

Application for a Permit to Use Surface Water



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

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Organization

NAME DAVID AND BETTE MCKIBBEN TRUST; DAVID AND BETTE MCKIBBEN TRUSTEES		PHONE (HM) 503-931-9724	
PHONE (WK)	CELL	FAX	
ADDRESS 3415 BALLARD ROAD			
CITY DALLAS	STATE OR	ZIP 97338	E-MAIL * B2MCK@AOL.COM

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

AGENT / BUSINESS NAME GSI WATER SOLUTIONS, INC., ATTN: KIMBERLY GRIGSBY		PHONE 541-257-9004	FAX
ADDRESS 1600 SW WESTERN BLVD, SUITE 240			CELL
CITY CORVALLIS	STATE OR	ZIP 97333	E-MAIL * KGRIGSBY@GSIWS.COM

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the Department electronically. (Paper copies of the proposed and final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot legally use water until the Water Resources Department issues a permit.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I receive a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to receive water to which they are entitled.



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

<u>David McKibben Trustee</u> Applicant Signature	David McKibben, Trustee Print Name and Title if applicable	<u>April 11-23</u> Date
<u>Bette McKibben Trustee</u> Applicant Signature	Bette McKibben, Trustee Print Name and Title if applicable	<u>4-11-23</u> Date

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SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

- YES, there are no encumbrances.
- YES, the land is encumbered by easements, rights of way, roads or other encumbrances.
- NO, I have a recorded easement or written authorization permitting access.
- NO, I do not currently have written authorization or easement permitting access.
- NO, written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
- NO, because water is to be diverted, conveyed, and/or used only on federal lands.

Affected Landowners: List the names and mailing addresses of all owners of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, even if the applicant has obtained written authorization or an easement from the owner. (*Attach additional sheets if necessary*).

Legal Description: You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map. See Attachment B

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into (if unnamed, say so), and the locations of the point of diversion (POD):

Source 1: <u>Mount Pisgah Reservoir</u>	Tributary to: <u>Ash Creek</u>
TRSQQ of POD: <u>T8S R5W Sec. 10 NW SE</u>	

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

Water use Permit R-13073 authorizes the storage of water in Mount Pisgah Reservoir (See Attachment D).

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in Section 3A above?

- Yes. No. (Enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which should have been mailed or delivered to the operator.)

David McKibben is a holder of Permit R-13073, which authorizes the storage of water in Mount Pisgah Reservoir, and the reservoir is located on property held by the David and Bette McKibben Trust. Brad Ford is also a holder of Permit R-13073. A copy of the written notice to Brad Ford is provided in Attachment E.

If *all* sources listed in Section 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

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By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: SENSITIVE, THREATENED OR ENDANGERED FISH SPECIES PUBLIC INTEREST INFORMATION

This information must be provided for your application to be accepted as complete. The Water Resources Department will determine whether the proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened or endangered fish species.

Upper Columbia - OAR 690-033-0115 thru -0130

Is the POD located in an area where the Upper Columbia Rules apply?

Yes No

If yes, you are notified that the Water Resources Department will consult with numerous federal, state, local and tribal governmental entities so it may determine whether the proposed use is consistent with the "Columbia River Basin Fish and Wildlife Program" adopted by the Northwest Power Planning Council in 1994 for the protection and recovery of listed fish species. The application may be denied, heavily conditioned, or if appropriate, mitigation for impacts may be needed to obtain approval for the proposed use.

If yes,

- I understand that the proposed use does not involve appropriation of direct streamflow during the time period April 15 to September 30, except as provided in OAR 690-033-0140.
- I understand that I will install, operate and maintain a fish screen and fish passage as listed in ORS 498.301 through 498.346, and 509.580 through 509.910, to the specifications and extent required by Oregon Department of Fish and Wildlife, prior to diversion of water under any permit issued pursuant to this application.
- I understand that the Oregon Department of Environmental Quality will review my application to determine if the proposed use complies with existing state and federal water quality standards.
- I understand that I will install and maintain water use measurement and recording devices as required by the Water Resources Department, and comply with recording and reporting permit condition requirements.

Lower Columbia - OAR 690-033-0220 thru -0230

Is the POD located in an area where the Lower Columbia rules apply?

Yes No

If yes, you are notified that that the Water Resources Department will determine, by reviewing recovery plans, the Columbia River Basin Fish and Wildlife Program, and regional restoration programs applicable to threatened or endangered fish species, in coordination with state and federal agencies, as appropriate, whether the proposed use is detrimental to the protection or recovery of a threatened or endangered fish species and whether the use can be conditioned or mitigated to avoid the detriment.

If a permit is issued, it will likely contain conditions to ensure the water use complies with existing state and federal water quality standards; and water use measurement, recording and reporting required by the Water

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Resources Department. The application may be denied, or if appropriate, mitigation for impacts may be needed to obtain approval of the proposed use.

If yes, provide the following information (the information must be provided with the application to be considered complete).

Yes No The proposed use is for more than **one** cubic foot per second (448.8 gpm) and is not subject to the requirements of OAR 690, Division 86 (Water Management and Conservation Plans).

If yes, provide a description of the measures to be taken to assure reasonably efficient water use:

N/A

Statewide - OAR 690-033-0330 thru -0340

Is the POD located in an area where the Statewide rules apply?

Yes No

If yes, the Water Resources Department will determine whether the proposed use will occur in an area where endangered, threatened or sensitive fish species are located. If so, the Water Resources Department, Department of Fish and Wildlife, Department of Environmental Quality, and the Department of Agriculture will recommend conditions required to achieve "no loss of essential habitat of threatened and endangered (T&E) fish species," or "no net loss of essential habitat of sensitive (S) fish species." If conditions cannot be identified that meet the standards of no loss of essential T & E fish habitat or no net loss of essential S fish habitat, the agencies will recommend denial of the application unless they conclude that the proposed use would not harm the species.

SECTION 5: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):

(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
<u>Mount Pisgah Reservoir</u>	<u>Irrigation</u>	<u>April 1 through October 31</u>	<u>7</u> <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af

Please indicate the number of primary, supplemental and/or nursery acres to be irrigated.

Primary: 66.1 Acres

Supplemental: N/A Acres

Nursery Use: N/A Acres

If supplemental acres are listed, provide the Permit or Certificate number of the underlying primary water right(s): N/A

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 7 AF

- If the use is **municipal or quasi-municipal**, attach **Form M** N/A
- If the use is **domestic**, indicate the number of households: N/A
- If the use is **mining**, describe what is being mined and the method(s) of extraction: N/A

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SECTION 6: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

- Pump (give horsepower and type): A 20 HP centrifuge pump is installed at the point of diversion.
- Other means (describe):

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

Water will be diverted from the existing point of diversion using a 20 HP centrifugal pump and will be conveyed to the proposed place of use via buried pipe.

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

The method that will be used for irrigation has not yet been determined.

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

The Applicants will limit the use of stored water to the amount needed for beneficial use, not to exceed 7 acre-feet. The Applicants will install a flow meter to measure water diverted from Mount Pisgah Reservoir, if required by OWRD. The proposed use of stored water is not expected to cause damage to public uses of surface water.

SECTION 7: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources:

- Diversion will be screened per ODFW specifications in ORS 498.301 through 498.346 to prevent uptake of fish and other aquatic life.
Describe planned actions: If required by ODFW, the Applicants will install fish screening that complies with all applicable state and federal requirements.
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Note: If disturbed area is more than one acre, applicant should contact the Department of Environmental Quality to determine if a 1200C permit is required.
Describe planned actions and additional permits required for project implementation: Existing infrastructure will be used, so no excavation or bank clearing from construction will occur.
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe planned actions and additional permits required for project implementation: No construction at the intake is expected, and the diversion of water will not require operating equipment in the river.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe planned actions: The Applicants will only irrigate when necessary to promote ideal crop production using the minimum quantity of water needed. This will prevent erosion, and no run-off of chemical products will occur.
- List other federal and state permits or contracts to be obtained, if a water right permit is granted.
N/A

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SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: Within 5 years of permit issuance
- b) Date construction will be completed: Within 5 years of permit issuance
- c) Date beneficial water use will begin: Within 5 years of permit issuance

SECTION 9: WITHIN A DISTRICT - N/A

Check here if the point of diversion or place of use are located within or are served by an irrigation or other water district.

Irrigation District Name <u>N/A</u>	Address	
City	State	Zip

SECTION 10: REMARKS

Use this space to clarify any information you have provided in the application. (*Attach additional sheets if necessary*).

The Applicants are requesting a water use permit to use up to 7 acre-feet of stored water from Mount Pisgah Reservoir for irrigation of 66.1 acres. The Applicants are a holder of Permit R-13073, which authorizes the storage of water in Mount Pisgah Reservoir.

The Applicants have notified the other holder of Permit R-13073, Brad Ford, of their intention to file this (and another) permit application to use stored water from Mount Pisgah Reservoir. (The Applicants are aware that Brad Ford will also be filing a permit application to use the remainder of that stored water.)

The Applicants are also a holder of Permit S-53746, which authorizes the use of water from Middle Fork Ash Creek for maintenance of the reservoir, and the use of stored water from Mount Pisgah Reservoir for irrigation of a portion of the proposed place of use. The Applicants submitted a claim of beneficial use for only the reservoir maintenance portion of that permit, and not for the use of stored water for irrigation purposes. This application is requesting a permit that will replace the irrigation portion of Permit S-53746 on the proposed place of use. The Applicants will work with OWRD and, if needed, will voluntarily cancel the irrigation portion of Permit S-53746 simultaneously with the issuance of a permit for this application and the two other applications that request authorization to use the remainder of the stored water from Mount Pisgah Reservoir for irrigation purposes.

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Attachment A

Land Use Information Form

Application for a Water Use Permit – David and Bette McKibben Trust

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Land Use Information Form



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

NOTE TO APPLICANTS

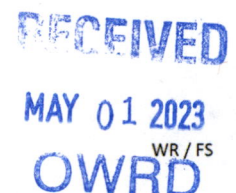
In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.



Land Use Information Form

Applicant(s): David and Bette McKibben Trust; David and Bette McKibben Trustees

Mailing Address: 3415 Ballard Road

City: Dallas

State: OR

Zip Code: 97338

Daytime Phone: 503-931-9724

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>8S</u>	<u>5W</u>	<u>10</u>	<u>NW SE, NE SE, SE SE</u>	<u>700, 800, 704</u>	<u>Exclusive Farm Use (EFU)</u>	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	<u>Irrigation</u>
		<u>11</u>	<u>SW SW, SE SW</u>	<u>800</u>		<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
		<u>14</u>	<u>NW NW</u>			<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	

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

Polk County

B. Description of Proposed Use

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

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

Source of water: Reservoir/Pond
 Ground Water
 Surface Water (name) _____

Estimated quantity of water needed: 7
 cubic feet per second
 gallons per minute
 acre-feet

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

Briefly describe:

The Applicants are requesting a permit to irrigate 66.1 acres using stored water. The place of use is described in the above table and shown on the attached map.



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.

See bottom of Page 3. →

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For Local Government Use Only

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

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): PC20136.030CA "Farm Use"
- 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:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> 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.

There may be wetlands on the property. The applicant should contact the Oregon Department of State Lands prior to any development in wetlands.

Name: Michael Burns Title: Assistant Planner
 Signature: Michael C. Burns Phone: (503)623-9237 Date: 4/21/2023
 Government Entity: Polk County

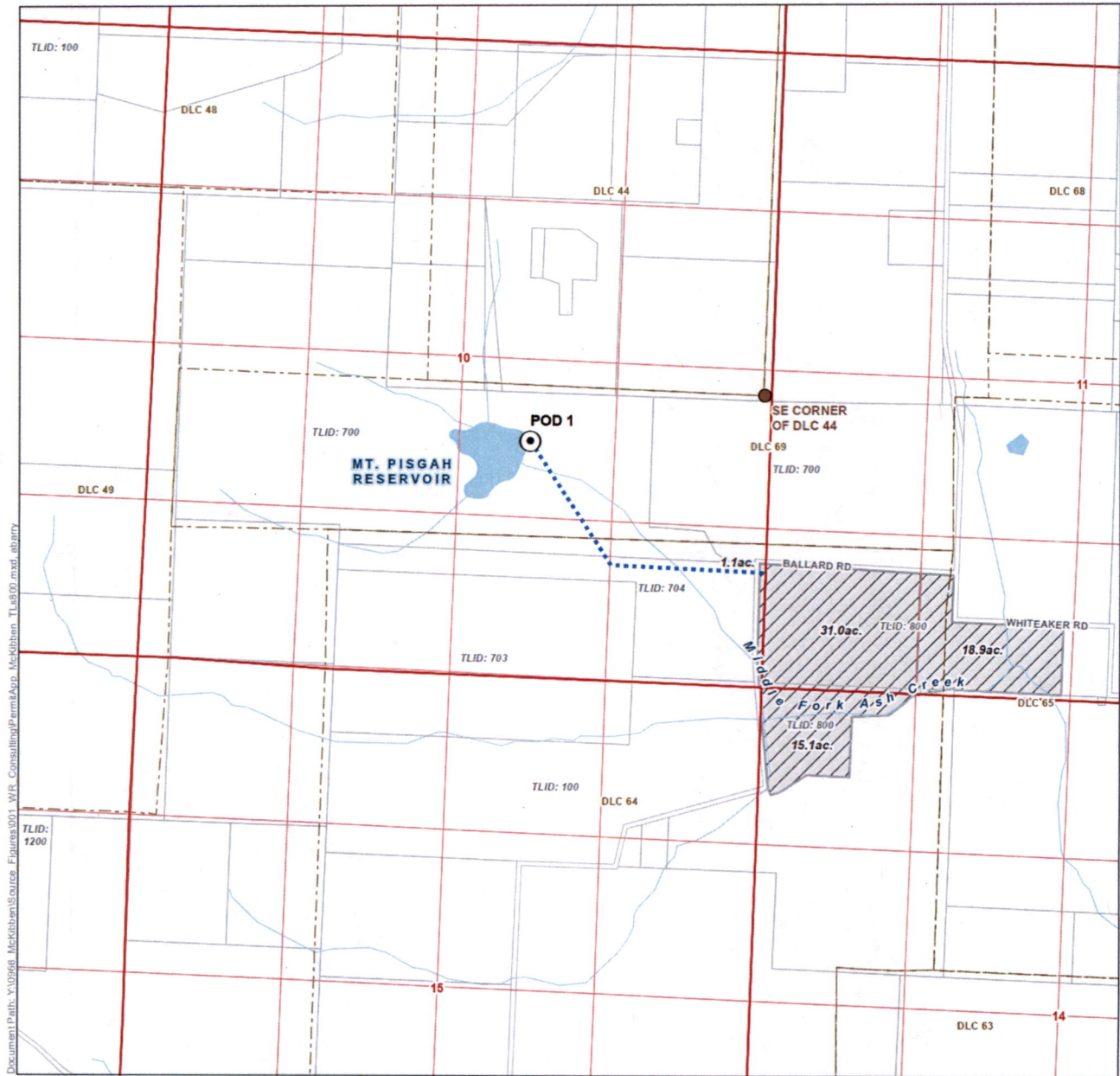
Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use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



Receipt for Request for Land Use Information








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

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Document Path: X:\0968 McKibben\Source_Figures\001_WR_Conveyance\PermitApp_McKibben_TL800.mxd_albany

LEGEND

-  Point of Diversion (POD)
-  Conveyance
-  Place of Use (POU)
-  Tax Lot
-  Donation Land Claim (DLC)
-  Watercourse
-  Waterbody

**Permit Application for the Use of Stored Water
in the Name of David and Bette McKibben Trust
Place of Use/Point of Diversion Map**

Township 8 South, Range 5 West (W.M.)

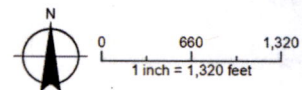
LOCATION DESCRIPTION

POD 1: Located 380 feet South and 1,980 feet West from the SE corner of DLC 44, Township 8 South, Range 5 West (W.M.)

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DISCLAIMER
This map was prepared for the purpose of identifying the location of a water right only and it is not intended to provide legal dimensions or location of property ownership lines.

Date: March 23, 2023
Data Sources: BLM, ESRI, OWRD, USGS



Attachment B

Legal Description

Application for a Water Use Permit – David and Bette McKibben Trust

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PARTITION NO. 1993 - 0037

FOR

RAYMOND ADAMS

IN THE SW 1/4 OF SECTION 11 AND THE NW 1/4 OF SECTION 11,

A PORTION OF THE R. F. WHITAKER DLC NO. 43 AND THE SAMUEL L. CAMPBELL DLC NO. 41

T.4 S., R.3 W. OF THE WILLAMETTE MERIDIAN IN POLK COUNTY, OREGON

OCTOBER 18, 1993

SCALE: 1" = 300'

LEGEND

- MONUMENTS FOUND, AS NOTED
- MONUMENTS SET - 3/8" x 30" IRON RODS WITH YELLOW PLASTIC CAP MARKED "BERRY 18 1928"
- () DATA OF RECORD

NARRATIVE

The purpose of this survey is to partition the property into two parcels according to Polk County Homestead Exemption 22-1.

References are based on CS 11814, my prior survey for the Powell Estate along the West Line of the Whitaker Donation Land Claim. This was the same State as used on CS 11888, which is my survey and partition over Adams.

STATE OF OREGON)
County of Polk) " 37910B

I, Linda Dawson, County Clerk and Recorder, do hereby certify that the within plat was received and duly recorded by me in the Polk County Book of Partition Plats, Volume 1993, Page 0037, on this 18th day of November, 1993, at 3:25 o'clock P.M.

Linda Dawson
Clerk/Recorder
By: Wanda Bartels
Deputy

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EXHIBIT "A"

OWNER'S DECLARATION

Know all men by these presents that we, Raymond H. Adams and Mildred Lavern Adams, as owners in fee simple by deed recorded in BOR 31 Page 141, Deed Records of Polk County, Oregon, being the owners of the land described in the surveyor's certificate hereon, and wishing to divide said land into separate parcels, have caused said land to be surveyed, marked, platted and numbered as shown on the map hereon.

There are no water rights appurtenant to this property.

In witness whereof, we set our hands and seals this 3 day of November 1993.

Raymond H. Adams
Mildred Lavern Adams

STATE OF OREGON)
County of Polk) "

On this 3 day of November, 1993, personally appeared before me the within named, Raymond H. Adams and Mildred Lavern Adams, personally known to be the identical persons described in and who executed the same freely and voluntarily for the purposes therein named without fear or compulsion from anyone.

Dudley M. Berry
DUDLEY M. BERRY
NOTARY PUBLIC - OREGON
My Commission Expires 1-1-2004

SURVEYOR'S CERTIFICATE

I, Dudley M. Berry, being first duly sworn, depose and say that I have surveyed and marked with proper monuments the land and parcels represented by this partition plat, the initial corner being an iron rod at the Division Corner between the North and South halves of the S. F. Whitaker Donation Land Claim No. 41, the parcel of which is described as follows:

Beginning at the Initial Point of this survey which is an iron rod at the Division Corner between the North and South halves of the S. F. Whitaker Donation Land Claim No. 41 in Township 3 South, Range 3 West of the Willamette Meridian in Polk County, Oregon, said rod described as being 2394.87 feet S.0°01'21"E. from the Northwest corner of said Whitaker Donation Land Claim No. 41 and running thence N.0°01'33"W. 15.20 feet to a point; thence E.31°38'10"W. 338.55 feet to an iron rod; thence S.48°38'15"W. 140.43 feet to an iron rod; thence S.85°50'30"W. 10.00 feet to a point from which an iron rod bears S.85°50'30"W. 10.00 feet to a point from which an iron rod bears S.85°09'30"W. 140.00 feet to an iron rod; thence S.55°31'50"W. 189.34 feet to an iron rod; thence S.73°11'W. 90.00 feet to a point from which an iron rod bears S.11°E. 1 foot; thence N.21°W. 67.00 feet to an iron rod on the East Line of the County Road; thence S.11°35'W. 70.58 feet to the center of the County Road; thence N.0°11'13"W. along the center of the County Road, 1080.00 feet to a point on the North Line of the County Road, the center of the County Road, Land Claim No. 41 in said Township and Range, said point being 25.33 chains N.88°18'10"W. from the Northwest corner of said Campbell DLC and also being the Northwest corner of that tract of land conveyed to Raymond H. Adams and Mildred Lavern Adams by deed recorded to Records 31, Page 141, Deed Records of Polk County, Oregon (thence S.89°18'10"E. 1712.78 feet to the Northeast corner said Campbell DLC) thence S.0°01'31"E. along the West Line of the said Whitaker DLC No. 41, 211.60 feet to an iron rod on the East Line of the County Road; thence E.88°10'W. along the South Line of the County Road, 1384.91 feet to an iron rod; thence S.0°11'E. 241.72 feet to an iron rod on the said division line of said Whitaker DLC; thence N.85°18'05"W. 1384.91 feet to the point of beginning and containing 73.481 Acres, more or less.

Dudley M. Berry
Registered Land Surveyor No. 1438
Dudley M. Berry
P. O. Box 418
Monmouth, OR 97131
905-534-3078

REGISTERED
PROFESSIONAL
LAND SURVEYOR
DUDLEY M. BERRY
1976

THE WITHIN PLAT IS HEREBY APPROVED

This survey and description is hereby approved.

John Hancock 11-3-93
County Surveyor Date

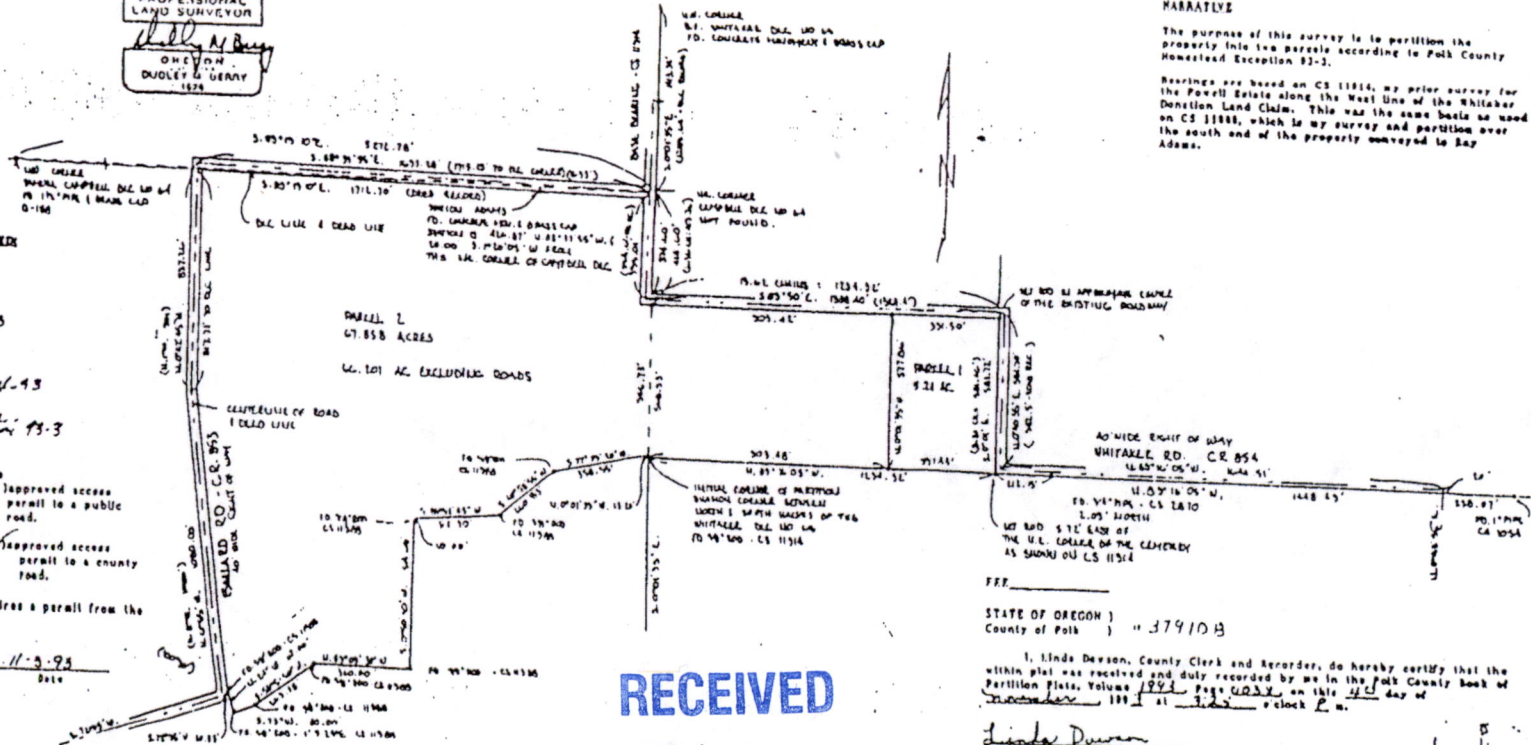
Arthur J. Schleich 11-4-93
Planning Director Date

Homestead Exemption 22-1
Authorization No.

- The above described property: () [] approved access permit to a public road.
() [] approved access permit to a county road.

NOTE: Access to a state highway requires a permit from the Oregon State Highway Division.

Dudley M. Berry 11-3-93
County Road Official Date



Attachment C

Permit Application Map

Application for a Water Use Permit – David and Bette McKibben Trust

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Attachment D

Permit R-13073

Application for a Water Use Permit – David and Bette McKibben Trust

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STATE OF OREGON

COUNTY OF POLK

PERMIT TO CONSTRUCT A RESERVOIR AND STORE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

DAVID MCKIBBEN & LOWELL FORD
3415 BALLARD ROAD
DALLAS, OREGON 97338

(503) 931-3724

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: R-84588

SOURCE OF WATER: MIDDLE FORK ASH CREEK, A TRIBUTARY OF ASH CREEK

STORAGE FACILITY: MOUNT PISGAH RESERVOIR

PURPOSE OR USE OF THE STORED WATER: TO BE APPROPRIATED UNDER APPLICATION S-84589, PERMIT 53746, FOR IRRIGATION OF 181.8 ACRES. TO BE MAINTAINED UNDER PERMIT 53746 FOR FISH AND WILDLIFE USE

MAXIMUM VOLUME: 45.0 ACRE-FEET PER YEAR

WATER MAY BE APPROPRIATED FOR STORAGE: NOVEMBER 1 THROUGH JUNE 30

DATE OF PRIORITY: NOVEMBER 20, 2000

The area submerged by the reservoir, when full, will be 5.2 acres and the maximum depth of water will be 18.0 feet. The maximum height of the dam shall not exceed 22.0 feet.

DAM LOCATION: NW 1/4 SE 1/4, SECTION 10, T8S, R5W, W.M.; 595 FEET SOUTH & 2095 FEET WEST FROM SE CORNER DLC 44

THE AREA TO BE SUBMERGED BY THE RESERVOIR IS LOCATED AS FOLLOWS:

NW 1/4 SE 1/4
SECTION 10
TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M.

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Application R-84588 Water Resources Department

PERMIT R-13073

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area.

The use may be restricted if the quality of the source stream or downstream waters decrease to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

The outlet gate shall be cycled at least once each year and shall be fully operational at all times.

Routine maintenance of the dam, its spillway and all appurtenant structures shall be performed as necessary to remove trees, brush and debris, and to repair slumps, areas of erosion, or defective equipment.

The embankment, the resultant reservoir, and the emergency spillway, shall be constructed and maintained according to the approved plans and specifications on file with the Oregon Water Resources Dam Safety program. Any significant change in the approved design prior to or during construction shall be documented by the project engineer in a letter to Dam Safety. All construction shall be performed under the supervision of a registered professional engineer licensed in Oregon.

No fill shall be placed until preparation of the foundation and the excavation of the core trench has been completed and examined in

entirety by the engineer of record, or by the Water Resources Dam Safety Engineer, or both.

No water shall be stored until the Water Resources Department receives written certification from the engineer of record that construction has been completed in accordance with the approved plans and specifications. If construction deviates from the approved design a set reproducible asbuilt drawings, including a revised reservoir capacity graph or table, must accompany the engineer's written certification of completion.

The completed structure shall not be enlarged, modified, altered or reconfigured without the prior written approval of the Director of the Water Resources Department or the Director's authorized representative. Except for routine repair and maintenance, approved plans and specifications prepared by an Oregon licensed engineer are required for any enlargement, signification modification, alteration, or rehabilitation of the dam, spillway or its appurtenant structures.

Flashboards shall be removed from the emergency spillway no later than October 31st of each year not to be reinserted before the beginning of the irrigation season, which begins March 1st.

STANDARD CONDITIONS

Use under this permit is limited to the reservoir area. This permit does not provide for the appropriation of water for maintaining the water level or maintaining a suitable fresh water condition.

The storage of water allowed herein is subject to the installation and maintenance of a fully functional conduit/gate assembly having a minimum diameter of 8 inches.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

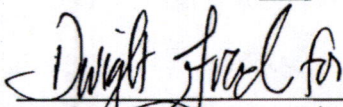
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

The reservoir shall be filled and complete application of the stored water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued August 23, 2001



Paul B. Cleary, Director
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

Application R-84588
Basin 2
JWG WEEK 299

Water Resources Department
Volume 10 ASH CR & MISC

PERMIT R-13073
District 16

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Attachment E

Notice Letter

Application for a Water Use Permit – David and Bette McKibben Trust

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April 10, 2023

Brad Ford
2200 Cherry Knoll Rd
Dallas, OR 97338

Re: Notice of Intent to File Application for "Secondary" Water Rights

Dear Brad,

As you know, we are filing applications with the Oregon Water Resources Department requesting two new permits for the use of stored water from Mount Pisgah Reservoir. Because you are a holder of Permit R-13073, which authorizes the storage of water in the reservoir, I am providing you with this notice of our intent to file two permit applications as follows:

For Parcel 1 – requesting a permit to use up to 13 acre-feet

For Tax lot 800 – requesting a permit to use up to 7 acre-feet

I understand that you intend to submit a permit application for the remaining 25 acre-feet of stored water in Mount Pisgah Reservoir for irrigation on your properties.

Sincerely,



David McKibben

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Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.140)

Include this checklist with the application

Check that each of the following items is included. The application will be returned if all required items are not included. If you have questions, please call the Water Rights Customer Service Group at (503) 986-0900.

Please submit the original application and signatures to the Water Resources Department. Applicants are encouraged to keep a copy of the completed application.

- SECTION 1: Applicant Information and Signature
- SECTION 2: Property Ownership
- SECTION 3: Source of Water
- SECTION 4: Sensitive, Threatened or Endangered Fish Species Public Interest Information
- SECTION 5: Water Use
- SECTION 6: Water Management
- SECTION 7: Resource Protection
- SECTION 8: Project Schedule
- SECTION 9: Within a District
- SECTION 10: Remarks

Include the following additional items:

- Land Use Information Form with approval and signature of local planning department (*must be an original*) or signed receipt. [See Attachment A](#)
- Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map. [See Attachment B](#)
- Fees - Amount enclosed: **\$1,507.00**
See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.
- Map that includes the following items: [See Attachment C](#)
 - Permanent quality and drawn in ink
 - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
 - North Directional Symbol
 - Township, Range, Section, Quarter/Quarter, Tax Lots
 - Reference corner on map
 - Location of each diversion, by reference to a recognized public land survey corner (distances north/south and east/west)
 - Indicate the area of use by Quarter/Quarter and tax lot identified clearly.
 - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
 - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)

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Molly Monroe

From: Kim Grigsby
Sent: Friday, April 28, 2023 9:10 AM
To: Molly Monroe
Cc: Mikaela Clarke
Subject: FW: Surface Water Right E-Application for David and Bette McKibben Trust (2 of 3)

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Molly – Here's the second McKibben application number that needs a check. (By the way, these can all go in the same envelope.)

Kimberly Grigsby

Principal Water Resources Consultant

mobile: 503.351.1912

1600 SW Western Boulevard, Suite 240, Corvallis, OR 97333

GSI Water Solutions, Inc. | www.gsiws.com

pronouns: she, her

From: LOVRIEN Corie L * WRD (corie.lovrien@water.oregon.gov) <corie.lovrien@water.oregon.gov>
Sent: Friday, April 28, 2023 9:02 AM
To: Mikaela Clarke <mclarke@gsiws.com>; WRD_DL_customerservice <WRD_DL_customerservice@water.oregon.gov>
Cc: Kim Grigsby <kgrigsby@gsiws.com>
Subject: RE: Surface Water Right E-Application for David and Bette McKibben Trust (2 of 3)

Hello,

OWRD has received and accepted the Surface Water e-application for **David & Bette McKibben Trust/David & Bette McKibben Trustees**. The temporary application number is: **CL-18**

Please print this email and include a copy of it when mailing in the payment. The fees due for this application are: **\$ 897.00** (If opting to include recording fee: **\$1,507.00**)

A copy of the fee calculator is included for your reference:

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Base Application Fee.		\$610.00
Acre feet of Stored Water to be diverted.	7	\$287.00
	Subtotal:	\$897.00
Permit Recording Fee. ***		\$610.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	Recalculate	
Estimated cost of Permit Application		\$1,507.00

Thanks,
Corie

Corie Lovrien
Customer Service Representative Water Right Services Division
725 Summer Street NE Ste A
Salem, Oregon 97301
(503) 986-0801



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

NOTE: The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day. The Salem office of OWRD is closed for customer service drop-ins from Noon – 1pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Mikaela Clarke <mclarke@gsiws.com>
Sent: Thursday, April 27, 2023 3:46 PM
To: WRD_DL_customerservice <wrd_dl_customerservice@water.oregon.gov>
Cc: Kim Grigsby <kgrigsby@gsiws.com>
Subject: Surface Water Right E-Application for David and Bette McKibben Trust (2 of 3)

Good afternoon,

GSI Water Solutions, Inc. is electronically submitting the attached permit application to use stored surface water for irrigation, on behalf of the David and Bette McKibben Trust. This is the **second of three** applications we are submitting in the name of two different applicants: the McKibben Trust and Brad and Bethany Ford. Because the applicants share water from the same reservoir, **we ask that all three applications be processed together** by the same caseworker. The permit application fee of \$1,507.00 will be mailed to the department after we receive the temporary application number.

Please let me know if you have any questions.

Thank you,

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MAY 01 2023
OWRD



Water Solutions, Inc.

Via electronic mail

April 27, 2023

Katie Ratcliffe
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Dear Ms. Ratcliffe:

GSI Water Solutions, Inc. is submitting the enclosed permit application to use stored surface water for irrigation, on behalf of the David and Bette McKibben Trust, David and Bette McKibben Trustees (Applicants). The Applicants are requesting authorization to use up to 7 acre-feet of stored water from Mount Pisgah Reservoir for irrigation of 65 acres.

Permit R-13073 authorizes the storage of water in Mount Pisgah Reservoir. Permit S-53746 currently authorizes the use of surface water for maintenance of the reservoir, and the use of stored water from the reservoir for irrigation of a portion of the proposed place of use. The Applicants have, however, submitted a claim of beneficial use for only the reservoir maintenance portion of that permit. In other words, they are not requesting a certificate for the portion of the permit authorizing the use of stored water for irrigation purposes.

Three applications are being submitted to replace the irrigation portion of Permit S-53746 (this application, a second application being filed by the McKibbens, and an application being filed by Brad and Bethany Ford.) If needed, the Applicants will voluntarily cancel the irrigation portion of Permit S-53746 simultaneously with the issuance of permits for the three applications being submitted that request authorization to use the stored water from Mount Pisgah Reservoir for irrigation purposes.

The permit application fee will be mailed to OWRD after we receive the temporary number for this application.

The fee was calculated as follows:

\$610 - Base application fee
\$287 - Rate fee of \$41/acre-foot
\$610 - Permit recording fee

Total = \$1,507.00

If you have any questions regarding this application, please contact me at 541-257-9004.

Sincerely,

A handwritten signature in cursive script that reads "Kimberly Grigsby".

Kimberly Grigsby
Principal Water Resources Consultant
Enclosures: Permit Application and attachments