12/05

4. CURRENT WATER RIGHT INFORMATION

A separate page providing the information in Section 4 must be completed for each certificate, permit, decree, or other right involved in the proposed allocation of conserved water

Water Right Subject to Transfer (check and complete **one** of the following):

<input checked="" type="checkbox"/> Certificated Right	74135	Squaw Creek Decree
--	-------	--------------------

<input type="checkbox"/>	Adjudicated, Un-certificated Right	Certificate Number	Permit Number or Decree Name
<input type="checkbox"/>	Permit for which Proof has been Approved	Name of Decree	Page Number
<input type="checkbox"/>	Transferred Right for which Proof has been Filed	Permit Number	Date Claim of Beneficial Use Submitted
<input type="checkbox"/>		Previous Transfer Number	Date Claim of Beneficial Use Submitted

Name on Permit, Certificate, or Decree: Squaw Creek Irrigation District

County: Deschutes & Jefferson

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Provide the following information about the water right of record:

1. Priority Date: 1895, 1899, & 1904
2. Source of Water: Whychus (formerly Squaw) Creek
3. Type of Use: irrigation, pond maintenance, and stock water

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Does the application involve a water right on lands under more than one ownership?

Yes No

If yes, are all owners applicants to this allocation of conserved water?

Yes No. If no, see Exhibit J

A) What is the maximum rate and annual duty (volume) of water that may be diverted as stated on the water right of record? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate* (cfs): 34.01 (26.91 cfs 1895, 0.66 cfs 1899, 6.44 cfs 1904)

Note: 1 miner's inch = 1/40 cfs; 1 cfs = 448.8 gpm

2. Duty* (acre feet): _____

Note: 1 cfs = 1.98 ac-ft/day

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What is the maximum amount of water that can be diverted using the pre-project facilities? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate (cfs): 34.01

2. Duty (acre feet): _____

C) Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). *Provide sufficient detail to confirm that the applicant is ready, willing, and able to exercise the right.*

The total project (phases I-V) will affect only the lower portion of the TSID delivery system which provides water to irrigate 2002.65 acres on 31 farms. Phase I, of which this application pertains to, will pipe 11,568 ft. of the McKenzie Canyon Black Butte Canal and 9500 ft. of the Association Canal. The existing canals are currently open lateral ditches.

Water rights served by the BBC and ASC total 34.01 cfs.

Water is diverted from Whychus Creek and then passed through McKenzie Reservoir and released through a Broad Crested Weir (designed by BOR) into the BBC. Over the last ten years TSID has released an average of 7,860 AF of water into the BBC, of that only 4,830

AF (average) have been delivered to farm take-outs. All on-farm deliveries are measured with a weir or meter and are measured daily during the irrigation season.

5. CONSERVATION MEASURES

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A) Describe the type of project, check all that apply:

- On-Farm efficiency project
- Distribution project, such as a ditch piping or lining project
- Other, _____

B) Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, see point of diversion requirement for Exhibit B. *Provide sufficient detail for public noticing of the project.*

During the construction of this project 11,568 ft. of 36" HDPE pipe will be buried in place of an open ditch, the Black Butte Canal and during the construction of this project 9500 ft. of 18" HDPE pipe will be buried in place of an open ditch, the Association Canal. Both canals serve 2002.65 acres in the Three Sisters Irrigation District. The project is expected to yield 1.51 cfs of conserved water, 100% (79.5% 1895, 2% 1899, 18.5% 1904) will be dedicated to instream use. The POD will remain the same, the water savings will come from reduced seepage due to piping an open ditch.

C) Place of Use*: See "Exhibit M"

Township	Range	Section	Quarter/Quarter	Total No. Acres
* Not required for a distribution project that does not propose to affect the on-farm rate or duty. If the entire water right is being affected, just state "entire right affected."				

6. CONSERVED WATER

A) What amount of water will be needed for the existing, authorized use after implementing conservation measures? *(If the water right is only limited by rate, do not list a duty, and conversely, if the water is only limited by duty, do not list a rate.)*

1. Rate* (cfs): 32.50 (25.71 cfs 1895, 0.63 cfs 1899, 6.16 cfs 1904)
2. Duty* (acre feet): _____

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

B) What amount of water will be conserved as a result of the implementation of the conservation measures? Subtract 6A from the smaller of 4A or 4B under "irrigation system" above.

1. Rate* (cfs): 1.20 (1895), 0.03 (1904), .28 (1899)
2. Duty* (acre feet): _____

* If there are multiple **Priority Dates** on the water right, list the rate and duty by priority date.

C) What portions of the conserved water will be allocated to the state and applicant?

1. Portion going to the state (list by percent, rate and duty):
79.5%(1895) Percent 1.20 (1895, protected instream from April 1st to November 1st and all other times when TSID is diverting) Rate (cfs) n/a Duty (AF)
2. Portion going to the applicant (list by percent, rate and duty):
20.5% (2% 1899, 18.5% 1904) Percent 0.31 cfs total (0.03 1899, 0.28 1904)
Rate (cfs) n/a Duty (AF)

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- D) The priority for the conserved water is requested to be:
- The same as the original right, or
 - One minute junior to the original right.
- E) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location:
1. Name and address of the person using the water: _____
 2. Description of the type of beneficial use of the water: _____
 3. Legal description of the place of use: _____
- F) If all or part of the applicants' portion of the conserved water is to be leased*, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right: 0.28 cfs (1904) and 0.03 cfs (1899) will be leased instream by Lower Bridge Sub-district #2 of TSID
- * Water can be temporarily protected instream without filing an OAR 690-077 Short-Term Instream Lease application.*

7. LOCATION OF PROPOSED USE

- A) For new out-of-stream uses, describe the boundaries of the expected area within which the diversion structures and places of use of the applicants' conserved water right would be located. This is land other than that to which this water right is appurtenant. See Exhibit B.
- _____
- B) For instream uses, to the extent possible, identify the stream reach(es) for which the state's portion of the conserved water should be managed under an instream water right. Be as explicit as possible, by giving river miles, or other identifying information that might be included in the instream certificate.
- From the Three Sisters Irrigation District diversion on Whychus Creek (approx. RM 23.5) to the mouth of Whychus Creek (RM 0) and to RM 120 near Lake Billy Chinook on the Deschutes River.
- C) Describe the proposed benefit to instream uses.
- for instream use for conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat and other ecological values.
 - other, please describe: _____

8. MITIGATION

- A) Describe any expected effects on other water rights from the proposed allocation of conserved water. Identify what currently happens to the water that is proposed to be conserved.
- No effects to other appropriators are expected from the proposed allocation of conserved water. The water to be conserved is lost from the system through seepage and evaporation and is not available to other appropriators on Whychus Creek.
- B) Describe any mitigation or other measures that are planned to avoid harm to other water rights.
- No harm to other water rights will occur from this project.

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9. FUNDING

If more than 25% of the conserved water is proposed to be allocated to the applicant then provide Exhibit C and identify what portion of project funds (expressed as a percentage) come from federal or state public sources that are not subject to repayment. n/a

Does the Oregon Watershed Enhancement Board (OWEB) have a contractual interest in this project?

Yes No

If yes, what is the OWEB project number? TBD

10. PROJECT SCHEDULE

If project is not yet complete:

Proposed date construction has/will begin: January 2009

Proposed date construction will be completed and notice of project completion will be filed: April 2009

Proposed date the project will be finalized: upon completion

If project is already complete:

Date it was implemented: _____ (Provide Exhibit K)

The applicant requests:

That the allocation be finalized, or

Additional time be granted to prove that the project worked to the applicant's satisfaction before finalizing the allocation of conserved water. Indicate the amount of time desired 4 years (up to five years after completion of the project may be allocated).

11. ACKNOWLEDGMENT OF FORFEITURE

Complete this if the Certified Water Right Examiner's map shows less acreage has been irrigated over the past five years than allowed under the right.

I am aware that _____ acre(s) have not been irrigated for the last five years and I am abandoning that portion of the water right and make no further claim for the water. I ask that this _____ acre(s) portion of the right be permanently canceled.

12. EXHIBITS

Check each of the following attachments included with this application. All attachments are required unless otherwise noted. The application will be returned if all required attachments are not included.

Exhibit (Form) A – Evidence of Use Affidavits

At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original, not a copy. The form is

Exhibit H - Ownership & Lien Information

Provide if application involves:

- on-farm efficiency project, and/or
- distribution project affecting specified lands.

Provide a report of ownership and lien information or a current recorded deed to the subject lands.

Additional Information

The complete OAR Chapter 690, Division 018 Allocation of Conserved Water rules are available at: http://www1.wrd.state.or.us/files/Publications/Notices/new_oars/OAR_Chapter_690_Division_18-Allocation_of_Conserved_Water.pdf

690-018-0040

Application Requirements (Excerpt)

Applicants for allocation of conserved water shall provide to the Department the information described in this rule in substantially the same order as listed. The information shall include:

- (12) For a project that has already been completed:
 - (a) Evidence that the measure was implemented within five years prior to the date of filing the application; and
 - (b) The date on which the applicant intends to request that the allocation be finalized pursuant to OAR 690-018-0062(3).
- (17) A map with sufficient detail to locate and describe the facilities and areas affected by the conservation measures;
- (18) Identification of any federal or state public sources of project funds and, if federal or state public funds that are not subject to repayment will be used in the project, information showing the estimated project costs and anticipated sources of funds for the project including:
 - (a) The total cost for project engineering and construction;
 - (b) The present value of any incremental changes in the costs of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project;
 - (c) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment; and
 - (d) The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds.
- (19) If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that the applicant has attempted to identify and resolve the concerns of water right holders in the area, governmental entities, or other organizations who have asked to be consulted regarding the allocation of conserved water;
- (20) A letter showing irrigation district or water control district approval if the conservation project is within the boundaries of the district;
- (21) For applications submitted by irrigation districts or water controls districts, evidence of an adopted policy consistent with the requirements of OAR 690-018-0025.
- (22) Land use information outlined in the Department's Land Use Planning Procedures Guide; and
- (23) Other information the Department or Commission deems necessary and appropriate to aid in the evaluation of the application.
- (24) The appropriate fee as required under ORS 536.050.
- (25) The Director shall waive the application fee based on the percent of conserved water allocated to the state for instream use, not to exceed 50 percent of the application fee, if the instream allocation is:
 - (a) To establish an instream water right pursuant to ORS 537.348;
 - (b) Necessary to complete a project funded by the Oregon Watershed Enhancement Board under ORS 541.375; or
 - (c) Determined and endorsed in writing by Oregon Department of Fish and Wildlife as a change that will result in a net benefit to fish and wildlife habitat.

690-018-0050

Processing a Conservation Application (Excerpt)

(4) The Department shall review the application and consider any comments received under section (3) of this rule to determine:

- (f) In consultation with the Departments of Fish and Wildlife, Environmental Quality and Parks and Recreation, if conserved water is needed to support instream uses;

690-018-0062

Completion of Conservation Project (Excerpt)

Last revised: 10/11/2005

Allocation of Conserved Water / 7 of 8
PLEASE DO NOT SUBMIT THIS PAGE WITH THE APPLICATION

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(3) Prior to the expiration of the time allowed under OAR 690-018-0050(4)(i), the applicant may request that an allocation of conserved water be finalized. The request shall include:

(a) If all or part of the applicants' portion of the conserved water is to be used for an out-of-stream use at an identified location, the following information:

- (A) The name and address of the person using the water;
- (B) A description of the type of beneficial use of the water;
- (C) A legal description of the place of use; and
- (D) A map that meets the standards in OAR 690-310-0050 and

(b) If all or part of the applicants' portion of the conserved water is to be leased, dedicated or temporarily reserved instream, a statement identifying the quantity of water to be managed as an instream water right.

Exhibit B – Application Map

The application map shall include:

- a. Township, range, section, $\frac{1}{4}$ $\frac{1}{4}$, a north arrow, and a standard scale such as 1 inch = 400 feet or 1 inch = 1,320.
- b. Location of existing and new point of diversion, if applicable, with coordinates referenced to a recognized survey corner.
- c. For on-farm conservation involving only a portion of the place of use, the location of the lands to be affected by the project with acres described by $\frac{1}{4}$ $\frac{1}{4}$.
- d. Location of lands on which applicant's portion of conserved water is to be used if other than those currently authorized with acres described by $\frac{1}{4}$ $\frac{1}{4}$.

If the applicant is requesting that the project be finalized upon approval of this application, then the applicant must complete a map consistent with OAR 690-310-0050 as identified in OAR 690-018-0062.

Exhibit J – Water Right Clarification and Evidence of Notification of Effected Persons

If the application:

1) Involves rights for lands under more than one ownership and not all of the owners are applicants; and/or
2) The final proof survey maps on file with the Department for any quarter-quarter section in which lands involved in the application are located do not adequately describe the location of the place of use or the associated priority dates of the associated water rights, the Department may require the following additional information:

- A list of the name and address of each landowner whose lands the Department concludes may be included in the portion of the water right proposed for allocation of conserved water and written proof of service of a copy of the application on those landowners and a map delineating the location, acreage, priority dates, and ownership of the subject water right; and
- Other information sufficient to establish that no portion of the right to be conserved is held by persons other than those proposing the conservation project and, for rights with multiple priority dates, the priority dates for the right to be transferred are consistent with the decree or other document establishing the right.

(The applicant should consult with Department staff if there is any question regarding the need for submittal of Exhibit J.)