

# 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 CRAIG OR MARY BENNINGTON		PHONE (HM) 541-784-3755	
PHONE (WK) 541-430-4123	CELL		FAX
ADDRESS 347 BAILEY DRIVE			
CITY ROSEBURG	STATE OR	ZIP 97471	E-MAIL

### Organization Information

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL

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

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

**RECEIVED**

MAR 23 2010

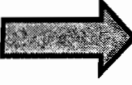
Note: Attach multiple copies as needed

WATER RESOURCES DEPT  
SALEM, OREGON

### By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot use water legally until the Water Resources Department issues a permit.
- Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land-use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water-right holders to get water to which they are entitled.

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

  
*Craig J. Bennington*  
Applicant Signature  
*Mary J. Bennington*  
Applicant Signature

*CRAIG J. BENNINGTON* 3/22/10  
Print Name and title if applicable Date  
*MARY J. BENNINGTON* 3/22/10  
Print Name and title if applicable Date

App. No. <u>587594</u>	For Department Use	Permit No. _____	Date _____
------------------------	--------------------	------------------	------------

~~appended~~ mRm 3/24  
Disregard - mRm

**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.

X 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*).

\_\_\_\_\_

**SECTION 3: SOURCE OF WATER**

**A. Proposed Source of Water**

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

- Source 1: ~~Galesville Reservoir~~ South Umpqua River Tributary to: Cow Creek  
Galesville Reservoir
- Source 2: \_\_\_\_\_ Tributary to: \_\_\_\_\_
- Source 3: \_\_\_\_\_ Tributary to: \_\_\_\_\_
- Source 4: \_\_\_\_\_ Tributary to: \_\_\_\_\_

**RECEIVED**

MAR 23 2010

WATER RESOURCES DEPT  
SALEM, OREGON

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

**B. Applications to Use Stored Water**

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

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

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.

~~Superseded~~ *men*  
Disregard *men*

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	<i>men</i> <del>6.07</del> AMOUNT
<del>Galesville Reservoir</del> <i>men</i> South Inyo River	Irrigation	March 1 – October 31	<del>1.87</del> <input checked="" type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
<i>men</i> Galesville Reservoir			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

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

Primary: .75 Acres                      Supplemental: \_\_\_\_\_ Acres

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

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 1.87

**RECEIVED**

MAR 23 2010

WATER RESOURCES DEPT  
SALEM, OREGON

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

**SECTION 5: WATER MANAGEMENT**

**A. Diversion and Conveyance**

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

X Pump (give horsepower and type): 2 HP

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

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

**B. Application Method**

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

Water will be pumped from the South Umpqua River to irrigate up to .75 acres.

**C. Conservation**

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

Water is needed for lawn/garden irrigation. Most efficient method of irrigation will be used as feasible to minimize water use and prevent run-off/erosion.

**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.

- X 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 prior to diversion of water.
- X Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.  
Describe planned actions: None planned
- X Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.  
Describe: None planned
- X Water quality will be protected by preventing erosion and run-off of waste or chemical products.  
Describe: Will use best residential management practices to prevent erosion and run-off.

**RECEIVED**

**MAR 23 2010**

**WATER RESOURCES DEPT  
SALEM, OREGON**

**SECTION 7: PROJECT SCHEDULE**

Date construction will begin: Upon permit issuance

Date construction will be completed: October 1, 2011

Date beneficial water use will begin: October 1, 2012

**SECTION 8: REMARKS**

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

---

**RECEIVED**  
MAR 23 2010  
WATER RESOURCES DEPT  
SALEM, OREGON

WS10-0187  
RECEIPT A08734

# 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: Craig or Mary Bennington  
First Last

Mailing Address: 347 Bailey Drive

Roseburg OR 97471 Daytime Phone: 541-430-4123  
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:
28	6W	3	BD	700		X Diverted	X Conveyed	X 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, and/or used or developed:

Douglas County **RECEIVED**  
MAR 23 2010

## B. Description of Proposed Use

WATER RESOURCES DEPT  
SALEM, OREGON

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) Galesville Reservoir

Estimated quantity of water needed: 1.87     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:

Irrigation of .75 af.

**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): 3.9.050

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

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

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

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

Name: KRISTI GILBERT Title: PLANNING TECH

Signature: Kristi Gilbert Phone: 541440-4289 Date: 03-16-10

Government Entity: DOUGLAS 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: \_\_\_\_\_

**Eastwood Townhouse Apartments**  
**161 NE Rifle Range St.**  
**Roseburg, OR 97470**  
**(541) 673-0879 Fax (541) 440-6903**

Date: 3/24/10

From: MARY BENNINGTON

To: OWRT ATTN: MICHELE McALEER

1 Pages including cover sheet

*Please disregard changes to source  
+ rate on water rights application*

*Mary Bennington*

**RECEIVED**

**MAR 24 2010**

WATER RESOURCES DEPT  
SALEM, OREGON

S 87594



*Disregard MRW 3/24/10*

By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

**SECTION 4: WATER USE**

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):  
(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
<i>Galesville Reservoir South Umpqua River</i>	<i>Irrigation</i>	March 1 - October 31	<del>1.87</del> <sup>0.01</sup> <input checked="" type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

**For irrigation use only:**

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

Primary: 75 Acres      Supplemental:      Acres

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

Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 1.87

**RECEIVED**

MAR 23 2010

WATER RESOURCES DEPT  
SALEM, OREGON

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

**RECEIVED**

MAR 24 2010

WATER RESOURCES DEPT  
SALEM, OREGON

587594

*TJ Stragard - WRD 3/24*

**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.

X Yes

- There are no encumbrances.
- This land is encumbered by easements, rights of way, roads or other encumbrances.

No.

- I have a recorded easement or written authorization permitting access.
- I do not currently have written authorization or easement permitting access.
- Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
- Water is to be diverted, conveyed, and/or used only on federal lands.

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

**RECEIVED**

MAR 24 2010

WATER RESOURCES DEPT  
SALEM, OREGON

**SECTION 3: SOURCE OF WATER**

**A. Proposed Source of Water**

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

- Source 1: South Umpqua River *MWB* Tributary to: Cow Creek
- Source 2: \_\_\_\_\_ Tributary to: \_\_\_\_\_
- Source 3: \_\_\_\_\_ Tributary to: \_\_\_\_\_
- Source 4: \_\_\_\_\_ Tributary to: \_\_\_\_\_

**RECEIVED**

MAR 23 2010

WATER RESOURCES DEPT  
SALEM, OREGON

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

**B. Applications to Use Stored Water**

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

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

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.

587594

**Eastwood Townhouse Apartments**  
**161 NE Rifle Range St.**  
**Roseburg, OR 97470**  
**(541) 673-0879 Fax (541) 440-6903**

Date: 3/24/10  
 From: MARY  
 To: MICHELE McALEER

**RECEIVED**

MAR 24 2010

NAEP RESOURCES DEPT  
SALEM, OREGON

3 Pages including cover sheet

*Thanks for your help!*

*Mary*

587594





**DOUGLAS COUNTY PLANNING & BUILDING**

3/16/2010  
3:30 pm

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

**Permit Number: WS10-0187**  
**Job Address: 347 BAILEY DR, ROSEBURG**

Receipt: P08734

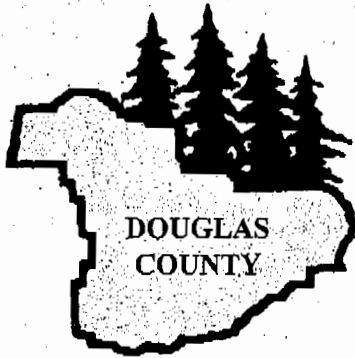
Fee Description	Fee Amount
LAND USE COMPATABILITY STATEME	\$50.00
<b>Total Fees Paid:</b>	<b>\$50.00</b>

R43317

Paid By: **BENNINGTON, CRAIG J & MARY J**  
Pay Method: **Check 2907**  
Received By: **Imeya Huntley**

**RECEIVED**  
**MAR 23 2010**  
**WATER RESOURCES DEPT**  
**SALEM, OREGON**

S87594



# PUBLIC WORKS DEPARTMENT

Administration  
 1036 SE Douglas, Room 219 • Roseburg, Oregon 97470 • (541) 440-4208

## DIVISIONS

Administrative Services  
 1036 SE Douglas, Room 220  
 Roseburg, Oregon 97470  
 (541) 440-4526

Engineering and Construction  
 1036 SE Douglas, Room 304  
 Roseburg, Oregon 97470  
 (541) 440-4481

Natural Resources  
 1036 SE Douglas, Room 306  
 Roseburg, Oregon 97470  
 (541) 440-4255

Operations and Maintenance  
 433 Rifle Range Road  
 Roseburg, Oregon 97470  
 (541) 440-4268

Work Crew  
 1036 SE Douglas, Room 213  
 Roseburg, Oregon 97470  
 (541) 957-2072

## FAX TRANSMISSION COVER SHEET

**Date:** March 31, 2010  
**To:** MCALEER, MICHELE R.  
**Fax:** (503) 986-0901  
**From:** Douglas County Natural Resources  
**Subject:** Bennington permit application

*YOU SHOULD RECEIVE 8 PAGE(S), INCLUDING THIS COVER SHEET.  
 IF YOU DO NOT RECEIVE ALL THE PAGES, PLEASE CALL 541-440-4255.*

ATTACHED IS THE FULLY EXECUTED GALESVILLE CONTRACT FOR CRAIG AND MARY BENNINGTON, #I-2010-5.

PLEASE CALL IF YOU HAVE QUESTIONS.

THANK YOU,  
 JERRE WOODY  
 NATURAL RESOURCES TECHNICIAN  
 (541) 440-4255

I-2010-5

DOUGLAS COUNTY OREGON  
FILED**CONTRACT FOR PURCHASE OF AGRICULTURAL WATER  
FROM GALESVILLE PROJECT**

MAR 31 2010

BARBARA E. NIELSEN, COUNTY CLERK

This contract is made on MAR 31 2010, 2010 between Douglas County, a political subdivision of the State of Oregon (County), and \_\_\_\_\_  
Craig Bennington and Marv Bennington (Customer).

**COUNTY AND CUSTOMER AGREE:****1. TERM AND RENEWAL:**

1.1. The initial term of this contract shall begin on April 1, 2010 and end on December 31, 2019, 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.

**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 irrigate 0.75 acres. This allocation shall not exceed 2.23 acre feet per acre per irrigation season as specified on the attached Exhibit A.

#### 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 agricultural 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 if 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. If 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:** 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.**

**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 agricultural 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 \$ 91.00 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.

## 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.

**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. SUCCESSORS:** The successors, assigns, and legal representatives of Customer and County shall be 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:

Craig and Mary Bennington

347 Balley Drive, Roseburg, OR 97471

**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 *Mary Bennington*

Name *Craig Bennington*

Date 3/29/10

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

By *Robert G. Paul*

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

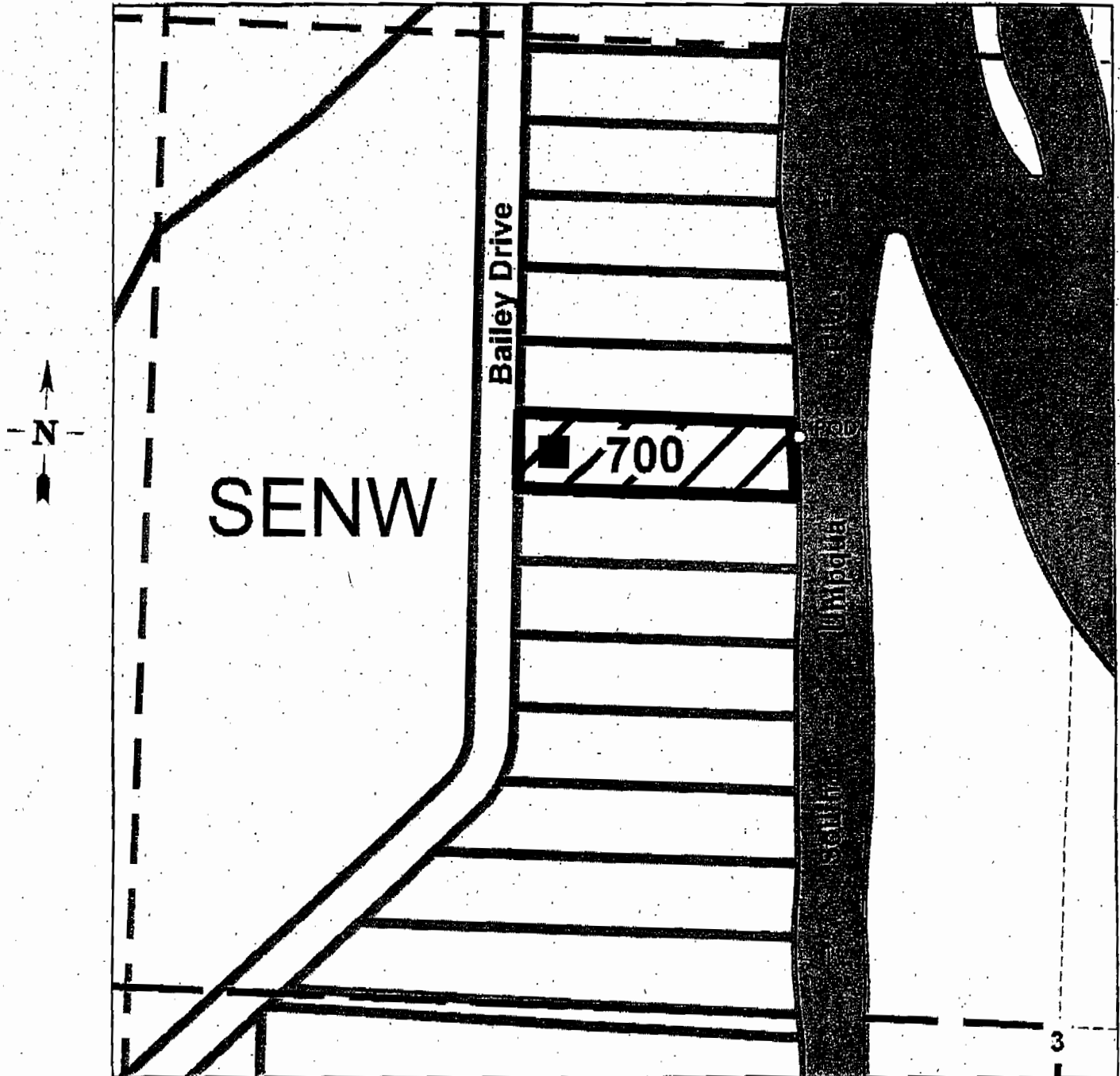
Date 03/31/10

<b>REVIEWED AS TO CONTENT</b>
By <u><i>TRN</i></u>
Manager, Natural Resources Division
Date <u>3/30/10</u>
Coding <u>215-0000-2810-00-012010</u>

8-87594



SEC.3 T.28S. R.6W. W.M.  
DOUGLAS COUNTY  
Scale 1" = 200'



POD: 800 ft. N. and 390 ft. W. from the Center of Sec. 3

TRANSMISSION VERIFICATION REPORT

TIME : 03/24/2010 09:51  
NAME : WRD 1ST FL  
FAX : 5039860901  
TEL : 5039860901  
SER.# : BROJ5J339815

DATE, TIME 03/24 09:50  
FAX NO./NAME 915414406903  
DURATION 00:01:00  
PAGE(S) 03  
RESULT OK  
MODE STANDARD  
ECM

# OREGON WATER RESOURCES DEPARTMENT



State of Oregon  
Water Resources Department  
725 Summer St NE, Ste A  
Salem, OR 97301-1266  
Phone #: (503) 986-0900  
\* Fax#: (503) 986-0901  
[www.wrd.state.or.us](http://www.wrd.state.or.us)

## FAX TRANSMITTAL

TO: Mary Bennington FAX NUMBER: 541-440-6903  
DATE: 3/24/2010 PAGES: 3, INCLUDING COVER SHEET  
FROM: Michele McAteer PHONE: (503) 986-0 853

COMMENTS: Please initial where I made changes to the source and rates, then fax back please - thank you, Michele

- WATER RIGHTS
- Water Rights Information
- Adjudications
- Hydroelectric
- Certifications / Final Proofs

- TECHNICAL SERVICES
- Hydrographics
- Ground Water
- Information Services
- GIS/Mapping

- FIELD SERVICES
- Regional Liaisons
- Transfers
- Hydrographics

587594