



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

# Application for a Permit to Use Surface Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. APPLICANT INFORMATION

### A. Applicants

Applicant: Bradford LaVanway  
First Last

Mailing Address: PO Box 1331  
Roseburg Oregon 97470  
City State Zip

Phone:   (214) 682-9822  
Home Work Other

\*Fax:  \*Email Address:

### B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of Organization:

Name and Title of Person Applying:

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Mailing Address or Organization:

OCT 20 2009

WATER RESOURCES DEPT  
SALEM, OREGON

City State Zip

Phone :    
Day Evening

\*Fax:  \*Email Address:

\*Optional

For Department Use		
App. No. <u>S-87542</u>	Permit No. <u></u>	Date <u></u>

## 2. SOURCE AND PROPERTY OWNERSHIP

**A. The 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: Galesville Reservoir Tributary to: Cow Creek  
 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).

R9964

**B. Applications to Use Stored Water**

Complete this section if any source listed in item 2A above is stored water.

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Do you, or will you, own the reservoir(s) described in item 2A 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 2A 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.

**C. Property Ownership**

Do you own all the land where you propose to divert, transport, and use water?

Yes (Please check appropriate box below then skip to section 3 'Water Use')

There are no encumbrances

This land is encumbered by easements, rights of way, roads or other encumbrances  
(please provide a copy of the recorded deed(s) )

No (Please check the appropriate box below)

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 irrigated and/or domestic use only (ORS 274.040).

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.

List the names and mailing addresses of all affected landowners.

**3. WATER USE**

Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

**A. Type(s) of Use(s)**

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water: 1
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

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**B. Amount of Water**

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	Type of use	Amount
Galesville Res.	Domestic Expanded	2 <input type="radio"/> cfs <input type="radio"/> gpm <input checked="" type="radio"/> af
		<input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af

**C. Period of Use**

Indicate the time of year you propose to use the water: Year-round  
*(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1-October 31.)*

If you will be applying water to land, indicate the total number of acres where water will be applied or used: .50 acre as part of Domestic Expanded  
*(This number should be consistent with your application map.)*

**4. WATER MANAGEMENT**

**A. Diversion**

What method will you use to divert water from the source?

- Pump (give horsepower and pump type): Gould 3/4 H.P.
- Head-gate (give dimensions): \_\_\_\_\_
- other means (describe): \_\_\_\_\_

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**B. Monitoring**

How will you monitor your diversion to be sure you are within the limits of your water right (allowed rate and duty) and you are not wasting water?

- Weir
- Meter
- Periodic Sampling
- other means (describe): \_\_\_\_\_

**C. Transport**

How will you transport water to your place of use?

Ditch or canal (give average width and depth):

Width \_\_\_\_\_ Depth \_\_\_\_\_

Is the ditch or canal to be lined?  Yes  No

Pipe (give diameter and total length):

Diameter 1.5" Length 65'

other, describe: \_\_\_\_\_

**D. Application/Distribution Method**

What equipment will you use to apply water to your place of use?

Irrigation or land application method (check all that apply):

- Flood  High pressure sprinkler  Low pressure sprinkler
- Drip  Water Cannons  Center pivot system
- Hand Lines  Wheel Lines
- Siphon tubes or gated pipe with furrows
- other, describe: \_\_\_\_\_

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Distribution method

- Direct pipe from source  In-line storage (tank or pond)  Open Canal

**E. Conservation**

What methods will you use to conserve water? Why did you choose this distribution or application method? Have you considered other methods to transport, apply, distribute or use water? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

Piped enclosed system will be inspected regularly for leaks.

5. RESOURCE PROTECTION

A. Protection Practices

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:

Intake will be screened to ODFW specifications

- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas. Describe planned actions:

Minimal clearing needed

- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe:

None planned

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- Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe:

Will employ best residential management practices

- Other:

6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: Upon permit issuance

Proposed date construction will be completed: October 1, 2010

Proposed date beneficial water use will begin: October 1, 2011

Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars)  Yes  No

7. REMARKS

*If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.*

N/A

8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed points of diversion and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

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## 9. SIGNATURE

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 packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- 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 canceled.
- 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 swear that all information provided in this application is true and correct to the best of my knowledge:

Signature of Applicant (If more than one applicant, all must sign.)

Date

*Bradford L. LeVine* 3-21-09

Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

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**WRD on the web:**

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



S-87542  
AAR

DOUGLAS COUNTY OFFICIAL RECORDS  
BARBARA E. NIELSEN, COUNTY CLERK

2005-023592



\$26.00

00124144200500235920020026

09/19/2005 02:13:28 PM

DEED-WD Cnt=1 Str=18 RECORDINGDESK  
\$10.00 \$11.00 \$5.00

After recording return to:

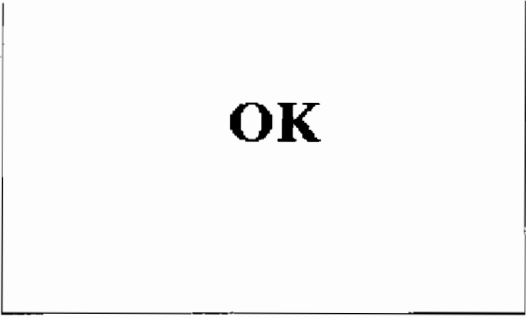


AmeriTitle, Inc.  
P.O. Box 1609  
1495 NW Garden Valley Blvd.  
Roseburg, OR 97470 00064914

AmeriTitle 64914

Until a change is requested all tax statements shall be sent to the following address:

GRANTEE  
P.O. Box 1331  
Roseburg, OR 97470



**STATUTORY WARRANTY DEED**

LYNNE TIMLECK, Grantor, conveys and warrants to BRADFORD L. LAVANWAY, Grantee, the following described real property free of encumbrances, except as specifically set forth herein situated in Douglas County, Oregon, to wit:

See Exhibit A attached hereto and made a part hereof.

This property is free from encumbrances, EXCEPT: ALL THOSE ITEMS OF RECORD, IF ANY, AS OF THE DATE OF THIS DEED AND THOSE SHOWN BELOW, IF ANY:

THIS INSTRUMENT WILL 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 AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is \$155,000.00. (Here comply with the requirements of ORS 93.030)

Dated Sept. 8th, 2005.

Lynne Timleck  
LYNNE TIMLECK

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NOV 04 2009

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SALEM, OREGON

STATE OF OREGON }  
COUNTY OF DOUGLAS } ss:

This instrument was acknowledged before me on September 8th, 2005  
by LYNNE TIMLECK

Stephanie Wattman  
Notary Public for Oregon  
My commission expires 10/15/2005



S-87542

29-06-11-300 R64988

Exhibit A

That portion of the following described real property conveyed in deed to Robert P. Reed, recorded in Volume 99, Page 237, Deed Records of Douglas County, Oregon, described as follows: BEGINNING at a ¾ inch by 36 inch pipe on the Easterly right of way line to the present traveled Pacific Highway No. 99, from which the quarter section corner between Sections 2 and 11, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon, bears North 68° 51' West 578.81 feet; thence South 87° 21' East 181.75 feet to a ¾ inch by 42 inch pipe on the left or Westerly bank of the South Umpqua River; thence along said river bank, South 6° 36' East 688.11 feet, South 10° 06' East 109.25 feet, South 6° 11' East 107.50 feet, South 6° 29' East 97.50 feet, South 11° 50' East 80.30 feet, South 22° 01' East 75.50 feet, South 39° 15' East 100.30 feet, South 20° 08' East 117.20 feet, South 6° 19' East 110.70 feet, South 30° 03' East 81.70 feet, South 49° 00' East 60.90 feet; thence leaving said river bank, South 45° 50' West 53.00 feet to a point on the Easterly right of way line of Highway 99; thence along said right of way line, North 44° 10' West 75.00 feet, North 27° 43' West 100.00 feet, North 5° 58' West 100.00 feet North 18° 34' West 100.00 feet, North 39° 15' West 100.00 feet, North 39° 39' West 100.00 feet, North 19° 32' West 100.00 feet, North 7° 02' West 100.00 feet, North 5° 28' West 100.00 feet, North 10° 16' West 100.00 feet, North 13° 32' West 734.97 feet; thence leaving said highway right of way line, South 87° 21' East 0.89 feet to the place of beginning. All being situated in Lots 1 and 2, Section 11, Township 29 South, Range 6 West, Willamette Meridian, Douglas County, Oregon. 300,301,302

EXCEPTING THEREFROM those portions conveyed to the State of Oregon, by and through its Department of Transportation, Highway Division, by Instruments, 66-3973, 84-9096 and 85-5050, Records of Douglas County, Oregon. EXC 301,302

T29S, R06W, S11, TL 300

Order No. 64914

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**NOV 04 2009**

**WATER RESOURCES DEPT  
SALEM, OREGON**

**END OF DOCUMENT**



**DOUGLAS COUNTY PLANNING & BUILDING**

Room 106, Justice Building  
Douglas County Courthouse, Roseburg, Oregon 97470  
Planning - (541) 440-4289  
Building - (541) 440-4559

S-87542  
8/21/2009  
5:11 pm

**Permit Number: WS09-0680**

**Job Address: 14584 OLD HIGHWAY 99 SOUTH, MYRTLE CREEK**

Receipt: P07398

*R64988*

Fee Description	Fee Amount
WORKSHEET	\$50.00
<b>Total Fees Paid:</b>	<b>\$50.00</b>

Paid By: **LAVANWAY, BRADFORD L**

Pay Method: **Check 2803**

Received By: **Debbi Garris**

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WATER RESOURCES DEPT  
SALEM, OREGON



# Oregon Water Resources Department Land Use Information Form

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) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Bradford Lavanway  
First Last

Mailing Address: P.O. Box 1331

Roseburg OR 97470 Daytime Phone: (214) 682-9822  
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), or used. 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:
29	6W	11		300		<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" 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	
						<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, or used:

Douglas County

### B. Description of Proposed Use

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

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

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

Estimated quantity of water needed: 2  cubic feet per second  gallons per minute  acre-feet

Intended use of water:  Irrigation  Commercial  Industrial  Domestic for 1 household(s)  
 Municipal  Quasi-municipal  Instream  Other \_\_\_\_\_

Briefly describe:

Domestic Expanded use for one household.

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

### Receipt for Request for Land Use Information

State of Oregon Water  
Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

### 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 proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 3.4.050.6

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)

**If approvals have been obtained but all appeal periods have not ended, check "Being pursued".**

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being pursued <input type="checkbox"/> Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

**DOUGLAS COUNTY PLANNING DEPARTMENT  
ROOM 106, JUSTICE BUILDING  
DOUGLAS COUNTY COURTHOUSE  
ROSEBURG, OR 97470**

Name: Patrick Parson Title: Planning Technician  
 Signature: Patrick Parson Phone: 440-4289 Date: 8/21/2009  
 Government Entity: Douglas County Planning Department

**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.

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**Receipt for Request for Land Use Information**

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SALEM, OREGON**

Applicant Name: \_\_\_\_\_  
 City or County: \_\_\_\_\_ Staff Contact: \_\_\_\_\_  
 Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_

RECEIPT

DOUGLAS COUNTY, OREGON

DATE 8/21/09 DEPARTMENT Nat Res  
RECEIVED OF Brad LaVanway

THE PERIOD OF 2009  
REFERENCE NUMBER D-2009-15

TRANSACTION DESCRIPTION

GV water use fee.

AMOUNT RECEIVED \$ 158<sup>00</sup>

CASH     CHECK     MONEY ORDER     OTHER  
# 2802

RECEIVED BY J L Woody

RECEIPT NO. 204172

WHITE - PAYOR    YELLOW - ATTACH TO REVENUE TRANSMITTAL SHEET    PINK - DEPT.

PAYOR

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SALEM, OREGON

**CONTRACT FOR PURCHASE OF DOMESTIC WATER  
FROM GALESVILLE PROJECT**

**AUG 24 2009**

BARBARA E. NIELSEN, COUNTY CLERK

This contract is made on AUGUST 24, 2009 between Douglas County, a political subdivision of the State of Oregon (County), and \_\_\_\_\_  
Bradford L. LaVanway (Customer).

**COUNTY AND CUSTOMER AGREE:**

**1. TERM AND RENEWAL:**

1.1. The initial term of this contract shall begin on August 24, 2009 and end on December 31, 2018, unless it is sooner terminated as provided herein.

1.2. As used in this contract, unless the context clearly indicates otherwise, "term" or "term of this contract" shall mean both the initial term and any extension.

1.3. Customer shall have the right to extend the term of this contract for two successive periods of ten years each upon the following conditions:

1.3.1. Approximately ninety days prior to expiration of the then current contract term, County shall notify Customer in writing that Customer has the right to extend the term at the price set pursuant to section 11.

1.3.2. Customer may elect to extend the contract term by written notice to County within thirty days after County gives notice of the right to extend. Concurrently with written notice of extension Customer may request the Board of Commissioners to review and reduce the price of water in accordance with subsection 11.5.

1.3.3. No other act or agreement shall be required of the parties to effect the extension after Customer gives proper notice of election to extend the contract term. Each extension shall take effect on January 1 after Customer gives notice of extension.

1.3.4. Each extension shall commence on the day following the termination date of the initial term or the preceding extension.

1.4. The provisions of this contract shall apply to any extension except for changes in the purchase price pursuant to section 11; modifications required to comply with federal or state statutes, regulations, or administrative rules; or modifications required to comply with any contract between County and the United States concerning the Galesville Project.

1.5. Customer shall not be entitled to extend the term of this contract if Customer is in default under this contract at the time extension is requested by Customer.

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**2. AUTHORITY OF PUBLIC WORKS DIRECTOR:**

2.1. The Director of the County Public Works Department (the Director) has authority to administer this contract on behalf of County.

2.2. The Director may delegate authority to administer this contract to the Manager of the County Public Works Department, Natural Resources Division, (the Division Manager), except for authority to establish the price of water under section 11 of this contract. The Director shall retain the right to supersede any decision of the Division Manager in the administration and interpretation of this contract.

2.3. References to the Director in this contract shall be deemed to include the Division Manager, to the extent the Director has delegated authority to the Division Manager.

**3. WATER ALLOCATION:** Each year during the term of this contract, County shall allocate sufficient acre feet of storage capacity in the Galesville Reservoir for Customer to use for domestic purposes. This allocation shall not exceed 2.00 acre feet per year.

**4. PERMITS AND CERTIFICATES OF WATER RIGHTS:**

4.1. County shall file and maintain any reservoir water right permit (County's permit) and certificate to store water in the Galesville reservoir (County's certificate) allocated for the Customer's use, as required by the State of Oregon Water Resources Department or its successor (the State).

4.2. Customer, at Customer's expense, shall be responsible for obtaining any permit (Customer's permit) and certificate of water rights (Customer's certificate) for use of the stored water allocated under this contract as required by the State.

4.3. Within 6 months after the effective date of this contract, Customer shall provide County with a copy of the application map provided to the State.

**5. RELEASE OF WATER:**

5.1. Subject to the provisions of this contract, County will release into the natural channel of Cow Creek water comprising the allocation described in section 3. Water released for Customer's allocation shall be measured and delivered to Customer's point of diversion of record by County with equipment installed and maintained by County.

5.2. County shall report to the State of Oregon all allocated water stored and distributed to Customer's point of diversion of record, including reasonable losses. Customer shall report all water use as described on Customer's water right of record, or as otherwise may be required by the State.

5.3. The obligations of County to allocate capacity may be restricted by any lawful order, regulation, or ruling of any governmental agency or provisions of a contract between County and the United States. Such legal restrictions may impair the County's ability to perform its obligations under this contract. In that event, County shall be relieved of its obligations to the extent necessary to comply with the legal restrictions. Customer's payments under this contract



shall be reduced proportionally to any reduction in Customer's allocation resulting from such legal restrictions.

5.4. Notwithstanding any other provision of this contract, County may suspend release and delivery of water to Customer upon written notice to Customer if Customer fails to make any payment for such water when due.

## 6. DIVERSION AND USE OF WATER:

6.1. Customer shall be wholly responsible for taking, diverting, conveying and utilizing its water and shall bear all losses from Customer's point of diversion.

6.2. Customer shall divert the water it is entitled to receive under this contract in accordance with schedules developed by the Customer and County.

6.3. The water diverted by Customer may be measured by County at the point of diversion. The point of diversion shall be accessible for inspection and measurement of water at all reasonable times by County. Any easement necessary for County to gain access to the point of diversion shall be provided by Customer when requested by County.

6.4. The water shall be utilized for domestic uses. Customer shall utilize the water only for the uses and only on the real property described in Customer's permit and certificate.

6.5. Customer shall be responsible for purchase and installation of a meter or other suitable measuring device as required by the Oregon State Water Resources Department (OWRD). Once installed, it shall be the customer's responsibility to maintain such device in good working order. If requested by OWRD, Customer shall maintain a record of the amount of water use and report water use on such periodic schedule as may be established by OWRD.

6.6. As required, Customer shall purchase, install, maintain and operate fish screening equipment and by-pass devices to prevent fish from entering the diversion. Any required screens and/or by-pass devices shall be in place, functional and approved by the requirer, prior to diversion of any water under this contract.

## 7. QUALITY OF WATER:

7.1 County shall operate and maintain the Galesville dam, reservoir, and related facilities in a reasonable and prudent manner, and shall endeavor in good faith to take adequate measures to maintain the quality of raw stored water at the facilities. County is under no obligation to construct or furnish water treatment facilities to maintain or improve the quality of water. **COUNTY MAKES NO WARRANTIES, EXPRESS OR IMPLIED REGARDING THE QUALITY OF WATER RELEASED AND DELIVERED FROM GALESVILLE DAM, RESERVOIR, AND RELATED FACILITIES.**

7.2 The Customer acknowledges that the water provided under this agreement has not been treated or tested as suitable for drinking water, and is delivered by natural watercourses. The County is not operating a public water system. The Customer shall indemnify the County from any damages or claim that may result from or arise in connection with any person using the water provided under this agreement for human consumption or household purposes.

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**8. WATER SHORTAGES:** In any year in which a water shortage in the Galesville reservoir occurs, County shall apportion the available water supply among Customer and other users who are entitled to receive water from the reservoir. The quantity of water to be furnished for irrigation shall first be reduced as necessary, but not greater than 15%. Any further reduction in the reservoir water supply shall be shared by Customer and all other users entitled to water from the reservoir in the same proportion that the entitlement of each user, including Customer's entitlement under this contract, bears to the total entitlements of all users.

**9. WATER CONSERVATION:** Customer acknowledges the critical need for water conservation in the Umpqua River basin. Customer shall implement reasonable and prudent water conservation measures for domestic activities.

**10. COMPLIANCE WITH LAW:** This contract will be governed by and construed in accordance with laws of the State of Oregon. Each party shall perform its obligations in accordance with all applicable state, federal and local laws, rules and regulations now, or hereafter in effect.

**11. PRICE OF WATER:**

11.1. During the initial term, the price for the allocation stated in section 3 shall be \$ 158.00 per year.

11.2. For each discrete ten year extension of the contract term, Customer shall pay the then current rate as established by County in accordance with this section. Notice of the right to extend under subsection 1.3.1 shall state the price of water during the extension.

11.3. The Director shall periodically review and adjust the price for water taking into account the following factors:

11.3.1. The current cost of operating and maintaining the Galesville dam, reservoir, and related facilities;

11.3.2. The projected costs for operating, maintaining, and replacing Galesville water storage and delivery facilities; and

11.3.3. The price of water sold by similar facilities for similar uses.

11.4. The allocation price for each renewal term shall not be increased by more than 10% over the previous term.

11.5. Customer may request the Board of Commissioners to review and reduce the price of water established by the Director. Such request shall be in writing and shall be given with the notice of Customer's election to extend the contract term. After considering the factors listed in subsection 11.3, the Board of Commissioners may reduce or affirm the price established by the Director. If the Board of Commissioners fails to take any action on Customer's request to review and reduce the price of water within 30 days after Customer makes the request, the request shall be deemed denied. If Customer is not satisfied with the action of the Board of Commissioners, Customer may rescind Customer's election to extend the contract term and cancel the contract by written notice to County within sixty days after Customer requests the Board of Commissioners to review and reduce the price.

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**12. PAYMENT:**

12.1. Customer shall pay County the annual price established by section 11 for the allocation stated in section 3 regardless of whether Customer uses any or all of the water allocated. Except as provided in subsection 12.2, payment shall be made no later than March 31 of each year.

12.2. If this contract is dated after March 2 in the year for which water is first to be released then the amount due for the first year only shall be payable within 30 days after the date the contract is signed by County.

12.3. Interest shall accrue on late payments at the rate of eighteen percent per annum commencing the day after the date payment is due. Customer shall pay all interest upon the request of County.

**13. LIMITATIONS ON LIABILITY:**

13.1. County shall not be liable for damages or other expenses sustained by Customer resulting from shortages in the quantity of water available for release, or interruptions in water deliveries to Customer, if such shortages or interruptions in deliveries are caused partially or entirely by hostile diversion, accidental damage to County facilities, operational failure of County facilities, or any cause beyond County's control.

13.2. Notwithstanding any other provision of this contract, County shall not be liable to Customer for damages caused by failure to comply with any obligation of County under this contract, if such failure results from lack of appropriation of funds necessary to perform such obligation pursuant to ORS 294.305 et seq. (Local Budget Law).

13.3. In no event shall County be liable to Customer for any indirect, special, or consequential damages even if Customer previously advised County of the possibility of such damages.

**14. DEFAULT:**

14.1. There shall be a default under this contract if either party materially fails to comply with any provision of this contract within thirty days after the other party gives written notice specifying the breach. If the breach specified in the notice cannot be completely cured within the thirty day period, no default shall occur if the party receiving the notice begins curative action within the thirty day period and thereafter proceeds with reasonable diligence and in good faith to cure the breach as soon as practicable.

14.2. If a default occurs, the party injured by the default may elect to terminate this contract and pursue any equitable or legal rights and remedies available under Oregon law, except that Customer's remedies shall be subject to the limitations on damages stated in section 13.

14.3. Any litigation arising out of this contract shall be conducted in Circuit Court of the State of Oregon for Douglas County.

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15. **SEVERABILITY:** If any provision of this contract is held to be invalid, that provision shall not affect any other provision of this contract. This contract shall be construed as if such invalid provision had never been included.

16. **NO WAIVER:** No provision of this contract shall be waived unless the waiver is written and signed by the party that waives its rights. Any waiver of a breach, whether express or implied, shall not constitute waiver of any other breach.

17. **ASSIGNMENT:** The successors, assigns, and legal representatives of Customer and County shall be bound by and subject to all provisions of this contract. Customer shall not assign Customer's rights or obligations under this contract without prior written consent of County.

18. **NOTICES:**

18.1. Any notice required to be given under this contract shall be in writing and shall be given by personal delivery or mail, except that any notice required by law shall be given in the manner specified in the applicable law.

18.2. Notices to County shall be directed to Thomas R. Manton, Division Manager, Douglas County Public Works Department, Natural Resources Division, Room 306, Douglas County Courthouse, 1036 SE Douglas Street, Roseburg, OR, 97470.

18.3. Notices to Customer shall be directed to:

Bradford L. LaVanway

PO Box 1331, Roseburg, OR 97470

19. **ENTIRE AGREEMENT:** This contract is the final and complete agreement of the parties and supersedes all prior and existing written or oral understandings. No modification of this contract shall be valid unless it is in writing and signed by the parties.

**CUSTOMER**

Name Bradford L. LaVanway

Name \_\_\_\_\_

Title \_\_\_\_\_

Date 8/21/09

**BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, OREGON**

By Robert G. Paul

Robert G. Paul, P.E., Director  
Public Works Department  
Authority to sign agreement granted by  
Order of Board of Commissioners dated  
June 26, 2002

Date 08/24/09

**REVIEWED AS TO CONTENT**

By \_\_\_\_\_  
Manager, Natural Resources Division

Date TIRMF

Coding 215-0000-2810-00-012010

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WATER RESOURCES DEPT  
SALEM, OREGON