



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.

1. APPLICANT INFORMATION

A. Applicants

Applicant: James Foss
First Last

Mailing Address: P. O. Box 384697

Waikoloa HI 96738
City State Zip

Phone: 808-775-1504 808-960-2330 NA
Home Work Other

*Fax: NA *Email Address: jimf@goodfellowbros.com

B. Organizations

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

Name of Organization: NA

Name and Title of Person Applying: NA

Mailing Address or Organization: NA

NA NA NA
City State Zip

Phone: NA NA
Day Evening

*Fax: NA *Email Address: NA

*Optional

For Department Use
App. No. Permit No. Date

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).

Permit R-9964

B. Applications to Use Stored Water

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

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.)

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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.

NA	RECEIVED NOV 25 2009 WATER RESOURCES DEPT SALEM, OREGON
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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: One
- 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**

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	2.0 <input type="radio"/> cfs <input type="radio"/> gpm <input checked="" type="radio"/> af
		<input type="text"/> <input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="text"/> <input type="radio"/> cfs <input type="radio"/> gpm <input type="radio"/> af
		<input type="text"/> <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: NA
(This number should be consistent with your application map.)

4. WATER MANAGEMENT

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A. Diversion

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

- Pump (give horsepower and pump type): 2 HP
- Head-gate (give dimensions): _____
- other means (describe): _____

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 200'

other, describe: _____

D. Application/Distribution Method

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

Household plumbing system.

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

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- 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 delivery system will be metered and 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:

ODFW approved fish screening will be installed on pump intake.

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

None planned.

- 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 to minimize erosion and run-off.

- Other:

NA

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: Existing System

Proposed date construction will be completed: Existing System

Proposed date beneficial water use will begin: Existing System

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.

NA

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.

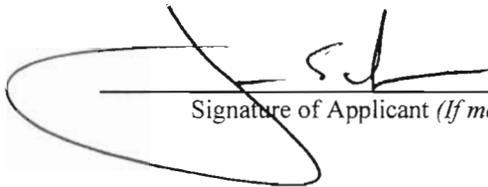
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9. SIGNATURE

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.)*

11-19-09

Date

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 or call (503) 986-0900.

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WRD on the web:

www.wrd.state.or.us



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: James Foss
First Last
Mailing Address: P.O. Box 384697
Waikoloa HI 96738 Daytime Phone: 808-960-2330
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:
30S	5W	19	N WNE	300	AGG	<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: 2.0 _____ cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for One household(s)

Municipal Quasi-municipal Instream Other _____

Briefly describe:

Domestic use for one household using Galesville Reservoir stored water.

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): 3.3.050
- 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

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WS 09-0892

Name: DANIEL P. STUELB Title: PLANNING TECHNICIAN
Signature: [Signature] Phone: (541) 440-4289 Date: 10/30/09
Government Entity: DOUGLAS COUNTY PLANNING

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

Receipt for Request for Land Use Information

Applicant Name: _____
City or County: _____ Staff Contact: _____
Signature: _____ Phone: _____ Date: _____

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CONTRACT FOR PURCHASE OF DOMESTIC WATER
FROM GALESVILLE PROJECT

BARBARA E. NIELSEN, COUNTY CLERK

NOV 13 2009

This contract is made on Oct 31, 2009 between Douglas County, a political subdivision of the State of Oregon (County), and _____ James Foss _____ (Customer).

COUNTY AND CUSTOMER AGREE:

1. TERM AND RENEWAL:

1.1. The initial term of this contract shall begin on November 3, 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

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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.

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6. DIVERSION AND USE OF WATER:

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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.

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.

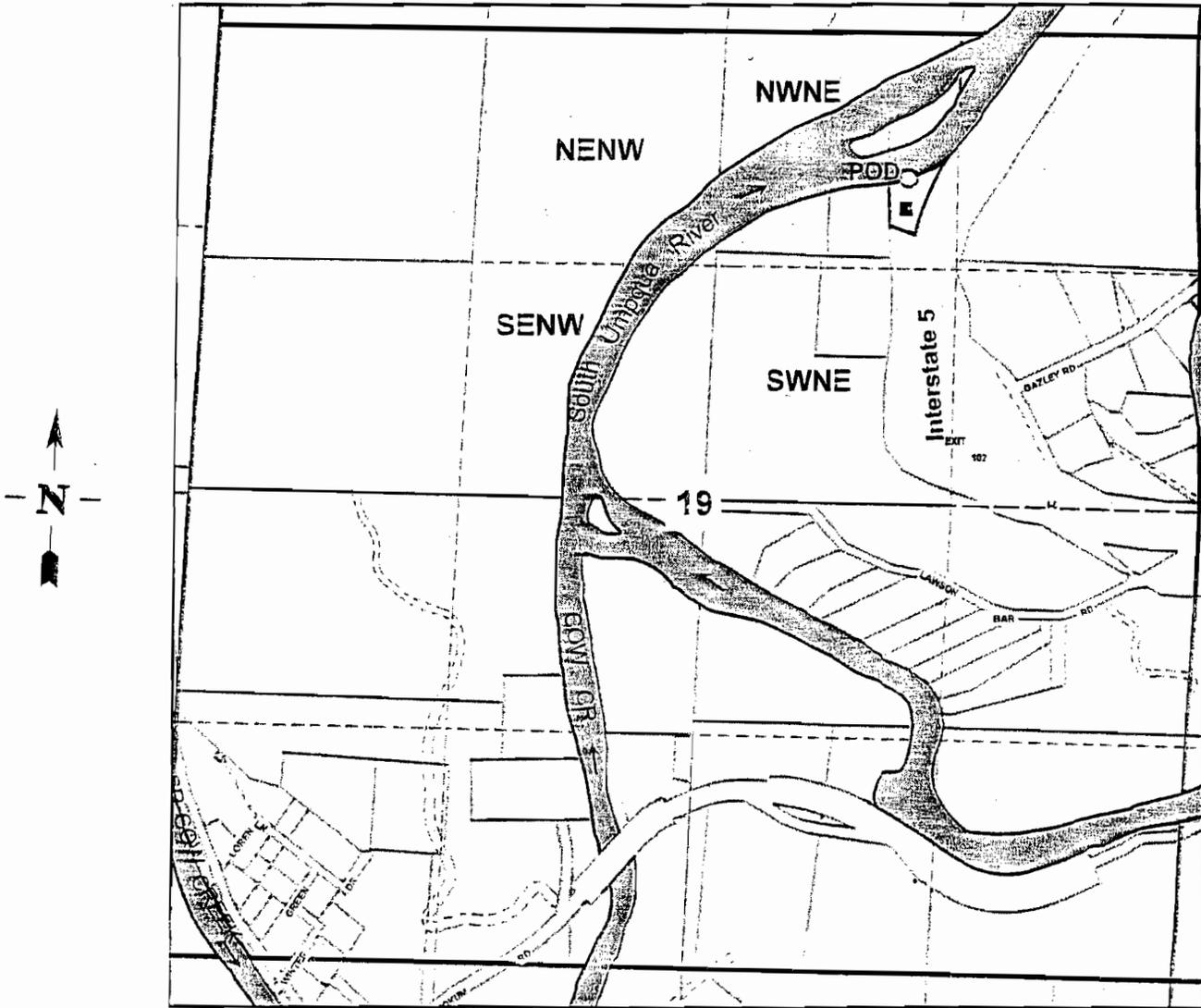
14. DEFAULT:

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.

Tax Lot 300
SEC.19 T.30S. R.5W. W.M.
DOUGLAS COUNTY
Scale 1" = 1000'



POD: 811 ft. S. 1623 ft. W. from the NE corner of Sec. 19

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\$31.00

00163345200600241580030036

10/05/2006 10:45:51 AM

DEED-BS Cnt=1 Stn=1 RECEIPTCOUNTER
\$15.00 \$11.00 \$5.00

GRANTOR'S NAME AND ADDRESS:
JAMES E. FOSS, ANDREA FOSS,
GERALD & JANICE FOSS
c/o P.O. Box 384697
Waikoloa, Hawaii 96738

GRANTEE'S NAME AND ADDRESS:
JAMES ERIC FOSS and ANDREA JANE JANSEN, TEES
P.O. Box 384697
Waikoloa, Hawaii 96738

After Recording Return to:
JAMES E. FOSS, TRUSTEE
P.O. Box 384697
Waikoloa, Hawaii 96738

Send all tax statements to:
JAMES E. FOSS, TRUSTEE
P.O. Box 384697
Waikoloa, Hawaii 96738

BARGAIN AND SALE DEED

KNOW ALL BY THESE PRESENTS that **JAMES E. FOSS, ANDREA JANE JANSEN** formerly known as **Andrea Foss, GERALD FOSS and JANICE FOSS**, hereinafter called the grantor, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto **JAMES ERIC FOSS and ANDREA JANE JANSEN, Trustees** of FOSS TRUST I dated May 23, 2006, which is unrecorded, hereinafter called the grantee, their successors and assigns, all of that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or in any way appertaining, situated in Douglas County, State of Oregon, described as follows, to-wit:

All of the real property more particularly described in Exhibit "A" attached hereto and hereby made a part by this reference.

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NOV 25 2009

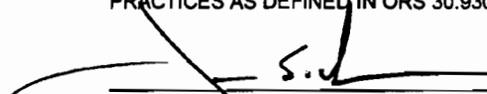
To Have and to Hold the same unto grantee and grantee's successors and assigns forever WATER RESOURCES DEPT

The true and actual consideration paid for this transfer, stated in terms of dollars is \$0. SALEM, OREGON

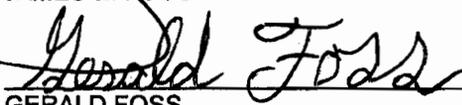
In construing this deed, where the context so requires, the singular includes the plural, and all grammatical changes shall be made so that this deed shall apply equally to corporations and to individuals.

IN WITNESS WHEREOF, the grantor has executed this instrument on May 23, 2006; if grantor is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

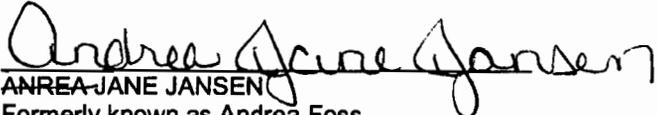
THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.



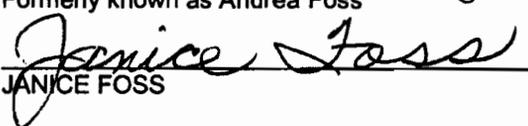
JAMES E. FOSS



GERALD FOSS



ANDREA-JANE JANSEN
Formerly known as Andrea Foss

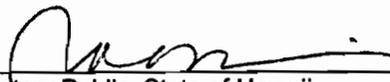


JANICE FOSS

STATE OF HAWAII)
) SS.
COUNTY OF HAWAII)

On this 23rd day of May, 2006, before me personally appeared JAMES E. FOSS, to me known to be the person who executed the foregoing BARGAIN AND SALE DEED and acknowledged that he executed the same as his free act and deed.

vs

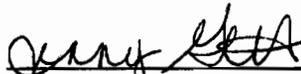


Notary Public, State of Hawaii
Print name: SALLY A. KIMURA
My commission expires: 9-26-09

STATE OF OREGON)
) SS.
COUNTY OF Douglas)

On this 28 day of September, 2006, before me personally appeared ANDREA JANE JANSEN formerly known as Andrea Foss, to me known to be the person who executed the foregoing BARGAIN AND SALE DEED and acknowledged that she executed the same as her free act and deed.





Notary Public, State of Oregon
Print name: Jenny Gilbert
My commission expires: NOV 3, 2007

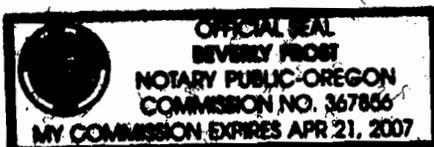
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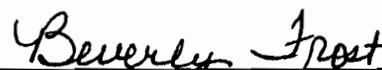
NOV 25 2009

WATER RESOURCES DEPT
SALEM, OREGON

STATE OF OREGON)
) SS.
COUNTY OF Douglas)

On this 30 day of May, 2006, before me personally appeared GERALD FOSS and JANICE FOSS, to me known to be the persons who executed the foregoing BARGAIN AND SALE DEED and acknowledged that they executed the same as their free act and deed.





Notary Public, State of Oregon
Print name: Beverly Frost
My commission expires: 4-21-06 *RF*
07

EXHIBIT A

Beginning at a point on the Westerly right of way of Interstate Highway 5, said point bears South 1° 07' 15" East 1099.39 feet and North 81° 34' 15" West 224.90 feet from the East 1/16th corner between Section 18 and 19 of Township 30 South, Range 5 West, Willamette Meridian, Douglas County, Oregon; thence running North 71° 55' 30" West 165.0 feet along the said highway right of way; thence leaving said highway and running North 1° 07' 15" West 204.20 feet to a point on the high right bank of Sough Umpqua River; thence continuing North 1° 07' 15" West 181.57 feet to the center of said river; thence North 77° 18' East 385.19 feet downstream along the center of river to its intersection with the East boundary of Lot 2 to its intersection with the said Westerly right of way of Highway to the P.S.C. the chord of which bears South 24° 17' 30" West 389.0 feet; thence continuing along the said highway right of way on a curve the chord of which bears South 21° 18' West 142.82 feet to the point of beginning, and all being part of said Government Lot 2 in the Northwest quarter of the Northeast quarter of said Section 19, Township 30 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

SUBJECT TO:

1. The rights of the public in and to that portion of the herein described property lying within the limits of roads or highways.
2. "Rights of the public and of governmental bodies in that portion of the above described property lying below the high water mark of the Umpqua River."
3. "Any rights, interest or easements in favor of the State or Oregon, the United States of America or the public which exist or are claimed to exist in and over the past and present beds, banks and waters of the Umpqua River."
4. Limited access in deed to State of Oregon by and through its Department of Transportation, Highway Department, which provided that no right or easement of right of access to, from or across the State Highway other than expressly therein provided for shall attach to the abutting property, as shown in recorded instrument number 203545, in Book 247, page 754, recorded August 25, 1955.

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SALEM, OREGON

END OF DOCUMENT

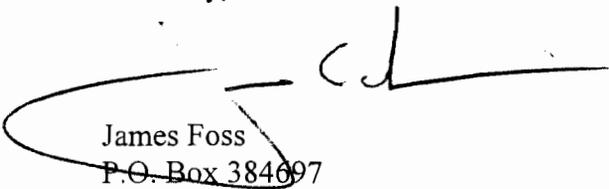
October 29, 2009

Douglas County Public Works Department
Natural Resources Division
1036 SE Douglas, Room 306
Roseburg, OR 97470

Dear Sirs:

This letter serves as my written notification that I intend to file an application with the Oregon Water Resources Department for the appropriation of Galesville Reservoir stored water. I will be using the water for domestic purposes at 101 Lawson Bar Road, Myrtle Creek, OR 97457 (T30S-R5W-19A-300). I understand that in order to use storage from your reservoir I will need to maintain a valid contract for the purchase of the water.

Sincerely,



James Foss
P.O. Box 384097
Waikoloa, HI 96738
808-775-1504

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SALEM, OREGON