

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

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


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

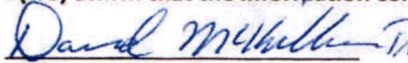

Note: Attach multiple copies as needed

\* 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

	<b>David McKibben, Trustee</b>	<u>April 11-23</u>
Applicant Signature	Print Name and Title if applicable	Date
	<b>Bette McKibben, Trustee</b>	<u>4-11-23</u>
Applicant Signature	Print Name and Title if applicable	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*). N/A

**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 owned 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:

**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>13</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: 283.8 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: 13 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 Applicant will limit the use of stored water to the amount needed for beneficial use, not to exceed 13 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.

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- List other federal and state permits or contracts to be obtained, if a water right permit is granted.  
N/A

**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 13 acre-feet of stored water from Mount Pisgah Reservoir for irrigation of 283.8 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

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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](http://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.

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# 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>SW NW, SE NW, SW ¼, SE ¼</u>	<u>700, 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>8S</u>	<u>5W</u>	<u>15</u>	<u>NE NW, SE NW, NE ¼</u>	<u>100</u>		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	
<u>8S</u>	<u>5W</u>	<u>14</u>	<u>NW NW</u>	<u>100</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) Mount Pisgah Reservoir

Estimated quantity of water needed: 13   
 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 applicant is requesting a permit to irrigate 283.8 acres using stored water from Mount Pisgah Reservoir, which is located on the property.

**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): PC20136.030(A) "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 subject 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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## **Attachment B**

Legal Description

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

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APPROVALS:

APPROVED THIS 7<sup>th</sup> DAY OF September, 2022

BY: [Signature] POLK COUNTY PLANNING DIRECTOR

APPROVED THIS 6<sup>th</sup> DAY OF September, 2022

BY: [Signature] POLK COUNTY SURVEYOR

PURSUANT TO O.R.S. 92.095, TAXES HAVE BEEN PAID OR BONDS POSTED TO THIS DATE: 6-30-2023

BY: [Signature] 9-7-2022 POLK COUNTY TAX COLLECTOR

BY: [Signature] 9-7-2022 POLK COUNTY ASSESSOR

THE ABOVE DESCRIBED PROPERTY NEEDS ( ) AN APPROVED PERMIT TO A PUBLIC ROAD, NEEDS ( ) AN APPROVED ACCESS PERMIT TO A COUNTY ROAD.

NOTE: ACCESS TO A STATE HIGHWAY REQUIRES A PERMIT FROM THE OREGON STATE HIGHWAY COMMISSION.

BY: [Signature] # 9/6/22 COUNTY ROAD OFFICIAL

STATE OF OREGON } SS COUNTY OF POLK } I HEREBY CERTIFY THAT THE WITHIN INSTRUMENT WAS RECEIVED AND DULY RECORDED BY ME IN THE POLK COUNTY RECORDS OF BOOK OF PARTITION PLATS VOL 2022 PAGE 0012 ON THIS 5th DAY OF Sept, 2022.

BY: [Signature] POLK COUNTY CLERK

DECLARATION:

KNOW ALL MEN BY THESE PRESENT THAT DAVID MCKIBBEN & BETTE MCKIBBEN, TRUSTEES OF THE DAVID AND BETTE MCKIBBEN TRUST, ARE THE OWNERS OF THE LAND DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND AS SHOWN ON THE ANNEXED MAP, AND HAS CAUSED THE SAME TO BE SURVEYED AND PARTITIONED INTO TWO PARCELS AND HEREBY GRANTS ALL EASEMENTS AS SHOWN HEREON IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 92 OF THE OREGON REVISED STATUTES.

BY: [Signature] DAVID MCKIBBEN TRUSTEE

BY: [Signature] BETTE MCKIBBEN TRUSTEE

ACKNOWLEDGMENT:

STATE OF OR COUNTY OF Polk } SS

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON 9/2/2022, 2022 BY DAVID MCKIBBEN & BETTE MCKIBBEN, TRUSTEES OF THE DAVID AND BETTE MCKIBBEN TRUST

[Signature] NOTARY SIGNATURE

[Signature] NOTARY PUBLIC - OREGON (PRINT NAME)

COMMISSION NO. 1021403

MY COMMISSION EXPIRES 3/31/2026

SURVEYOR'S CERTIFICATE:

I, CRAIG I. NEWTON, HEREBY CERTIFY THAT I HAVE CORRECTLY SURVEYED AND MARKED WITH PROPER MONUMENTS THE LANDS REPRESENTED ON THIS PARTITION PLAT, BEING A REPLAT OF PARCEL 2 OF PARTITION PLAT NO. 2006-0021, LOCATED IN THE NORTHWEST, NORTHWEST, SOUTHWEST AND SOUTHWEST 1/4S OF SECTION 10, AND THE NORTHWEST AND NORTHEAST 1/4S OF SECTION 15, TOWNSHIP 8 SOUTH, RANGE 5 WEST, WILLAMETTE MERIDIAN, POLK COUNTY, OREGON, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 2, PARTITION PLAT 2006-0021, POLK COUNTY RECORDS, CONTAINING 366.52 ACRES, MORE OR LESS.

NARRATIVE:

THE PURPOSE OF THIS SURVEY IS TO PARTITION AND REPLAT PARCEL 2, PARTITION PLAT 2006-0021 INTO TWO PARCELS IN ACCORDANCE WITH POLK COUNTY PLANNING FILE NUMBER LP 22-04.

THE BASIS OF BEARINGS IS GRID NORTH, BASED ON THE OREGON STATE PLANE COORDINATE SYSTEM OF 1983, NORTH ZONE, USING THE NAD 83(2011) EPOCH 2010.00 DATUM REALIZATION.

LINE 'A' IS ALONG THE SOUTH LINE OF THE J. HARRIS DLC AND NORTH LINE OF THE H. MARSHALL DLC #69. THIS LINE WAS ESTABLISHED BY HOLDING MONUMENT [C] THE SOUTHWEST CORNER OF THE J. HARRIS DLC AND MONUMENT [7] AN IRON ROD AT THE SOUTHWEST CORNER OF PARCEL 1 OF PARTITION PLAT NO. 2006-0021. SAID MONUMENT WAS SET ON A LINE BETWEEN THE SOUTHWEST AND SOUTHEAST CORNERS OF THE J. HARRIS DLC. MONUMENTS OF SAID PARTITION PLAT WERE HELD TO ESTABLISH THE BOUNDARY BETWEEN PARCELS 1 AND 2 OF SAID PARTITION PLAT.

THE NORTH-SOUTH CENTERLINE OF BALLARD ROAD WAS ESTABLISHED BY HOLDING MONUMENT [7] FOR THE WEST LINE, MONUMENT [O] AS A POINT ON THE EAST LINE OF BALLARD ROAD ON THE EXTENSION OF THE E-W CENTERLINE, AND RECORD PLAT ANGLE OF 173°47'45". MONUMENT [O] AND RECORD DISTANCE OF 20 FEET NORTHERLY OF MONUMENTS AT [7] WERE HELD TO ESTABLISH THE NEXT TANGENT, RECORD ANGLE OF 119°21'10" WAS HELD PER CS 11988 ALONG WITH A DISTANCE OF 18.28 FEET WESTERLY OF MONUMENT [O] TO ESTABLISH THE NEXT TANGENT, MONUMENT [O] AND A POINT 20 FEET SOUTH OF MONUMENT [N] WERE HELD TO ESTABLISH THE NEXT TANGENT OF BALLARD ROAD.

LINE 'B' WAS ACCEPTED AS PREVIOUSLY SURVEYED IN CS 13774 AND ESTABLISHED BY HOLDING MONUMENTS AT [M] AND [N]. LINE 'C' IS ALONG THE WEST LINE OF THE S. CAMPBELL DLC #64, HOLDING MONUMENTS [R] AND [3] MONUMENTS AT [1] AND [4] ARE ON THIS LINE, BUT THE DISTANCE BETWEEN SAID TWO MONUMENTS DOES NOT FIT WITH RECORD PER CS 13774. LINE 'D' WAS ESTABLISHED BY HOLDING MONUMENT [O] AND THE SAME BEARING AS A LINE BETWEEN MONUMENTS [1] AND [3] PER CS 12819. MONUMENT [1] WAS FOUND S27°15'57" 0.34 FEET FROM THE CALCULATED CORNER AND WAS POSSIBLY DISTURBED WHEN A LARGE CORNER POST WAS PUT IN NEXT TO IT. LINE 'E' IS ALONG THE WEST LINE OF THE H. MARSHALL DLC #69 AND THE EAST LINE OF THE JOHN BARROWS DLC #19 AND WAS ESTABLISHED BY HOLDING MONUMENTS [1] AND [A].

PARTITION PLAT NO. 2022-0012

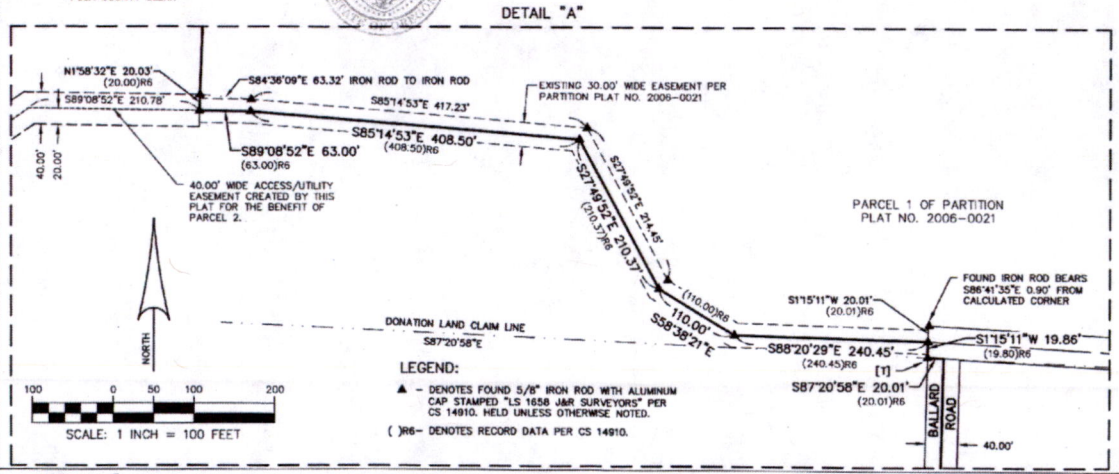
A REPLAT OF PARCEL 2 OF PARTITION PLAT NO. 2006-0021 LOCATED IN THE NW 1/4, NE 1/4, SE 1/4, & SW 1/4 OF SECTION 10, AND THE NW 1/4 AND THE NE 1/4 OF SECTION 15 TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M., POLK COUNTY, OREGON

DATE: AUGUST 9, 2022 POLK COUNTY PLANNING FILE NUMBER LP 22-04 FOR: DAVID AND BETTE MCKIBBEN

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REGISTERED PROFESSIONAL LAND SURVEYOR

[Signature]

OREGON MARCH 12, 2019 CRAIG I. NEWTON 89441PLS

RENEWS 12-31-2022

PREPARED BY:

TerraCalc Land Surveying, Inc.

1615 N.E. Miller Street Astoria, Oregon 97128 (503) 857-0935 www.terra-calc.com

SHEET 3 OF 3



PARTITION PLAT NO. 2022-0012

A REPLAT OF PARCEL 2 OF PARTITION PLAT NO. 2006-0021 LOCATED IN THE NW 1/4, NE 1/4, SE 1/4, & SW 1/4 OF SECTION 10, AND THE NW 1/4 AND THE NE 1/4 OF SECTION 15 TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M., POLK COUNTY, OREGON DATE: AUGUST 9, 2022 POLK COUNTY PLANNING FILE NUMBER LP 22-04 FOR: DAVID AND BETTE MCKIBBEN

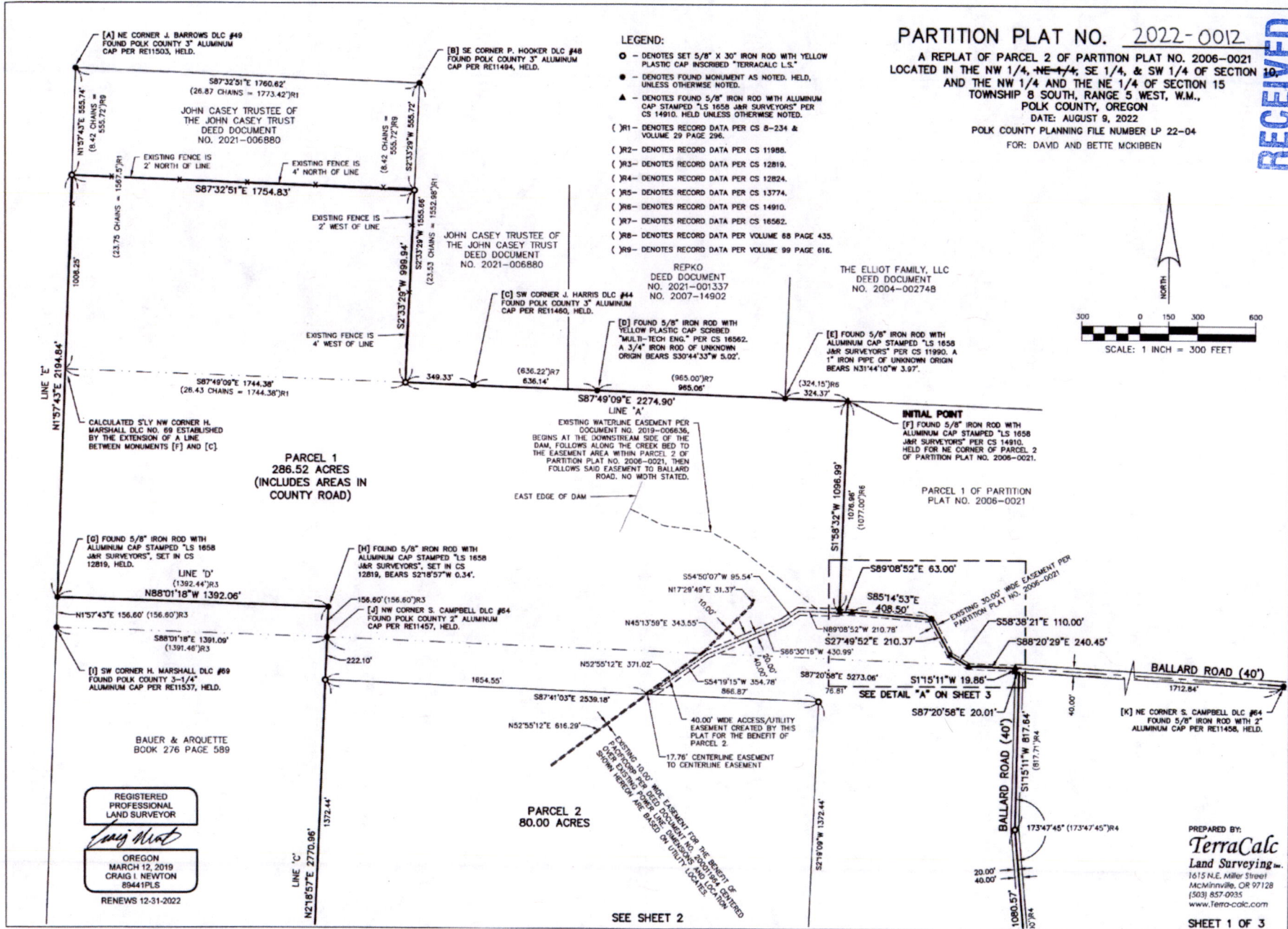
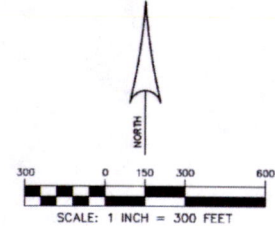
LEGEND:

- - DENOTES SET 5/8" X 30" IRON ROD WITH YELLOW PLASTIC CAP INSCRIBED "TERRACALC L.S."
● - DENOTES FOUND MONUMENT AS NOTED, HELD, UNLESS OTHERWISE NOTED.
▲ - DENOTES FOUND 5/8" IRON ROD WITH ALUMINUM CAP STAMPED "LS 1658 J&R SURVEYORS" PER CS 14910, HELD UNLESS OTHERWISE NOTED.
( )R1 - DENOTES RECORD DATA PER CS 8-234 & VOLUME 29 PAGE 296.
( )R2 - DENOTES RECORD DATA PER CS 11988.
( )R3 - DENOTES RECORD DATA PER CS 12819.
( )R4 - DENOTES RECORD DATA PER CS 12824.
( )R5 - DENOTES RECORD DATA PER CS 13774.
( )R6 - DENOTES RECORD DATA PER CS 14910.
( )R7 - DENOTES RECORD DATA PER CS 16562.
( )R8 - DENOTES RECORD DATA PER VOLUME 68 PAGE 435.
( )R9 - DENOTES RECORD DATA PER VOLUME 99 PAGE 616.

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REGISTERED PROFESSIONAL LAND SURVEYOR
Craig I. Newton
OREGON MARCH 12, 2019 CRAIG I. NEWTON 89441PLS
RENEWS 12-31-2022

PREPARED BY: TerraCalc Land Surveying, Inc.
1615 N.E. Miller Street
Jacintheville, OR 97128
(503) 857-0935
www.terra-calc.com

SEE SHEET 2

SHEET 1 OF 3

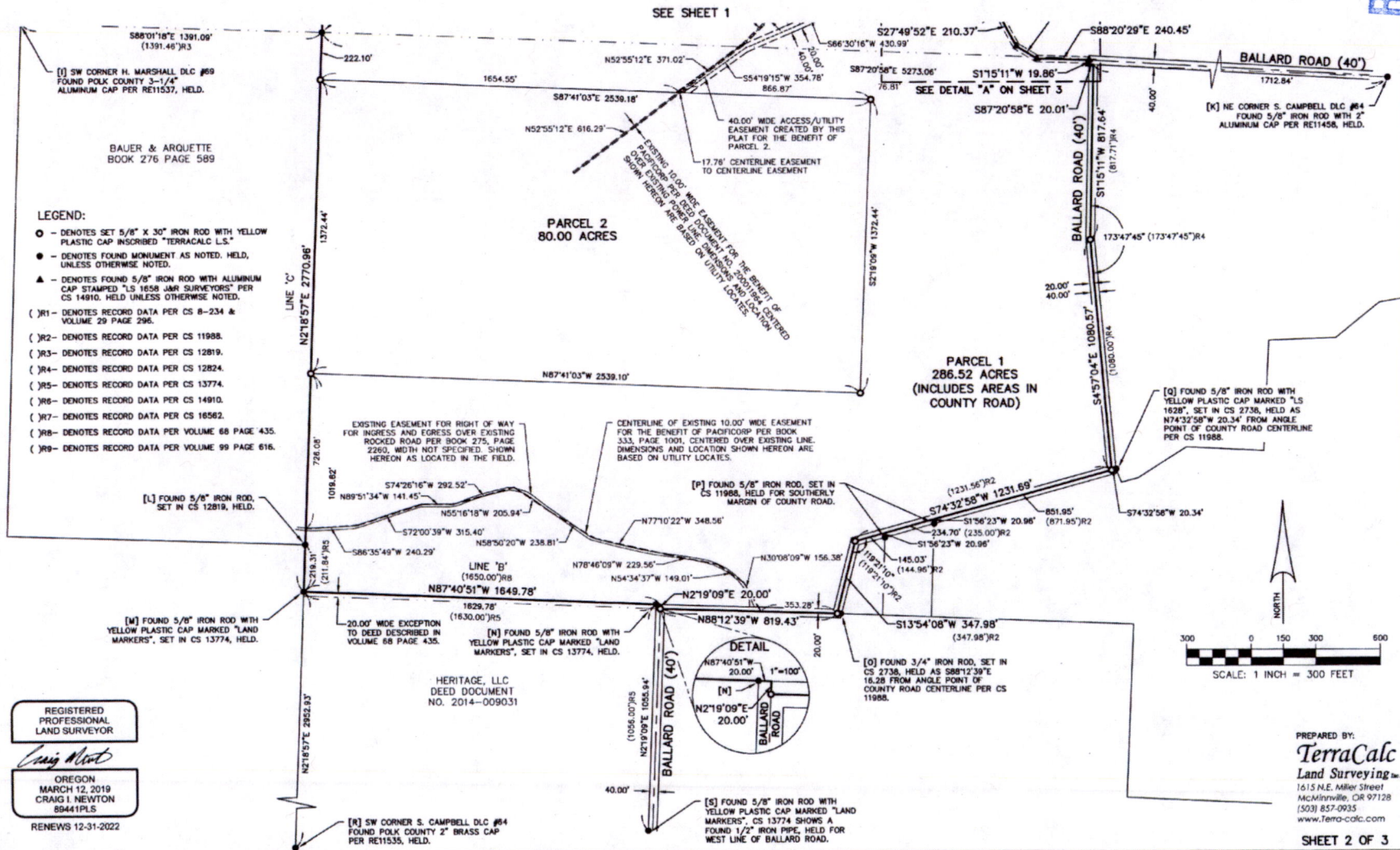
08172202P

PARTITION PLAT NO. 2022-0012

A REPLAT OF PARCEL 2 OF PARTITION PLAT NO. 2006-0021 LOCATED IN THE NW 1/4, NE 1/4, SE 1/4, & SW 1/4 OF SECTION 16 AND THE NW 1/4 AND THE NE 1/4 OF SECTION 15 TOWNSHIP 8 SOUTH, RANGE 5 WEST, W.M., POLK COUNTY, OREGON DATE: AUGUST 9, 2022 POLK COUNTY PLANNING FILE NUMBER LP 22-04 FOR: DAVID AND BETTE MCKIBBEN

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# Attachment C

Permit Application Map

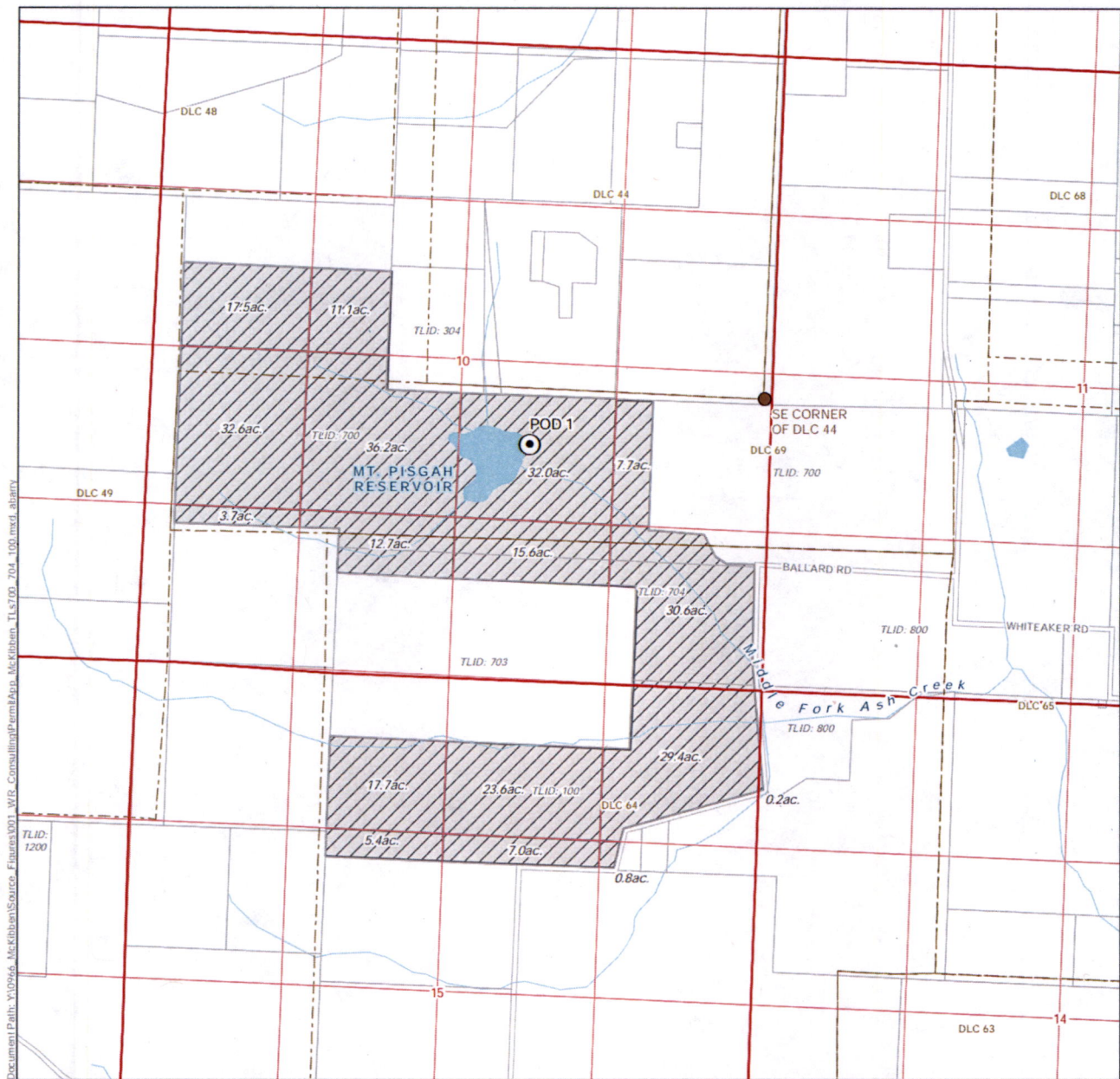
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Application for a Water Use Permit – David and Bette McKibben Trust

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Document Path: Y:\0906\_McKibben\Source\_Files\001\_WR\_Consulting\Firm\Map\_McKibben\_TL500\_704-100.mxd, gshary

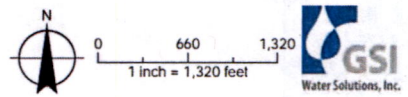
- LEGEND**
- Point of Diversion (POD)
  - Place of Use (POU)
  - Tax Lot
  - Donation Land Claim (DLC)
  - Watercourse
  - Waterbody

**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.)

**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

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**Attachment D**

Permit R-13073

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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.

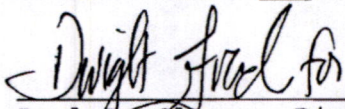
The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.



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

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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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**Molly Monroe**

---

**From:** Kim Grigsby  
**Sent:** Friday, April 28, 2023 8:50 AM  
**To:** Molly Monroe  
**Cc:** Mikaela Clarke  
**Subject:** FW: Surface Water Right E-Application for David and Bette McKibben Trust (1 of 3)

Hi Molly,

Can you please send the McKibben check for this application?

Thank you,  
Kim

**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](http://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 8:44 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 (1 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-17**

Please print this email and include a copy of it when mailing in the payment. The fees due for this application are: **\$ 1,143.00** (If opting to include recording fee: **\$1,753.00**)

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.	13	\$533.00
	Subtotal:	\$1,143.00
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		\$1,753.00

Take care,

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 (1 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 **first 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 \$1,753.00 will be mailed to the department after we receive the temporary application number.

Please let me know if you have any questions.

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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 13 acre-feet of stored water from Mount Pisgah Reservoir for irrigation of 283.8 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  
\$533 - Rate fee of \$41/acre-foot  
\$610 - Permit recording fee

Total = \$1,753.00

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

Sincerely,

A handwritten signature in blue ink that reads "Kimberly Grigsby".

Kimberly Grigsby  
Principal Water Resources Consultant

Enclosures: Permit Application and attachments

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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: **\$1,753.00**  
See the Department's Fee Schedule at [www.oregon.gov/owrd](http://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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