

# 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](http://www.wrd.state.or.us)

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## Water-Use Permit Application Processing

JUN 13 2016

### 1. Completeness Determination

SALEM, OR

The Department evaluates whether the application and accompanying map contain all of the information required under OAR 690-310-0040 and OAR 690-310-0050 ([www.oregon.gov/owrd/law.oar](http://www.oregon.gov/owrd/law.oar)). The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

### 2. Initial Review

The Department reviews the application to determine whether water is available during the period requested, whether the proposed use is restricted or limited by rule or statute, and whether other issues may preclude approval of or restrict the proposed use. An Initial Review (IR) containing preliminary determinations is mailed to the applicant. The applicant has 14 days from the mailing date to withdraw the application from further processing and receive a refund of all fees paid minus \$200. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

### 3. Public Notice

Within 7 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department at [www.oregon.gov/owrd](http://www.oregon.gov/owrd). The public comment period is 30 days from publication in the weekly notice.

### 4. Proposed Final Order Issued

The Department reviews any comments received, including comments from other state agencies related to the protection of sensitive, threatened or endangered fish species. Within 60 days of completion of the IR, the Department issues a Proposed Final Order (PFO) explaining the proposed decision to deny or approve the application. A PFO proposing approval of an application will include a draft permit, and may request additional information or outstanding fees required prior to permit issuance.

### 5. Public Notice

Within 7 days of issuing the PFO, the Department gives public notice in the weekly notice. Notice includes information about the application and the PFO. Protest must be received by the Department within 45 days after publication of the PFO in the weekly notice. Anyone may file a protest. The protest filing fee is \$350.00 for the applicant and \$700.00 for non-applicants. Protests are filed on approximately 10% of Proposed Final Orders. If a protest is filed the Department will attempt to settle the protest but will schedule a contested case hearing if necessary.

### 6. Final Order Issued

If no protests are filed, the Department can issue a Final Order within 60 days of the close of the period for receiving protest. If the application is approved, a permit is issued. The permit specifies the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate.

# Minimum Requirements Checklist

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

## Include this checklist with the application

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

- SECTION 1: applicant information and signature
- SECTION 2: property ownership
- SECTION 3: source of water requested
- SECTION 4: water use
- SECTION 5: water management
- SECTION 6: resource protection
- SECTION 7: project schedule
- SECTION 8: within a district
- SECTION 9: remarks

### Attachments:

- 
- Land Use Information Form with approval and signature (*must be an original*) or signed receipt
  - Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
  - Fees - Amount enclosed: \$ 1,850  
See the Department's Fee Schedule at [www.oregon.gov/owrd](http://www.oregon.gov/owrd) or call (503) 986-0900.

### Provide a map and check that each of the following items is included:

- 
- Permanent quality and drawn in ink
  - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
  - North Directional Symbol
  - Township, Range, Section, Quarter/Quarter, Tax Lots
  - Reference corner on map
  - NA Location of each well, and/or dam if applicable, by reference to a recognized public land survey corner (distances north/south and east/west)
  - Indicate the area of use by Quarter/Quarter and tax lot clearly identified
  - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
  - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)
  - Other:

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SALEM, OR

# 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 PHILIP G. FOGG, JR		PHONE (HM)	
PHONE (WK) (971) 206-9136	CELL		FAX
ADDRESS 15965 NE EILERS ROAD			
CITY AURORA	STATE OR	ZIP 97002	E-MAIL * PFOGGJR@MARQUISCOMPANIES.COM

### Organization Information

NAME NA		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 JENNIE BRICKER/JENNIE BRICKER LAND & WATER LAW		PHONE (503) 928-0976	FAX
ADDRESS 818 SW THIRD AVENUE, PMB 1517			CELL
CITY PORTLAND	STATE OR	ZIP 97204	E-MAIL * JENNIE@JBRICKERLAW.COM

Note: Attach multiple copies as needed

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

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By my signature below I confirm that I understand:

JUN 13 2016

- 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 packet. SALEM, OR
- I cannot legally use water until the Water Resources Department issues a permit to me.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I 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.

Applicant Signature

Phil Fogg, Jr  
Print Name and title if applicable

Date

Applicant Signature

Print Name and title if applicable

Date

Revised

App. No. 1788246

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*).

NA

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

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**SECTION 3: SOURCE OF WATER**

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**A. Proposed Source of Water**

SALEM, OR

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: Willamette River Project Reservoirs under Permits R-1625 and R-5363 Tributary to: Willamette River

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).  
Permits R-1625 and R-5363

**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.)

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

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
Willamette River Project Reservoirs	Irrigation	March 1 to October 31	9.75 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af

**For irrigation use only:**

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

Primary: 3.9 Acres                      Supplemental: 0 Acres

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

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 9.75

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

**SECTION 5: WATER MANAGEMENT**

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**A. Diversion and Conveyance**

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

Pump (give horsepower and type): Likely submersible and 10 hp or smaller

SALEM, OR

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

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

A submersible pump with a fish screen on the intake is expected to be seasonally installed on a dock planned for the river. The motor controls are expected to be installed on the riverbank at a height sufficient to protect the equipment from floods. A buried mainline will extend from the dock to the

places of use. The portion of the pipeline underlying Eilers Road will be bored to limit disturbance to the roadway.

**B. Application Method**

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

In-ground sprinkler sets, hand lines and drip.

**C. Conservation**

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

The amount of water requested is equivalent to 2.5 acre-feet/acre. The amount of water actually needed for the uses will be later determined by the Claim of Beneficial Use. A flowmeter will be installed since this is expected to be required, assuming both the Reclamation contract and the water-use permit are issued. The amount of water requested is a small portion of the total river flow, and the release of water from storage is expected to benefit the river reaches between the reservoirs and the proposed point of diversion.

**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: A fish screen will be installed on the pump intake.
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.  
Describe planned actions: A U.S. Army Corps of Engineers/Oregon Division of State Lands (COE/DSL) Joint Permit Application will be filed to address removal/fill activities associated with the project.
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.  
Describe: The conditions in the COE/DSL Joint Permit are expected to address any in-water work.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.  
Describe: Water will be used at agronomic rates to prevent runoff to the river.

**SECTION 7: PROJECT SCHEDULE**

Date construction will begin: As soon as permit is issued

Date construction will be completed: October 1, 2020

Date beneficial water use will begin: October 1, 2021

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**SECTION 8: WITHIN A DISTRICT**

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

Irrigation District Name NA	Address	
City	State	Zip

**SECTION 9: REMARKS**

Use this space to clarify any information you have provided in the application.

A Contract Data Sheet has been forwarded to the U.S. Bureau of Reclamation requesting a water-service contract.

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SALEM, OR

# 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

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## NOTE TO APPLICANTS

SALEM, OR

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

**This form is NOT required if:**

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

## NOTE TO LOCAL GOVERNMENTS

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



# Land Use Information Form



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

Applicant: Philip G. First Fogg, Jr Last

Mailing Address: 15965 N.E. Eilers Road

Aurora OR 97002 Daytime Phone: (971) 206-9136  
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:
3 South	1 East	19	NW NE	400		<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	No Change
3 South	1 East	19	NE NW	400		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	No Change

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

Clackamas County	<b>RECEIVED BY OWRD</b>  JUN 13 2016
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## B. Description of Proposed Use

**SALEM, OR**

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

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

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

Estimated quantity of water needed: 9.75   
 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:

Water from the Willamette Basin Project Reservoirs will be diverted from the Willamette River under an irrigation contract with the U.S. Bureau of Reclamation. The approximately 3.9 acres to be irrigated will consist of lawn and landscaping.
---

**Note to applicant:** If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

See bottom of Page 3. →

# 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.

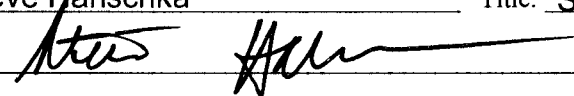
**Please check the appropriate box below and provide the requested information**

- 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): ZDO 401
- 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
	<b>RECEIVED BY OWRD</b>	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	JUN 13 2016	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	<b>SALEM, OR</b>	<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.

This approval does not approve grading, cutting, filling, or other development in the floodplain, beyond that associated with this application for a permit to use surface water. Any landscaping-related pathways or other activities that might be associated with this application shall result in zero net gain of material in the floodplain, unless the material is necessary for planting new trees and other vegetation, or is required for the construction of stormwater runoff detention facilities and / or structures.

Name: Steve Hanschka Title: Sr. Planner, CFM  
 Signature:  Phone: (503) 742-4500 Date: May 25, 2016  
 Government Entity: Clackamas County

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



**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

Date \_\_\_\_\_

(For staff use only)



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

**WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):**

- SECTION 1: \_\_\_\_\_
- SECTION 2: \_\_\_\_\_
- SECTION 3: \_\_\_\_\_
- SECTION 4: \_\_\_\_\_
- SECTION 5: \_\_\_\_\_
- SECTION 6: \_\_\_\_\_
- SECTION 7: \_\_\_\_\_
- SECTION 8: \_\_\_\_\_
- SECTION 9: \_\_\_\_\_
- Land Use Information Form \_\_\_\_\_
- Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
- Fees \_\_\_\_\_

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SALEM, OR

**MAP**

- Permanent quality and drawn in ink
- Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
- North Directional Symbol
- Township, Range, Section, Quarter/Quarter, Tax Lots
- Reference corner on map
- Location of each well, and/or dam if applicable, by reference to a recognized public land survey corner (distances north/south and east/west)
- Indicate the area of use by Quarter/Quarter and tax lot clearly identified
- Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
- Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)
- Other \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

S-88246



Lake Oswego Branch  
File No. 87F0918168

Clackamas County Official Records 2014-063616  
Sherry Hall, County Clerk 12/11/2014 09:31:47 AM  
D-D Cnt=1 Stn=2 LESLIE  
\$10.00 \$16.00 \$10.00 \$22.00 \$58.00

After recording return to:  
Phillip G. Fogg and Angela J. Fogg  
27737 SW Petes Mountain Road  
West Linn, OR 97068

Until a change is requested, all tax statements shall be sent  
to the following address:  
Phillip G. Fogg and Angela J. Fogg  
27737 SW Petes Mountain Road  
West Linn, OR 97068

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SALEM, OR

**STATUTORY WARRANTY DEED**

George E. Adams, Grantor, conveys and warrants to Phillip G. Fogg, Jr. and Angela J. Fogg, as tenants by the entirety, Grantee, the following described real property free of encumbrances except as specifically set forth herein:

SEE ATTACHED EXHIBIT "A"

Tax Account No. 00768468

This property is free of encumbrances, EXCEPT:  
SEE EXHIBIT "A" WITH EXCEPTIONS  
The true consideration for this conveyance is \$1,058,000.00

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, 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 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

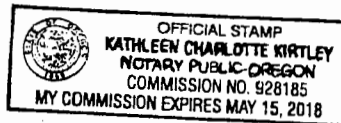
Dated 9th day of December, 2014

George E. Adams

STATE OF OREGON  
COUNTY OF WASHINGTON  
The foregoing instrument was acknowledged before me this 9th day of December, 2014 by  
George E. Adams

Notary Public State of Oregon  
My commission expires: 5/15/2018

Order No. 87F0918168



5-800246

LAWYERS 87F0918168

**Exhibit "A" with Exceptions**

**Real property, of the Willamette Meridian, in the City of Aurora, County of Clackamas and State of Oregon, described as follows:**

**A tract of land located in the Northwest one-quarter of Section 19, Township 3 South, Range 1 East, of the Willamette Meridian, in the City of Aurora, County of Clackamas and State of Oregon, described as follows:**

**Beginning at a point on the North-South Section line at the Northeast corner of a certain 98 acre tract of land formerly owned by Gerd Eilers, as described in Book 78, Page 182, Deed Records; thence Southerly along the North-South Section line and the East line of said Eilers Tract 676.5 feet to a point; thence West 445.5 feet to a point; thence North 676.5 feet to a point; thence North 676.5 feet to the Willamette River; thence Easterly along said River, 445.4 feet to the place of beginning.**

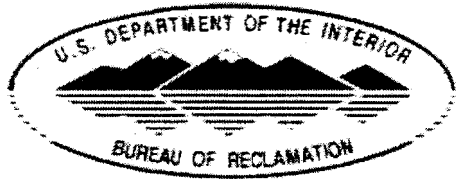
**EXCEPTING that certain tract conveyed to Richard A. Nelson, et ux, by Deed recorded July 13, 1973, Fee No. 73 22167, and**

**FURTHER EXCEPTING that certain tract described in Contract to Sean O'Halloram, recorded April 9, 1976, Fee No. 76 11091.**

**Subject to:**

1. Any adverse claim based upon the assertion that:
  - A) Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Willamette River or has been formed by accretion or reliction to any such portion.
  - B) Some portion of said property has been created by deposit of artificial fill.And Excepting;
  - C) The rights of the public and governmental bodies for fishing, navigation and commerce in and to any portion of the premises herein described, lying below the high water line of the Willamette River.
  - D) The right, title and interest of the State of Oregon in and to any portion lying below the high water line of Willamette River.
2. Easement, including the terms and provisions thereof  
Recording Date : August 26, 1933  
Recording No. : Book 220; Page 518
3. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:  
Granted to : Portland General Electric Company  
Purpose : Utilities  
Recording Date : October 10, 1962  
Recording No. : Book 611; Page 659

# CONTRACT DATA SHEET



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

## RECLAMATION *Managing Water in the West*

RECEIVED BY OWRD

JUN 13 2016

1. Applicant Information:

A. Landowners

SALEM, OR

- 1) Name of landowner(s): Philip G. Fogg, Jr
- 2) Address: 15905 NE Eilers Road Aurora, OR 97002
- 3) Mailing Address (if different): 15965 NE Eilers Road Aurora, OR 97002
- 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: NA
- 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): Willamette River Project

3. Proposed point of diversion: 2040 feet north and 250 feet west  
Of center of Section 19, Township 3 south, Range 1 east, 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: Pending.

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-00246

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: 9.75 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
3 South	1 East	19	NW NE	0.5	Lawn and Landscaping
3 South	1 East	19	NE NW	3.4	Lawn and Landscaping

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)].  
Residential lawn and landscaping

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: A fish screen meeting Oregon Department of Fish and Wildlife requirements will be installed on the pump intake.

12. Telephone number where you can be reached during the day: (971) 206-9136

Before returning the completed Contract Data Sheet to the address provided on page 1, please check that you have done the following:

- ANSWERED ALL QUESTIONS COMPLETELY
- ATTACHED AND IDENTIFIED ADDITIONAL SHEET(S) AS NECESSARY
- ATTACHED THE REQUIRED MAP
- SUBMIT PAYMENT FOR THE APPROPRIATE CONTRACT ADMINISTRATION FEE <sup>2</sup>, MAKE CHECK PAYABLE TO THE U.S. BUREAU OF RECLAMATION

<sup>1</sup> Section 31001.(i) of the Debt Collection Improvement Act of 1996 (Chapter 10 of Pub. L. 104-134) requires each contractor with an agency of the United States to furnish their taxpayer identifying number (social security number or employer identification number) and each agency to disclose to that contractor its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such contractor's relationship with the Government.

<sup>2</sup> The minimum contract administration fee for most applications is \$100. However, from time to time this fee may be revised to cover the costs of the United States. We recommend you contact this office to verify the current minimum contract administration fee. In the event that the costs to the United States of evaluating the application are in excess of the minimum contract administration fee, an estimate of the reimbursable costs for which advance payment is required will be provided to the applicant.

RECEIVED BY OWRD

JUN 13 2016

SALEM, OR

**Jennie Bricker  
Land & Water Law**

818 SW Third Avenue, PMB 1517  
Portland, Oregon 97204

Email: [jennie@jbrickerlaw.com](mailto:jennie@jbrickerlaw.com)

Telephone: 503-928-0976

June 10, 2016

Jerry Sauter  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

**Re: Permit Applicant Philip Fogg:  
Resubmission of Application to Store Water  
Submission of Application for Use of Surface Water**

Dear Jerry:

I represent Phil Fogg, owner of property in Clackamas County, located at 15905 NE Eilers Road, Aurora, OR 97002. With the assistance of CWRE Steve Bruce, Skookum Water Associates, Inc., Mr. Fogg and I have prepared the following for submission to the Department:

Application for a Permit to Store Water in a Reservoir (Alternate Review)

Mr. Fogg (through his agent, Mark Rosenkranz) originally submitted this application in October 2015. In a letter dated October 22, 2015, the Department returned the application as incomplete. I have included a copy of the Department's letter. This resubmission is identical to the first, except that we have (1) changed the agent information and the source (to include run-off) on page 1, (2) substituted a new Land Use Compatibility Statement, and (3) enclosed a copy of Mr. Fogg's deed to the property, which includes a property description. We also enclose Mr. Fogg's original check in the amount of \$830.

Application for a Permit to Use Surface Water

We are also submitting a permit application for surface water, for irrigation on the same property. This application includes a signed Land Use Compatibility Statement, a copy of Mr. Fogg's deed to the property, a copy of the Contract Data Sheet provided to the United States Bureau of Reclamation, and a check for \$1850.

Thank you, Jerry, and please feel free to call with any questions.

Very truly yours,



Jennie Bricker

RECEIVED BY OWRD

JUN 13 2016

SALEM, OR

cc: Phil Fogg  
Mark Rosenkranz

S-88246





**Oregon Water Resources Department**  
**Permit to Appropriate Only Stored Water - Expedited Secondary**

- [Main](#)
- [Help](#)
- [Return](#)
- [Contact Us](#)

Today's Date: Tuesday, June 14, 2016

Base Application Fee.		\$450.00
Acre feet of Stored Water to be diverted.	9.75	\$300.00
Permit Recording Fee. ***		\$450.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<b>Recalculate</b>	
Estimated cost of Permit Application		\$1,200.00

[OWRD Fee Schedule](#)

Fee Calculator Version: B20130709