

# 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.wrd.state.or.us

## SECTION 1: APPLICANT INFORMATION AND SIGNATURE

### Applicant Information

NAME <i>DUNCAN JAMES HUNTER</i>		PHONE (HM) <i>541 944 6300</i>	
PHONE (WK)	CELL <i>541 944 6300</i>	FAX	
ADDRESS <i>651 SHARON WAY</i>			
CITY <i>CENTRAL POINT</i>	STATE <i>OR</i>	ZIP <i>97502</i>	E-MAIL <i>1CWORLDWIDE@HOTMAIL.COM</i>

### Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

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

AGENT / BUSINESS NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

**RECEIVED**  
DEC 06 2010

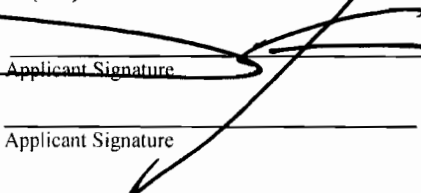
Note: Attach multiple copies as needed

WATER RESOURCES DEPT  
SALEM, OREGON

### 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 use water legally until the Water Resources Department issues a permit.
- 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 get 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 get water to which they are entitled.

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


*Duncan James Hunter*
*11/02/10*  
 Applicant Signature                      Print Name and title if applicable                      Date  
 Applicant Signature                      Print Name and title if applicable                      Date

App. No. <i>287670</i>	For Department Use	Permit No. _____	Date _____
------------------------	--------------------	------------------	------------

**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.

This land is encumbered by easements, rights of way, roads or other encumbrances.

No

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

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).

Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

RECEIVED

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

**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:

Source 1: Lost Creek Res. Tributary to: Rogue River.

Source 2: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Source 3: \_\_\_\_\_ Tributary to: \_\_\_\_\_

Source 4: \_\_\_\_\_ Tributary to: \_\_\_\_\_

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).

**B. Applications to Use Stored Water**

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

Yes.

No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

*SEE ENCLOSED CONTRACT DATA SHEET.*

DISREGARD FOR PH CALC  
 W/ APPLICANT 12-06-2010  
 W/ PH

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: 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
<i>Rouge River</i>	<i>IRRIGATION</i>	<i>APRIL 1ST OCT 31</i>	<i>9.86</i> . <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: 2.19 Acres                      Supplemental: \_\_\_\_\_ Acres

List the Permit or Certificate number of the underlying primary water right(s): \_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 9.86

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

**RECEIVED**

DEC 06 2010

WATER RESOURCES DEPT  
 SALEM, OREGON

S-07670

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: 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
<i>Rouge River</i>	<i>IRRIGATION</i>	<i>APRIL 1ST OCT 31</i>	<i>9.86</i> . <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: 2.19 Acres                      Supplemental: \_\_\_\_\_ Acres

List the Permit or Certificate number of the underlying primary water right(s): \_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 9.86

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

**RECEIVED**

DEC 06 2010

WATER RESOURCES DEPT  
 SALEM, OREGON

*S-07670*

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.

*PLEASE REMOVE CHECK FROM BOX*

SECTION 4: WATER USE

*12/09/10*

*[Signature]*

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
<i>Roose River</i>	<i>Irrigation</i>	<i>From 1st Oct 31</i>	<i>9.86</i> <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

Please indicate the number of primary and supplemental acres to be irrigated.

Primary: *2.17* Acres Supplemental: \_\_\_\_\_ Acres

List the Permit or Certificate number of the underlying primary water right(s): \_\_\_\_\_

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: *9.86*

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

*S-87670*

**SECTION 5: WATER MANAGEMENT**

**A. Diversion and Conveyance**

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

Pump (give horsepower and type): 2HP

Other means (describe): \_\_\_\_\_

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

\_\_\_\_\_

**B. Application Method**

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

\_\_\_\_\_ HIGH PRESSURE

**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 adverse impact to public uses of affected surface waters.

\_\_\_\_\_ FARMING ACTIVITY

**SECTION 6: 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 to prevent uptake of fish and other aquatic life.  
Describe planned actions: WILL FOLLOW ODFW FISH SCREEN REQUIREMENTS
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.  
Describe planned actions: N/A
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.  
Describe: WILL FOLLOW INSTREAM WORK WINDOW.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.  
Describe: NO RETURN TO STREAM.

**RECEIVED**

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

S-87670

**SECTION 7: PROJECT SCHEDULE**

Date construction will begin: WHEU APP 15 APPROVED.

Date construction will be completed: ASAP

Date beneficial water use will begin: ASAP.

**SECTION 8: REMARKS**

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

\_\_\_\_\_

**RECEIVED**

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

S-87670

### CONTRACT DATA SHEET



U.S. Bureau of Reclamation  
Attn: PN-3324  
1150 North Curtis Road  
Boise ID 83706-1234  
(208) 378-5344

1. Applicant Information:

A. Landowners

- 1) Name of landowner(s): DUNCAN JAMES HUNTER.
- 2) Address: 651 SHADOW WAY CENTRAL POINT.
- 3) Mailing Address (if different): \_\_\_\_\_
- 4) Taxpayer Identification Number(s): \_\_\_\_\_  
(Social Security Number or Employer Identification Number) <sup>1</sup>
- 5) Do you own all of the land where you propose to divert and make use of water? YES.

B. Water User Organizations. (Such as Irrigation Districts, Ditch/Canal Companies, Water Control Districts, Water User Associations & Cooperatives, Irrigation Improvement Districts, and similar entities organized according to State Law )

- 1) Name of Organization: \_\_\_\_\_
- 2) Name & Title of Applicant: \_\_\_\_\_
- 3) Mailing Address of Organization: \_\_\_\_\_
- 4) Taxpayer Identification Number: \_\_\_\_\_  
(Social Security Number or Employer Identification Number)
- 5) Please provide the following information:
  - (a) A description of the area served by the organization (location, total acreage, # of water users, prominent crops, etc.)
  - (b) Copy of organization by-laws, articles of incorporation (if applicable), board resolution authorizing the applicant to represent and bind the organization under contract with the United States.

- 2. Source of Water (name of stream, river) ROUGE RIVER FROM LOST CREEK RES.
- 3. Proposed point of diversion: 2477 feet W and 268 feet S of NE corner of Section 22, Township 36S, Range 3W, Willamette Meridian.
- 4. A water right permit to divert storage water is required. Application or file number with OWRD if you have applied for a permit to divert storage water: SEE ENCLOSED APP.
- 5. Include a map of lands and diversion points. [Same as required by Oregon Water Resources Department (OWRD) for application for surface/ground water permit].

S-07670

**RECEIVED**  
DEC 06 2010  
WATER RESOURCES DEPT  
SALEM, OREGON



6. Do you currently hold a right to natural flows for irrigating the property described herein? No  
If yes, what is/are the priority date(s)? \_\_\_\_\_

7. Total quantity of water from storage requested: 9.36 acre-feet.

8. Location of land to be irrigated in each 40-acre tract:

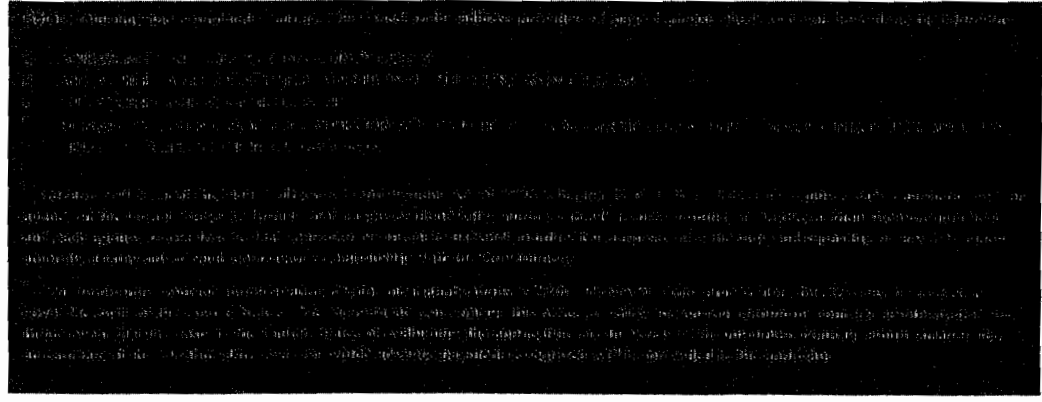
TOWNSHIP	RANGE	SECTION	40-ACRE TRACT (1/4) (1/4)	NO. of ACRES	TYPE of IRRIGATED CROP
<u>36</u>	<u>3W</u>	<u>22A</u>	<u>NW/NE</u>	<u>2.19</u>	<u>LAWN/GARDEN</u>

9. What is the present use of the land identified above? [*Farming; idle* (fallow cultivated land); *native* (appears never to have been tilled); *planted pasture or other* (please specify)].  
EFU

10. Is the land identified above currently being irrigated? No If yes, what is the source? (*natural flows, wells, etc.*) \_\_\_\_\_

11. Diversion must be screened to prevent uptake of fish and other aquatic life.  
Describe plan(s) to comply with State/Federal fish screen standards: PUMP INTAKE WILL BE SCREENED.

12. Telephone Number where you can be reached during the day: 541 944 6300



505 986 0901

6

Jackson County Official Records 2007-026994  
R-WD  
Cmp-1 Sfr-10 ALONZORR 08/07/2007 08:02:00 AM  
\$10.00 \$5.00 \$5.00 \$11.00 Total:\$31.00



I, Kathleen S. Beckett, County Clerk of Jackson County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.  
Kathleen S. Beckett - County Clerk



After Recording Return To:  
Ticor Title  
1850 Williams Hwy  
Grants Pass OR 97527

Send Tax Statements To:  
Duncan Hunter  
851 Shadow Way  
Central Point OR 97502

Title Order No. 03-73340  
Escrow No. 28-59735  
Tax Account No.

WARRANTY DEED  
(ORS 93.850)

Paul Gaeta and Mary Jean Gaeta, as tenants by the entirety, Grantor, conveys and warrants to Duncan Hunter, an estate in fee simple, Grantee, the following described real property:

See Exhibit 'A' attached hereto and by reference made a part hereof.

The said property is free from encumbrances except: COVENANTS, CONDITIONS, RESTRICTIONS, RESERVATIONS, SET BACK LINES, POWERS OF SPECIAL DISTRICTS AND EASEMENTS OF RECORD, IF ANY.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 197.352. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 197.352.

The true consideration for this conveyance is \$190,000.00.

Dated this June 2 day of 2007

Paul Gaeta  
Paul Gaeta

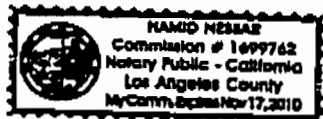
Mary Jean Gaeta  
Mary Jean Gaeta

State of CA, County of Los Angeles )ss.

This instrument was acknowledged before me on June 2, 2007  
by Paul Gaeta and Mary Jean Gaeta.

David Wagoner  
Notary Public

My commission expires: 11-17-2010



S-87670

Title No. 03-73340

Escrow No. 26-59735

**EXHIBIT 'A'****Legal Description:**

Commencing at the Northwest corner of Donation Land Claim No. 37, in Section 22, Township 36 South, Range 3 West, Willamette Meridian, Jackson County, Oregon; thence North 805.31 feet; thence East, 780.18 feet, to a 5/8" steel pin on the Westerly line of Upper River Road, for the true point of beginning; thence South 14° 07' 40" West, along said Westerly line, 86.50 feet; thence Southwesterly, along the arc of a 240 foot radius curve to the right (the chord of which bears South 38° 59' 11" West, 201.78 feet), 208.25 feet, to a 5/8" steel pin; thence North 44° 25' 55" West, 442.7 feet, to the center of the Rogue River; thence North 13° 30' 31" East, along the center of said river, 87.52 feet; thence North 20° 32' East, along the center of said river, 78 feet, to a point which bears North 61° 31' 14" West, from the true point of beginning; thence South 61° 31' 14" East, 489.42 feet, to the true point of beginning. EXCEPTING THEREFROM that portion lying Westerly of the Easterly meander line of the Rogue River.

Close Window

Print Window

ORCATS Sales Data for Account 1-072271-0  
2 Records Found

Book - Page	Sale Date	Sale Price	Grantee	Grantor	Document Type
2007-26994	Jun 02, 2007	\$ 190,000	HUNTER DUNCAN	GAETA PAUL/MARY JANE	WD
2005-39857	Sep 14, 1989	\$ 60,000	GAETA PAUL & MARY JANE	LEHMAN VERNON D/LORETTA V	U

JV File

Journal Voucher No.	Journal Voucher Date	Sale Date	Instrument Number	Instrument Type	Map Taxlot	Fee Owner	Sale \$
1995-06656	06/08/1995	5/18/1995	1995-13236	WD	363W22A 501	LEHMAN VERNON D/LORETTA V GAETA PAUL/MARY JANE	\$24,000.00
1990-12316A	12/06/1990	11/29/1990	1990-29864	WD	363W22A 501	ADAMS GREGG GAETA PAUL/MARY JANE	\$49,000.00
1989-12369	10/16/1989	10/3/1989	1989-22611		363W22A 501	BAKER FRED H GAETA PAUL/MARY JANE	\$60,000.00
1988-05488	03/16/1988	3/10/1988	1988-04535	WD	363W22A 501	BAKER FRED H LEHMAN VERNON D/LORETTA V	\$11,127.00
1988-00147	09/25/1987	9/16/1987	1987-19380		363W22A 501	BAKER ED HUGH LEHMAN VERNON D/LORETTA V	\$24,000.00
1987-10054	07/17/1987	4/17/1987	1987-07421	WD	363W22A 501	BAKER ED HUGH ADAMS GREGG	\$23,484.00
1987-10052	07/17/1987	4/14/1987	1987-07060	BS	363W22A 501		\$0.00
1987-10051	07/17/1987	7/3/1986	1986-12253	BS	363W22A 501		\$0.00
1985-07034	07/24/1985	4/4/1985	1985-04938	WD	363W22A 501		\$6,000.00
1985-03747	03/07/1985	2/26/1985	1985-02719		363W22A 501		\$26,000.00
1985-02321	01/09/1985	11/9/1984	1984-18369		363W22A 500	BAKER FRED H ADAMS GREGG	\$49,000.00

JV History File

Journal Voucher No.	Journal Voucher Date	Instrument Number	Instrument Type	JV Type	Vol Page
1985-02321		1984-18369	C	2	-
1985-03747	03/07/1985	1985-02719	C	2	-
1985-07034	07/24/1985	1985-04938	WD	2	-
1987-10051	07/17/1987	1986-12253	BS	2	-
1987-10052	07/17/1987	1987-07060	BS	2	-
1987-10054	07/17/1987	1987-07421	WD	1	-
1988-00147	09/25/1987	1987-19380	C	1	-
1988-05488	03/16/1988	1988-04535	WD	1	-
1989-12369	10/16/1989	1989-22611	C	1	-
1990-12316A	12/06/1990	1990-29864	WD	1	-
1995-06656	06/08/1995	1995-13236	WD	1	-

Close Window

Print Window

RECEIVED

S-87670

DEC 06 2010

# Land Use Information Form



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

## 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.

**RECEIVED**

DEC 06 2010

# Land Use Information Form



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

Applicant: DUNCAN HUNTER.  
First Last

Mailing Address: 651 SHADOW WAY  
CENTRAL POINT OR 97502 Daytime Phone: 541 944 6300  
City State Zip

## 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:
36	3N	22A	NE ¼	501	EFU	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	EFU
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

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

JACKSON COUNTY OREGON.

## 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) ROUSE RIVER

Estimated quantity of water needed: 9.36     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:

IRRIGATING FOR FARM ACTIVITIES.

RECEIVED

DEC 06 2010

WATER RESOURCES DEPT  
 SALEM, OREGON

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.

# 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): 4.2-1

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
		<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.

*Agriculture use (Farm Use) is out right permitted in EFU zoning district.*

Name: Youngsook Kim Title: Planner I

Signature: *Youngsook Kim* Phone: 774-6946 Date: 11/02/10

Government Entity: Jackson 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**

**RECEIVED**

Applicant name: \_\_\_\_\_ DEC 06 2010

City or County: \_\_\_\_\_ Staff contact: WATER RESOURCES DEPT

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: SALEM, OREGON



# APPLICATION TYPE: LUC (Land Use Compatibility Statement)

CASE STATUS: **Final Approval**

DECISION: **Final Approval**

USE CATEGORY: **Farm Uses**

ZONE USE ID:

ZONING: **EFU**

APPLICATION NO: **ZON2010-01659**

PROCESS: **Type 1**

MASTER NO: **ZON2010-01659**

SITE ADDRESS: **209 UPPER RIVER RD**

PROJECT NO: **ZON2010-01659**

PRIMARY PARCEL NUMBER: **36-3W-22A-501**

RECEIVED DATE: **11/02/2010**

ASSOCIATED LOTS:

ASSIGNED STAFF: **YSK**

People Associated With This Case

Primary Owner  
HUNTER DUNCAN  
651 SHADOW WAY  
CENTRAL POINT, OR 97502

Case Description

OWRD LUC for irrigation

**COMMENTS:**

11/02/10...FARM/ AGRICULTURE USE IS OUT RIGHT PERMITTED PER CHAPER 4.2-1. PROPOSED WATER USAGE IS FOR IRRIGATION FOR FARM USE. ZONING SIGNS OFF THE LUC FORM. YSK

**ATTACHED DOCUMENTS:**

Document: LUC.PDF

Description: 11/02/10

This decision is limited to the County's review of applicable zoning rules and land use law, as outlined in the Jackson County Comprehensive Plan, the Jackson County Land Development Ordinance, and the Oregon Administrative Rules and Revised Statutes relating to land use. Other County, State, and Federal agencies may have regulatory review authority for development projects. The decision rendered herein neither implies nor guarantees compliance with the requirements of any other regulatory agency. It is the applicant's responsibility to ensure compliance with the requirements of any other regulatory agency or provisions of law prior to initiating development.

\_\_\_\_\_  
TRIG

Date: 11/02/2010

**RECEIVED**

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

S-07670





## United States Department of the Interior

BUREAU OF RECLAMATION  
Pacific Northwest Regional Office  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

IN REPLY REFER TO:

PN-3324

WTR-4.00

**JUN 01 2011**

Mr. Duncan James Hunter  
651 Shadow Way  
Central Point, OR 97502

Subject: Proposed Lost Creek Reservoir Water Service Contract, Rogue River Basin Project,  
Oregon

Dear Mr. Hunter:

Enclosed for your consideration are three copies of the current form of a water service contract, which when properly executed would make irrigation water from Lost Creek Reservoir available to you beginning with the 2011 irrigation season.

Article 5 of the contract requires a payment of \$78.84 for the first irrigation season of water service be made at this time to receive up to 9,855 acre-feet of stored water for the purpose of irrigation on 2.19 acres. The annual payment for use of stored water is based on an initial rate of \$8 per acre-foot of stored water, provided that such annual payment shall, as a minimum, be the greater of \$2 per acre or \$50, and that the rate per acre-foot of stored water and the minimum payment be reviewed periodically by this office and revised if necessary.

If information in the contract should be changed (such as the land description in Article 4, the diversion point in Article 8, or the mailing address in Article 14), please include this information along with the completed contract and payment due so that we can insert the correct information before executing the contract on behalf of the United States. Any future contract actions will be charged a fee as described in Article 6.

If you find the contract acceptable, please sign two copies, have your signature notarized, and return the two copies of the contract to this office, Attention: PN-3324, along with payment of \$78.84 for 2011 water service. Upon our receipt of the completed contract and the payment described, the contract can be executed on behalf of the United States, dated, and assigned a contract number for identification purposes.

We will then send you an executed original for your records. We will also mail a copy of the contract to the Oregon Water Resources Department (OWRD). Once provided with a copy of the executed water service contract, OWRD may then be in a position to proceed with issuing the required permit to divert stored water.

If you have any questions, contact Bill Parks at the above address, or telephone 208-378-5344.

Sincerely,



Ryan M. Patterson  
Program Manager  
Repayment and Acreage Limitation

Enclosure - 3 copies

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

CONTRACT FOR WATER SERVICE

Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
1	Preamble .....	1
2-3	Explanatory Recitals .....	1-2
4	Lands for Which Water is Released: Limitations on Diversions .....	2
5	Payments for Water .....	2-3
6	Contract Administration Fee.....	4
7	Charges for Delinquent Payments .....	4
8	Release of Water.....	4-5
9	Special Conditions .....	5-6
10	Term of Contract.....	6-7
11	Termination of Contract .....	7
12	Constraints on the Availability of Water (Water Shortages).....	7
13	Disclaimer .....	7
14	Notices .....	8
15	General Provisions.....	8
	Signatures .....	9
	Acknowledgments .....	10
	Exhibit A	

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

CONTRACT FOR WATER SERVICE

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2011, pursuant to section 9(e) of the Act of August 4, 1939 (53 Stat. 1187) and section 8 of the Act of December 22, 1944 (58 Stat. 887, 891) (which acts are commonly known and referred to as the Reclamation Laws), and the Flood Control Act of 1962 (76 Stat. 1173), between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the Contracting Officer executing this contract, and Duncan James Hunter, hereinafter referred to as the Contractor;

WITNESSETH, THAT:

Explanatory Recitals

2. WHEREAS, The United States has constructed and operates Applegate and Lost Creek Reservoirs in the Rogue River Basin, Oregon, herein styled the Rogue River Basin Project, from which there is a flow of water that can be used for irrigation of land and other beneficial uses, which flow, as it has been developed or as it will be augmented, has been appropriated by the United States pursuant to the laws of Oregon for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor owns land hereinafter described, for which a water supply from Lost Creek Reservoir is desired to be secured from the United States;

NOW, THEREFORE, in consideration of the premises and the payment by the Contractor to the United States of the charges in the manner hereinafter provided, it is agreed:

**Lands for Which Water is Released: Limitations on Diversions**

4. The United States shall release each year to the Contractor during the irrigation season from April 1 to October 31, inclusive, water from the Rogue River Basin Project for the irrigation of land owned by the Contractor described as follows:

2.19 acres, NW1/4 NE1/4, Section 22, T. 36 S., R. 3 W., W.M.

Of the land described, not more than 2.19 acres are to be irrigated. The amount of water to be released hereunder shall be that quantity which may be applied beneficially in accordance with good usage in the irrigation of the land above described, up to a maximum diversion of 9.855 acre-feet of stored water annually, measured at the point of diversion of said water.

**Payments for Water**

5. (a) An annual payment of \$78.84 for the first irrigation season shall be made to the United States at the time of executing this contract, and subsequent annual payments of \$78.84 will be due on or before April 1 of each succeeding irrigation season in advance of water use. This payment will entitle the Contractor to divert up to a maximum of 9.855 acre-feet of stored water for irrigation of the lands described in Article 4 of this contract. The Contracting Officer will consider adjusting the water service payment downward based on information received from the Contractor, the State of Oregon, or other reliable sources as to the actual amount of stored water diverted each month by the Contractor during the irrigation season and on other factors in addition to the amount of stored water actually diverted, as deemed appropriate by the Contracting Officer. Any such adjustment will be determined and subtracted from the payment for the next year by the Contracting Officer: Provided, that for an adjustment to be made, information on the amounts of

stored water diverted each month must be received in writing by the Contracting Officer by December 1 of that year.

(b) The annual charge set forth in (a) above is based on an initial rate of \$8 per acre-foot of stored water; Provided, that such annual charge shall as a minimum be the greater of either the product of \$2 multiplied by the number of acres described in Article 4 of this contract or \$50. From time to time, but not less often than once every 5 years, the rate per acre-foot of stored water and the minimum payment shall be reviewed by the Contracting Officer and revised, if necessary, by the United States for the irrigation water marketing program of the Rogue River Basin Project. Any revision by the Contracting Officer will apply only to future payments and shall be announced by written notice to the Contractor at least 3 months prior to the beginning of the irrigation season to which the new rate would be applicable.

(c) All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required medium of payment may include checks, wire transfers, or other types of payment specified by the United States. Except when otherwise specified by the United States, all payments shall be made by check.

(d) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

(e) Payments required hereunder shall be made to the Bureau of Reclamation at the location described in Article 14 of this contract.

### Contract Administration Fee

6. (a) Upon execution of this contract, a \$100 fee for the preparation of this contract is due and payable by the Contractor to the United States.
- (b) All future contract actions, including new contracts, contract amendments, supplements, and assignments will be charged a \$100 fee: Provided, that the fee shall be reviewed by the Contracting Officer and revised from time to time to cover costs to the United States.

### Charges for Delinquent Payments

7. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

### Release of Water

8. (a) Upon payment of the annual payment specified in subarticle 5(a) above, the United States will release water to the Contractor from the Rogue River Basin Project pursuant to this contract. No water shall be released if the Contractor is delinquent in payment of the required annual payment.

(b) Water diverted pursuant to this contract shall be measured at the following point(s) of diversion in accordance with Oregon State law:

2,477 feet west and 268 feet south of northeast corner of  
Section 22, T. 36 S., R. 3 W., W.M.

The Contractor shall be wholly responsible for securing said water at that point and diverting, conveying, and utilizing it. The Contractor shall be required to conform its diversions and releases to the control of the stream as established by the appropriate State-appointed watermaster. The water to be diverted hereunder shall be measured by means of measuring or controlling devices satisfactory to the Contracting Officer. Such devices shall be furnished, installed, and maintained by and at the expense of the Contractor, but they shall be and remain at all times available for reading and monitoring by the United States or the watermaster whose representative may at all times have access to them over any lands of the Contractor. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Contractor.

(c) The Contractor shall maintain all fish screens used to divert stored water under this contract at all times in compliance with applicable guidelines from the Oregon Department of Fish & Wildlife and the National Marine Fisheries Service and remain available at all times for inspection by representatives of these agencies at no cost to the United States.

#### **Special Conditions**

9. (a) It is the responsibility of the Contractor to comply with the laws of the State of Oregon regarding the obtaining and perfecting of permits to divert water to the lands described in Article 4. Prior to executing this contract, the Contractor shall secure any easements from the Corps of Engineers which may be required for constructing facilities to divert and convey the stored water and provide written verification of such agreements to the Contracting Officer.



The obligation of the United States to release water under this contract is subject to an operating plan for the Rogue River Basin Project determined in accordance with the law governing the project.

(b) If, at some future date, the Contracting Officer determines there is sufficient demand for irrigation water from the Rogue River Basin Project to justify the formation of an irrigation district, water supply company, or other water user organization, future water service may then be made contingent upon the establishment of such an organization. Under this condition, the Contractor will be notified at least 1 year in advance of the date this contract is terminated and continued water service to the lands described in Article 4 becomes dependent upon membership in the organization established for that purpose.

(c) In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the Contracting Officer. The terms and conditions of this contract may be modified, if deemed necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

#### Term of Contract

10. This contract shall become effective as of the date first above written and will continue in effect for a period of 40 years unless sooner terminated in accordance with the provisions of Articles 9 or 11 or by agreement of the parties hereto: Provided; that upon expiration of the 40-year term, renewals may be made by the Secretary of the Interior for successive periods not to exceed 40 years and under terms and conditions mutually agreeable to the parties hereto: Provided further; that the terms and conditions of each renewal shall be negotiated in light of

circumstances prevailing at the time of renewal and agreed upon not later than 1 year prior to the expiration of the then existing contract.

#### **Termination of Contract**

11. This contract may be terminated and water service hereunder shall cease at the option of the United States or at any time if the Contractor is delinquent in payment of the water service charge for a period of 90 days or upon failure of the Contractor to abide by any notice, order, rule, or regulation of the United States or the State of Oregon now or hereafter established affecting water service hereunder.

#### **Constraints on the Availability of Water (Water Shortages)**

12. In its operation of the Project, the United States will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the United States determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the United States, or actions taken by the Contracting Officer to meet current and future legal obligations, then no liability shall accrue against the United States or any of its officers, agents or employees for any damage, direct or indirect, arising there from.

#### **Disclaimer**

13. No provision of this contract, nor of any renewal thereof, nor the release of water hereunder will be construed to bind the United States after the expiration of this contract as the basis of a permanent water right. Because of possible fluctuations in reservoir surface elevations and downstream flows associated with the Rogue River Basin Project, the United States does not guarantee the availability of water at the point of the Contractor's diversion facilities as they may now be constructed or constructed hereafter. Further, the United States will not be held responsible for any acts or omissions of the Contractor's agents or of persons for whom water is released.

### Notices

14. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Program Manager, Repayment and Acreage Limitation, Pacific Northwest Region, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, ID 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to Duncan James Hunter, 651 Shadow Way, Central Point, OR 97502. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

### General Provisions

15. The general provisions applicable to this contract are listed below. The full text of these general provisions is attached as Exhibit A and is hereby made a part of this contract.

- a. GENERAL OBLIGATION -- BENEFITS CONDITIONED UPON PAYMENT
- b. CONFIRMATION OF CONTRACT
- c. CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS
- d. OFFICIALS NOT TO BENEFIT
- e. CHANGES IN CONTRACTORS ORGANIZATION
- f. ASSIGNMENTS LIMITED -- SUCCESSORS AND ASSIGNS OBLIGATION
- g. BOOKS, RECORDS, AND REPORTS
- h. COMPLIANCE WITH FEDERAL RECLAMATION LAWS
- i. PROTECTION OF WATER AND AIR QUALITY
- j. WATER CONSERVATION
- k. EQUAL EMPLOYMENT OPPORTUNITY
- l. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
- m. PRIVACY ACT COMPLIANCE
- n. MEDIUM FOR TRANSMITTING PAYMENTS
- o. CONTRACT DRAFTING CONSIDERATIONS

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

**CONTRACTOR**

---

Duncan James Hunter

**UNITED STATES OF AMERICA**

---

Program Manager  
Repayment and Acreage Limitation  
PN Region  
Bureau of Reclamation  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me, a notary public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he is the legal owner of the property for which a water supply is to be provided under the contract and has executed this contract as his free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

\*\*\*\*\*

STATE OF IDAHO )  
: ss  
County of Ada )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me \_\_\_\_\_, known to me to be the official of the UNITED STATES OF AMERICA that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
State of IDAHO  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## Exhibit A

**GENERAL PROVISIONS -- ROGUE RIVER BASIN PROJECT****GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT**

(a). (1) The obligation of the Contractor to pay the United States as provided in this contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(2) The payment of charges becoming due pursuant to this contract is a condition precedent to receiving benefits under this contract. The Contractor shall not deliver water under the terms and conditions of this contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

**CONFIRMATION OF CONTRACT**

(b). Promptly after the execution of this contract, the Contractor shall provide to the Contracting Officer a certified copy of a final decree of a court of competent jurisdiction in the State of Oregon, confirming the proceedings on the part of the Contractor for the authorization of the execution of this contract. This contract shall not be binding on the United States until such final decree has been secured.

**CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS**

(c). The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

**OFFICIALS NOT TO BENEFIT**

(d). No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

**CHANGES IN CONTRACTOR'S ORGANIZATION**

(e). While this contract is in effect, no change may be made in the Contractor's organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this contract including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

### ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATION

(f). The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

### BOOKS, RECORDS, AND REPORTS

(g). The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

### COMPLIANCE WITH FEDERAL RECLAMATION LAWS

(h). The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Federal reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

### PROTECTION OF WATER AND AIR QUALITY

(i). (1) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: *Provided, That* the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(2) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Oregon and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within the Contractor's Project Water Service Area.

(3) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

### WATER CONSERVATION

(j). Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor shall develop a water conservation plan, as required by Section 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

### EQUAL EMPLOYMENT OPPORTUNITY

(k). During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

(1). (1) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.),] [Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.),]2 and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(2) These statutes require that no person in the United States shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(3) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article and that the United States reserves the right to seek judicial enforcement thereof.

(4) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

(m). (1) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (Privacy Act) and the Department of the Interior rules and regulations under the Privacy Act (43 CFR 2.45 et seq.) in maintaining landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(2) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in (a) above and are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(3) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WEBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the landholders' certification and reporting records.

(4) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 and amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(5) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64 and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18 unless the requester elects to cite the Privacy Act as authority for the request.

#### MEDIUM FOR TRANSMITTING PAYMENTS

(n). (1) All payments from the Contractor to the United States under this contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(2) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

#### CONTRACT DRAFTING CONSIDERATIONS

(o). This Contract has been, negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 18 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

CONTRACT FOR WATER SERVICE

Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
1	Preamble .....	1
2-3	Explanatory Recitals .....	1-2
4	Lands for Which Water is Released: Limitations on Diversions .....	2
5	Payments for Water .....	2-3
6	Contract Administration Fee.....	4
7	Charges for Delinquent Payments .....	4
8	Release of Water .....	4-5
9	Special Conditions .....	5-6
10	Term of Contract.....	6-7
11	Termination of Contract .....	7
12	Constraints on the Availability of Water (Water Shortages).....	7
13	Disclaimer.....	7
14	Notices .....	8
15	General Provisions.....	8
	Signatures .....	9
	Acknowledgments .....	10
	Exhibit A	

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

**CONTRACT FOR WATER SERVICE**

THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 2011, pursuant to section 9(c) of the Act of August 4, 1939 (53 Stat. 1187) and section 8 of the Act of December 22, 1944 (58 Stat. 887, 891) (which acts are commonly known and referred to as the Reclamation Laws), and the Flood Control Act of 1962 (76 Stat. 1173), between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the Contracting Officer executing this contract, and **Duncan James Hunter**, hereinafter referred to as the Contractor;

WITNESSETH, THAT:

**Explanatory Recitals**

2. WHEREAS, The United States has constructed and operates Applegate and Lost Creek Reservoirs in the Rogue River Basin, Oregon, herein styled the Rogue River Basin Project, from which there is a flow of water that can be used for irrigation of land and other beneficial uses, which flow, as it has been developed or as it will be augmented, has been appropriated by the United States pursuant to the laws of Oregon for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor owns land hereinafter described, for which a water supply from Lost Creek Reservoir is desired to be secured from the United States;

NOW, THEREFORE, in consideration of the premises and the payment by the Contractor to the United States of the charges in the manner hereinafter provided, it is agreed:

**Lands for Which Water is Released: Limitations on Diversions**

4. The United States shall release each year to the Contractor during the irrigation season from April 1 to October 31, inclusive, water from the Rogue River Basin Project for the irrigation of land owned by the Contractor described as follows:

2.19 acres, NW1/4 NE1/4, Section 22, T. 36 S., R. 3 W., W.M.

Of the land described, not more than 2.19 acres are to be irrigated. The amount of water to be released hereunder shall be that quantity which may be applied beneficially in accordance with good usage in the irrigation of the land above described, up to a maximum diversion of 9.855 acre-feet of stored water annually, measured at the point of diversion of said water.

**Payments for Water**

5. (a) An annual payment of \$78.84 for the first irrigation season shall be made to the United States at the time of executing this contract, and subsequent annual payments of \$78.84 will be due on or before April 1 of each succeeding irrigation season in advance of water use. This payment will entitle the Contractor to divert up to a maximum of 9.855 acre-feet of stored water for irrigation of the lands described in Article 4 of this contract. The Contracting Officer will consider adjusting the water service payment downward based on information received from the Contractor, the State of Oregon, or other reliable sources as to the actual amount of stored water diverted each month by the Contractor during the irrigation season and on other factors in addition to the amount of stored water actually diverted, as deemed appropriate by the Contracting Officer. Any such adjustment will be determined and subtracted from the payment for the next year by the Contracting Officer: Provided, that for an adjustment to be made, information on the amounts of

stored water diverted each month must be received in writing by the Contracting Officer by December 1 of that year.

(b) The annual charge set forth in (a) above is based on an initial rate of \$8 per acre-foot of stored water; Provided, that such annual charge shall as a minimum be the greater of either the product of \$2 multiplied by the number of acres described in Article 4 of this contract or \$50. From time to time, but not less often than once every 5 years, the rate per acre-foot of stored water and the minimum payment shall be reviewed by the Contracting Officer and revised, if necessary, by the United States for the irrigation water marketing program of the Rogue River Basin Project. Any revision by the Contracting Officer will apply only to future payments and shall be announced by written notice to the Contractor at least 3 months prior to the beginning of the irrigation season to which the new rate would be applicable.

(c) All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required medium of payment may include checks, wire transfers, or other types of payment specified by the United States. Except when otherwise specified by the United States, all payments shall be made by check.

(d) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

(e) Payments required hereunder shall be made to the Bureau of Reclamation at the location described in Article 14 of this contract.

### Contract Administration Fee

6. (a) Upon execution of this contract, a \$100 fee for the preparation of this contract is due and payable by the Contractor to the United States.
- (b) All future contract actions, including new contracts, contract amendments, supplements, and assignments will be charged a \$100 fee: Provided, that the fee shall be reviewed by the Contracting Officer and revised from time to time to cover costs to the United States.

### Charges for Delinquent Payments

7. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

### Release of Water

8. (a) Upon payment of the annual payment specified in subarticle 5(a) above, the United States will release water to the Contractor from the Rogue River Basin Project pursuant to this contract. No water shall be released if the Contractor is delinquent in payment of the required annual payment.

(b) Water diverted pursuant to this contract shall be measured at the following point(s) of diversion in accordance with Oregon State law:

2,477 feet west and 268 feet south of northeast corner of  
Section 22, T. 36 S., R. 3 W., W.M.

The Contractor shall be wholly responsible for securing said water at that point and diverting, conveying, and utilizing it. The Contractor shall be required to conform its diversions and releases to the control of the stream as established by the appropriate State-appointed watermaster. The water to be diverted hereunder shall be measured by means of measuring or controlling devices satisfactory to the Contracting Officer. Such devices shall be furnished, installed, and maintained by and at the expense of the Contractor, but they shall be and remain at all times available for reading and monitoring by the United States or the watermaster whose representative may at all times have access to them over any lands of the Contractor. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Contractor.

(c) The Contractor shall maintain all fish screens used to divert stored water under this contract at all times in compliance with applicable guidelines from the Oregon Department of Fish & Wildlife and the National Marine Fisheries Service and remain available at all times for inspection by representatives of these agencies at no cost to the United States.

#### Special Conditions

9. (a) It is the responsibility of the Contractor to comply with the laws of the State of Oregon regarding the obtaining and perfecting of permits to divert water to the lands described in Article 4. Prior to executing this contract, the Contractor shall secure any easements from the Corps of Engineers which may be required for constructing facilities to divert and convey the stored water and provide written verification of such agreements to the Contracting Officer.



The obligation of the United States to release water under this contract is subject to an operating plan for the Rogue River Basin Project determined in accordance with the law governing the project.

(b) If, at some future date, the Contracting Officer determines there is sufficient demand for irrigation water from the Rogue River Basin Project to justify the formation of an irrigation district, water supply company, or other water user organization, future water service may then be made contingent upon the establishment of such an organization. Under this condition, the Contractor will be notified at least 1 year in advance of the date this contract is terminated and continued water service to the lands described in Article 4 becomes dependent upon membership in the organization established for that purpose.

(c) In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the Contracting Officer. The terms and conditions of this contract may be modified, if deemed necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

#### Term of Contract

10. This contract shall become effective as of the date first above written and will continue in effect for a period of 40 years unless sooner terminated in accordance with the provisions of Articles 9 or 11 or by agreement of the parties hereto: Provided; that upon expiration of the 40-year term, renewals may be made by the Secretary of the Interior for successive periods not to exceed 40 years and under terms and conditions mutually agreeable to the parties hereto: Provided further: that the terms and conditions of each renewal shall be negotiated in light of

circumstances prevailing at the time of renewal and agreed upon not later than 1 year prior to the expiration of the then existing contract.

#### **Termination of Contract**

11. This contract may be terminated and water service hereunder shall cease at the option of the United States or at any time if the Contractor is delinquent in payment of the water service charge for a period of 90 days or upon failure of the Contractor to abide by any notice, order, rule, or regulation of the United States or the State of Oregon now or hereafter established affecting water service hereunder.

#### **Constraints on the Availability of Water (Water Shortages)**

12. In its operation of the Project, the United States will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the United States determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the United States, or actions taken by the Contracting Officer to meet current and future legal obligations, then no liability shall accrue against the United States or any of its officers, agents or employees for any damage, direct or indirect, arising there from.

#### **Disclaimer**

13. No provision of this contract, nor of any renewal thereof, nor the release of water hereunder will be construed to bind the United States after the expiration of this contract as the basis of a permanent water right. Because of possible fluctuations in reservoir surface elevations and downstream flows associated with the Rogue River Basin Project, the United States does not guarantee the availability of water at the point of the Contractor's diversion facilities as they may now be constructed or constructed hereafter. Further, the United States will not be held responsible for any acts or omissions of the Contractor's agents or of persons for whom water is released.

### Notices

14. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Program Manager, Repayment and Acreage Limitation, Pacific Northwest Region, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, ID 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to Duncan James Hunter, 651 Shadow Way, Central Point, OR 97502. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

### General Provisions

15. The general provisions applicable to this contract are listed below. The full text of these general provisions is attached as Exhibit A and is hereby made a part of this contract.

- a. GENERAL OBLIGATION -- BENEFITS CONDITIONED UPON PAYMENT
- b. CONFIRMATION OF CONTRACT
- c. CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS
- d. OFFICIALS NOT TO BENEFIT
- e. CHANGES IN CONTRACTORS ORGANIZATION
- f. ASSIGNMENTS LIMITED -- SUCCESSORS AND ASSIGNS OBLIGATION
- g. BOOKS, RECORDS, AND REPORTS
- h. COMPLIANCE WITH FEDERAL RECLAMATION LAWS
- i. PROTECTION OF WATER AND AIR QUALITY
- j. WATER CONSERVATION
- k. EQUAL EMPLOYMENT OPPORTUNITY
- l. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
- m. PRIVACY ACT COMPLIANCE
- n. MEDIUM FOR TRANSMITTING PAYMENTS
- o. CONTRACT DRAFTING CONSIDERATIONS

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

**CONTRACTOR**

---

Duncan James Hunter

**UNITED STATES OF AMERICA**

---

Program Manager  
Repayment and Acreage Limitation  
PN Region  
Bureau of Reclamation  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me, a notary public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he is the legal owner of the property for which a water supply is to be provided under the contract and has executed this contract as his free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

\*\*\*\*\*

STATE OF IDAHO )  
: ss  
County of Ada )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me \_\_\_\_\_, known to me to be the official of the UNITED STATES OF AMERICA that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of IDAHO  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Exhibit A

**GENERAL PROVISIONS -- ROGUE RIVER BASIN PROJECT****GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT**

(a). (1) The obligation of the Contractor to pay the United States as provided in this contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(2) The payment of charges becoming due pursuant to this contract is a condition precedent to receiving benefits under this contract. The Contractor shall not deliver water under the terms and conditions of this contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

**CONFIRMATION OF CONTRACT**

(b). Promptly after the execution of this contract, the Contractor shall provide to the Contracting Officer a certified copy of a final decree of a court of competent jurisdiction in the State of Oregon, confirming the proceedings on the part of the Contractor for the authorization of the execution of this contract. This contract shall not be binding on the United States until such final decree has been secured.

**CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS**

(c). The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

**OFFICIALS NOT TO BENEFIT**

(d). No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

**CHANGES IN CONTRACTOR'S ORGANIZATION**

(e). While this contract is in effect, no change may be made in the Contractor's organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this contract including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

### ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATION

(f). The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

### BOOKS, RECORDS, AND REPORTS

(g). The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

### COMPLIANCE WITH FEDERAL RECLAMATION LAWS

(h). The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Federal reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

### PROTECTION OF WATER AND AIR QUALITY

(i). (1) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: *Provided, That* the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(2) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Oregon and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within the Contractor's Project Water Service Area.

(3) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

### WATER CONSERVATION

(j). Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor shall develop a water conservation plan, as required by Section 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

### EQUAL EMPLOYMENT OPPORTUNITY

(k). During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

(l). (1) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.),] [Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.),]2 and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(2) These statutes require that no person in the United States shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(3) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article and that the United States reserves the right to seek judicial enforcement thereof.

(4) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

(m). (1) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (Privacy Act) and the Department of the Interior rules and regulations under the Privacy Act (43 CFR 2.45 et seq.) in maintaining landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(e), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(2) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in (a) above and are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(3) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WEBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the landholders' certification and reporting records.

(4) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 and amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(5) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64 and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18 unless the requester elects to cite the Privacy Act as authority for the request.

#### MEDIUM FOR TRANSMITTING PAYMENTS

(n). (1) All payments from the Contractor to the United States under this contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(2) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

#### CONTRACT DRAFTING CONSIDERATIONS

(o). This Contract has been, negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 18 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

CONTRACT FOR WATER SERVICE

Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
1	Preamble .....	1
2-3	Explanatory Recitals.....	1-2
4	Lands for Which Water is Released: Limitations on Diversions .....	2
5	Payments for Water .....	2-3
6	Contract Administration Fee.....	4
7	Charges for Delinquent Payments .....	4
8	Release of Water .....	4-5
9	Special Conditions.....	5-6
10	Term of Contract.....	6-7
11	Termination of Contract .....	7
12	Constraints on the Availability of Water (Water Shortages).....	7
13	Disclaimer.....	7
14	Notices .....	8
15	General Provisions.....	8
	Signatures .....	9
	Acknowledgments .....	10
	Exhibit A	

Contract No.

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION

Rogue River Basin Project, Oregon

**CONTRACT FOR WATER SERVICE**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2011, pursuant to section 9(e) of the Act of August 4, 1939 (53 Stat. 1187) and section 8 of the Act of December 22, 1944 (58 Stat. 887, 891) (which acts are commonly known and referred to as the Reclamation Laws), and the Flood Control Act of 1962 (76 Stat. 1173), between the UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by the Contracting Officer executing this contract, and **Duncan James Hunter**, hereinafter referred to as the Contractor;

WITNESSETH, THAT:

**Explanatory Recitals**

2. WHEREAS, The United States has constructed and operates Applegate and Lost Creek Reservoirs in the Rogue River Basin, Oregon, herein styled the Rogue River Basin Project, from which there is a flow of water that can be used for irrigation of land and other beneficial uses, which flow, as it has been developed or as it will be augmented, has been appropriated by the United States pursuant to the laws of Oregon for beneficial use under the Federal Reclamation Laws; and

3. WHEREAS, the Contractor owns land hereinafter described, for which a water supply from Lost Creek Reservoir is desired to be secured from the United States;

NOW, THEREFORE, in consideration of the premises and the payment by the Contractor to the United States of the charges in the manner hereinafter provided, it is agreed:

**Lands for Which Water is Released: Limitations on Diversions**

4. The United States shall release each year to the Contractor during the irrigation season from April 1 to October 31, inclusive, water from the Rogue River Basin Project for the irrigation of land owned by the Contractor described as follows:

2.19 acres, NW1/4 NE1/4, Section 22, T. 36 S., R. 3 W., W.M.

Of the land described, not more than 2.19 acres are to be irrigated. The amount of water to be released hereunder shall be that quantity which may be applied beneficially in accordance with good usage in the irrigation of the land above described, up to a maximum diversion of 9.855 acre-feet of stored water annually, measured at the point of diversion of said water.

**Payments for Water**

5. (a) An annual payment of \$78.84 for the first irrigation season shall be made to the United States at the time of executing this contract, and subsequent annual payments of \$78.84 will be due on or before April 1 of each succeeding irrigation season in advance of water use. This payment will entitle the Contractor to divert up to a maximum of 9.855 acre-feet of stored water for irrigation of the lands described in Article 4 of this contract. The Contracting Officer will consider adjusting the water service payment downward based on information received from the Contractor, the State of Oregon, or other reliable sources as to the actual amount of stored water diverted each month by the Contractor during the irrigation season and on other factors in addition to the amount of stored water actually diverted, as deemed appropriate by the Contracting Officer. Any such adjustment will be determined and subtracted from the payment for the next year by the Contracting Officer: Provided, that for an adjustment to be made, information on the amounts of

stored water diverted each month must be received in writing by the Contracting Officer by

December 1 of that year.

(b) The annual charge set forth in (a) above is based on an initial rate of \$8 per acre-foot of stored water; Provided, that such annual charge shall as a minimum be the greater of either the product of \$2 multiplied by the number of acres described in Article 4 of this contract or \$50. From time to time, but not less often than once every 5 years, the rate per acre-foot of stored water and the minimum payment shall be reviewed by the Contracting Officer and revised, if necessary, by the United States for the irrigation water marketing program of the Rogue River Basin Project. Any revision by the Contracting Officer will apply only to future payments and shall be announced by written notice to the Contractor at least 3 months prior to the beginning of the irrigation season to which the new rate would be applicable.

(c) All payments from the Contractor to the United States under this contract shall be made by the medium requested by the United States. The required medium of payment may include checks, wire transfers, or other types of payment specified by the United States. Except when otherwise specified by the United States, all payments shall be made by check.

(d) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

(e) Payments required hereunder shall be made to the Bureau of Reclamation at the location described in Article 14 of this contract.

### Contract Administration Fee

6. (a) Upon execution of this contract, a \$100 fee for the preparation of this contract is due and payable by the Contractor to the United States.
- (b) All future contract actions, including new contracts, contract amendments, supplements, and assignments will be charged a \$100 fee: Provided, that the fee shall be reviewed by the Contracting Officer and revised from time to time to cover costs to the United States.

### Charges for Delinquent Payments

7. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, in addition to the interest charge, the Contractor shall pay an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, in addition to the interest and administrative charges, the Contractor shall pay a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.
- (b) The interest charge rate shall be the greater of the rate prescribed quarterly in the Federal Register by the Department of the Treasury for application to overdue payments or the interest rate of 0.5 percent per month. The interest charge rate will be determined as of the due date and remain fixed for the duration of the delinquent period.
- (c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

### Release of Water

8. (a) Upon payment of the annual payment specified in subarticle 5(a) above, the United States will release water to the Contractor from the Rogue River Basin Project pursuant to this contract. No water shall be released if the Contractor is delinquent in payment of the required annual payment.

(b) Water diverted pursuant to this contract shall be measured at the following point(s) of diversion in accordance with Oregon State law:

2,477 feet west and 268 feet south of northeast corner of  
Section 22, T. 36 S., R. 3 W., W.M.

The Contractor shall be wholly responsible for securing said water at that point and diverting, conveying, and utilizing it. The Contractor shall be required to conform its diversions and releases to the control of the stream as established by the appropriate State-appointed watermaster. The water to be diverted hereunder shall be measured by means of measuring or controlling devices satisfactory to the Contracting Officer. Such devices shall be furnished, installed, and maintained by and at the expense of the Contractor, but they shall be and remain at all times available for reading and monitoring by the United States or the watermaster whose representative may at all times have access to them over any lands of the Contractor. All losses of water from seepage, evaporation, or other cause, below said point of measurement, shall be borne by the Contractor.

(c) The Contractor shall maintain all fish screens used to divert stored water under this contract at all times in compliance with applicable guidelines from the Oregon Department of Fish & Wildlife and the National Marine Fisheries Service and remain available at all times for inspection by representatives of these agencies at no cost to the United States.

#### Special Conditions

9. (a) It is the responsibility of the Contractor to comply with the laws of the State of Oregon regarding the obtaining and perfecting of permits to divert water to the lands described in Article 4. Prior to executing this contract, the Contractor shall secure any easements from the Corps of Engineers which may be required for constructing facilities to divert and convey the stored water and provide written verification of such agreements to the Contracting Officer.



The obligation of the United States to release water under this contract is subject to an operating plan for the Rogue River Basin Project determined in accordance with the law governing the project.

(b) If, at some future date, the Contracting Officer determines there is sufficient demand for irrigation water from the Rogue River Basin Project to justify the formation of an irrigation district, water supply company, or other water user organization, future water service may then be made contingent upon the establishment of such an organization. Under this condition, the Contractor will be notified at least 1 year in advance of the date this contract is terminated and continued water service to the lands described in Article 4 becomes dependent upon membership in the organization established for that purpose.

(c) In the interest of conservation and protection of environmental resources, from time to time, but not less often than once every 5 years, this contract shall be reviewed by the Contracting Officer. The terms and conditions of this contract may be modified, if deemed necessary by the Contracting Officer, to avoid or minimize impacts to candidate, listed or proposed threatened and endangered species, or other valuable natural resources. Any modification by the Contracting Officer shall be announced by written notice to the Contractor.

#### Term of Contract

10. This contract shall become effective as of the date first above written and will continue in effect for a period of 40 years unless sooner terminated in accordance with the provisions of Articles 9 or 11 or by agreement of the parties hereto: Provided; that upon expiration of the 40-year term, renewals may be made by the Secretary of the Interior for successive periods not to exceed 40 years and under terms and conditions mutually agreeable to the parties hereto: Provided further; that the terms and conditions of each renewal shall be negotiated in light of

circumstances prevailing at the time of renewal and agreed upon not later than 1 year prior to the expiration of the then existing contract.

#### Termination of Contract

11. This contract may be terminated and water service hereunder shall cease at the option of the United States or at any time if the Contractor is delinquent in payment of the water service charge for a period of 90 days or upon failure of the Contractor to abide by any notice, order, rule, or regulation of the United States or the State of Oregon now or hereafter established affecting water service hereunder.

#### Constraints on the Availability of Water (Water Shortages)

12. In its operation of the Project, the United States will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made available to the Contractor pursuant to this Contract. In the event the United States determines that a Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination as soon as practicable.

If there is a Condition of Shortage because of errors in physical operations of the Project, drought, other physical causes beyond the control of the United States, or actions taken by the Contracting Officer to meet current and future legal obligations, then no liability shall accrue against the United States or any of its officers, agents or employees for any damage, direct or indirect, arising there from.

#### Disclaimer

13. No provision of this contract, nor of any renewal thereof, nor the release of water hereunder will be construed to bind the United States after the expiration of this contract as the basis of a permanent water right. Because of possible fluctuations in reservoir surface elevations and downstream flows associated with the Rogue River Basin Project, the United States does not guarantee the availability of water at the point of the Contractor's diversion facilities as they may now be constructed or constructed hereafter. Further, the United States will not be held responsible for any acts or omissions of the Contractor's agents or of persons for whom water is released.

### Notices

14. Any notice, demand, or request authorized or required by this contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Program Manager, Repayment and Acreage Limitation, Pacific Northwest Region, Bureau of Reclamation, 1150 North Curtis Road, Suite 100, Boise, ID 83706-1234, and on behalf of the United States, when mailed, postage prepaid, or delivered to Duncan James Hunter, 651 Shadow Way, Central Point, OR 97502. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this article for other notices.

### General Provisions

15. The general provisions applicable to this contract are listed below. The full text of these general provisions is attached as Exhibit A and is hereby made a part of this contract.

- a. GENERAL OBLIGATION -- BENEFITS CONDITIONED UPON PAYMENT
- b. CONFIRMATION OF CONTRACT
- c. CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS
- d. OFFICIALS NOT TO BENEFIT
- e. CHANGES IN CONTRACTORS ORGANIZATION
- f. ASSIGNMENTS LIMITED -- SUCCESSORS AND ASSIGNS OBLIGATION
- g. BOOKS, RECORDS, AND REPORTS
- h. COMPLIANCE WITH FEDERAL RECLAMATION LAWS
- i. PROTECTION OF WATER AND AIR QUALITY
- j. WATER CONSERVATION
- k. EQUAL EMPLOYMENT OPPORTUNITY
- l. COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS
- m. PRIVACY ACT COMPLIANCE
- n. MEDIUM FOR TRANSMITTING PAYMENTS
- o. CONTRACT DRAFTING CONSIDERATIONS

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above written.

**CONTRACTOR**

---

Duncan James Hunter

**UNITED STATES OF AMERICA**

---

Program Manager  
Repayment and Acreage Limitation  
PN Region  
Bureau of Reclamation  
1150 North Curtis Road, Suite 100  
Boise, ID 83706-1234

STATE OF \_\_\_\_\_ )  
: ss  
County of \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, before me, a notary public, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he is the legal owner of the property for which a water supply is to be provided under the contract and has executed this contract as his free and voluntary act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of \_\_\_\_\_  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

\* \* \* \* \*

STATE OF IDAHO )  
: ss  
County of Ada )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2011, personally appeared before me \_\_\_\_\_, known to me to be the official of the UNITED STATES OF AMERICA that executed the within and foregoing instrument and acknowledged said instrument to be the free and voluntary act and deed of said United States, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal as of the day and year first above written.

(SEAL)

\_\_\_\_\_  
Notary Public in and for the  
State of IDAHO  
Residing at: \_\_\_\_\_  
My commission expires: \_\_\_\_\_

Exhibit A

**GENERAL PROVISIONS — ROGUE RIVER BASIN PROJECT****GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT**

(a). (1) The obligation of the Contractor to pay the United States as provided in this contract is a general obligation of the Contractor notwithstanding the manner in which the obligation may be distributed among the Contractor's water users and notwithstanding the default of individual water users in their obligation to the Contractor.

(2) The payment of charges becoming due pursuant to this contract is a condition precedent to receiving benefits under this contract. The Contractor shall not deliver water under the terms and conditions of this contract for lands or parties that are in arrears in the advance payment of water rates as levied or established by the Contractor.

**CONFIRMATION OF CONTRACT**

(b). Promptly after the execution of this contract, the Contractor shall provide to the Contracting Officer a certified copy of a final decree of a court of competent jurisdiction in the State of Oregon, confirming the proceedings on the part of the Contractor for the authorization of the execution of this contract. This contract shall not be binding on the United States until such final decree has been secured.

**CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS**

(c). The expenditure or advance of any money or the performance of any obligation of the United States under this contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations under this contract. No liability shall accrue to the United States in case funds are not appropriated or allotted.

**OFFICIALS NOT TO BENEFIT**

(d). No Member of or Delegate to the Congress, Resident Commissioner, or official of the Contractor shall benefit from this contract other than as a water user or landowner in the same manner as other water users or landowners.

**CHANGES IN CONTRACTOR'S ORGANIZATION**

(e). While this contract is in effect, no change may be made in the Contractor's organization, by inclusion or exclusion of lands or by any other changes which may affect the respective rights, obligations, privileges, and duties of either the United States or the Contractor under this contract including, but not limited to, dissolution, consolidation, or merger, except upon the Contracting Officer's written consent.

### ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATION

(f). The provisions of this contract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this contract or any right or interest therein by either party shall be valid until approved in writing by the other party.

### BOOKS, RECORDS, AND REPORTS

(g). The Contractor shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including the Contractor's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations, each party to this contract shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

### COMPLIANCE WITH FEDERAL RECLAMATION LAWS

(h). The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this contract is subject to Federal reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

### PROTECTION OF WATER AND AIR QUALITY

(i). (1) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: Provided, That the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

(2) The Contractor shall comply with all applicable water and air pollution laws and regulations of the United States and the State of Oregon and shall obtain all required permits or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water by the Contractor; and shall be responsible for compliance with all Federal, State, and local water quality standards applicable to surface and subsurface drainage and/or discharges generated through the use of Federal or Contractor facilities or project water provided by the Contractor within the Contractor's Project Water Service Area.

(3) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

### WATER CONSERVATION

(j). Prior to the delivery of water provided from or conveyed through federally constructed or federally financed facilities pursuant to this contract, the Contractor shall develop a water conservation plan, as required by Section 210(b) of the Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

### EQUAL EMPLOYMENT OPPORTUNITY

(k). During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, disability, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, disability, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising the labor union or workers' representative of the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, as amended (EO 11246), and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of EO 11246, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by EO 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in EO 11246, and such other sanctions may be imposed and remedies invoked as provided in EO 11246, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.



(7) The Contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of EO 11246, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

(l). (1) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.),] [Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.),]2 and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

(2) These statutes require that no person in the United States shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. By executing this contract, the Contractor agrees to immediately take any measures necessary to implement this obligation, including permitting officials of the United States to inspect premises, programs, and documents.

(3) The Contractor makes this agreement in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Contractor recognizes and agrees that such Federal assistance will be extended in reliance on the representations and agreements made in this article and that the United States reserves the right to seek judicial enforcement thereof.

(4) Complaints of discrimination against the Contractor shall be investigated by the Contracting Officer's Office of Civil Rights.

#### PRIVACY ACT COMPLIANCE

(m). (1) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (Privacy Act) and the Department of the Interior rules and regulations under the Privacy Act (43 CFR 2.45 et seq.) in maintaining landholder certification and reporting records required to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43 C.F.R. § 426.18.

(2) With respect to the application and administration of the criminal penalty provisions of the Privacy Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees who are responsible for maintaining the certification and reporting records referenced in (a) above and are considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

(3) The Contracting Officer or a designated representative shall provide the Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of information contained in the landholders' certification and reporting records.

(4) The Contracting Officer shall designate a full-time employee of the Bureau of Reclamation to be the System Manager responsible for making decisions on denials pursuant to 43 CFR 2.61 and 2.64 and amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to grant requests by individuals for access to their own records.

(5) The Contractor shall forward promptly to the System Manager each proposed denial of access under 43 CFR 2.64 and each request for amendment of records filed under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with information and records necessary to prepare an appropriate response to the requester. These requirements do not apply to individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18 unless the requester elects to cite the Privacy Act as authority for the request.

#### MEDIUM FOR TRANSMITTING PAYMENTS

(n). (1) All payments from the Contractor to the United States under this contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

(2) Upon execution of the contract, the Contractor shall furnish the Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the Contractor's relationship with the United States.

#### CONTRACT DRAFTING CONSIDERATIONS

(o). This Contract has been, negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 18 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.