

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.oregon.gov/OWRD

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SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME <i>Timothy D. Van Horn</i>		PHONE (HM) <i>541-678-1066</i>	
PHONE (WK) <i>541-420-2107</i>	CELL	FAX	
ADDRESS <i>1648 NW Ambrey Rd.</i>			
CITY <i>Bend</i>	STATE <i>OR</i>	ZIP <i>97703</i>	E-MAIL * <i>skippervanhorn@gmail.com</i>

Organization

NAME		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

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

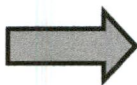
AGENT / BUSINESS NAME <i>Devinne Fagen</i>		PHONE <i>541-420-2107</i>	FAX
ADDRESS <i>1648 NW Ambrey Rd.</i>			CELL
CITY <i>Bend</i>	STATE <i>OR</i>	ZIP <i>97703</i>	E-MAIL * <i>danddstree@gmail.com</i>

Note: Attach multiple copies as needed

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

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



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

<i>T. Van Horn</i> Applicant Signature	<i>T. Duncan Van Horn</i> Print Name and Title if applicable	<i>4/21/2019</i> Date
<i>Devinne Fagen</i> Applicant Signature	<i>Devinne Fagen</i> Print Name and Title if applicable	<i>4/21/2019</i> Date

SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

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- YES, there are no encumbrances.
- YES, the land is encumbered by easements, rights of way, roads or other encumbrances.
- NO, I have a recorded easement or written authorization permitting access.
- NO, I do not currently have written authorization or easement permitting access.
- NO, 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).
- NO, because water is to be diverted, conveyed, and/or used only on federal lands.

Affected Landowners: List the names and mailing addresses of all owners of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, even if the applicant has obtained written authorization or an easement from the owner. *(Attach additional sheets if necessary).*

Legal Description: 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.

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), and the locations of the point of diversion (POD):

Source 1: Rosales Reservoir	Tributary to: Alsea River
TRSQQ of POD: 14S, 8W, 2, NWSE	
Source 2: Unnamed Spring	Tributary to: Rosales Reservoir
TRSQQ of POD: 14S, 8W, 2, NWSE	

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 Section 3A above?

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

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

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

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

SECTION 4: SENSITIVE, THREATENED OR ENDANGERED FISH SPECIES PUBLIC INTEREST INFORMATION

This information must be provided for your application to be accepted as complete. The Water Resources Department will determine whether the proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened or endangered fish species.

To answer the following questions, use the map provided in Attachment 3 or the link below to determine whether the proposed point of diversion (POD) is located in an area where the Upper Columbia, the Lower Columbia, and/or the Statewide public interest rules apply.

For more detailed information, click on the following link and enter the T,R,S,QQ or the Lat/Long of a POD and click on "Submit" to retrieve a report that will show which section, if any, of the rules apply:
https://apps.wrd.state.or.us/apps/misc/lkp_trsqq_features/

If you need help to determine in which area the proposed POD is located, please call the customer service desk at (503) 986-0801.

Upper Columbia - OAR 690-033-0115 thru -0130

Is the POD located in an area where the Upper Columbia Rules apply?

Yes No

If yes, you are notified that the Water Resources Department will consult with numerous federal, state, local and tribal governmental entities so it may determine whether the proposed use is consistent with the "Columbia River Basin Fish and Wildlife Program" adopted by the Northwest Power Planning Council in 1994 for the protection and recovery of listed fish species. The application may be denied, heavily conditioned, or if appropriate, mitigation for impacts may be needed to obtain approval for the proposed use.

If yes,

- I understand that the proposed use does not involve appropriation of direct streamflow during the time period April 15 to September 30, except as provided in OAR 690-033-0140.
- I understand that I will install, operate and maintain a fish screen and fish passage as listed in ORS 498.301 through 498.346, and 509.580 through 509.910, to the specifications and extent required by Oregon Department of Fish and Wildlife, prior to diversion of water under any permit issued pursuant to this application.

- I understand that the Oregon Department of Environmental Quality will review my application to determine if the proposed use complies with existing state and federal water quality standards.
- I understand that I will install and maintain water use measurement and recording devices as required by the Water Resources Department, and comply with recording and reporting permit condition requirements.

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Lower Columbia - OAR 690-033-0220 thru -0230

Is the POD located in an area where the Lower Columbia rules apply?

Yes No

If yes, you are notified that that the Water Resources Department will determine, by reviewing recovery plans, the Columbia River Basin Fish and Wildlife Program, and regional restoration programs applicable to threatened or endangered fish species, in coordination with state and federal agencies, as appropriate, whether the proposed use is detrimental to the protection or recovery of a threatened or endangered fish species and whether the use can be conditioned or mitigated to avoid the detriment.

If a permit is issued, it will likely contain conditions to ensure the water use complies with existing state and federal water quality standards; and water use measurement, recording and reporting required by the Water Resources Department. The application may be denied, or if appropriate, mitigation for impacts may be needed to obtain approval of the proposed use.

If yes, provide the following information (the information must be provided with the application to be considered complete).

Yes No The proposed use is for more than **one** cubic foot per second (448.8 gpm) and is not subject to the requirements of OAR 690, Division 86 (Water Management and Conservation Plans).

If yes, provide a description of the measures to be taken to assure reasonably efficient water use:

Statewide - OAR 690-033-0330 thru -0340

Is the POD located in an area where the Statewide rules apply?

Yes No

If yes, the Water Resources Department will determine whether the proposed use will occur in an area where endangered, threatened or sensitive fish species are located. If so, the Water Resources Department, Department of Fish and Wildlife, Department of Environmental Quality, and the Department of Agriculture will recommend conditions required to achieve “no loss of essential habitat of threatened and endangered (T&E) fish species,” or “no net loss of essential habitat of sensitive (S) fish species.” If conditions cannot be identified that meet the standards of no loss of essential T & E fish habitat or no net loss of essential S fish habitat, the agencies will recommend denial of the application unless they conclude that the proposed use would not harm the species.

SECTION 5: 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
Rosales Reservoir	Nursey Operations	Year Round	0.018 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
Unnamed Spring (Reservoir Source)	Nursery Operations	Year Round	5.982 <input type="checkbox"/> cfs <input type="checkbox"/> gpm <input checked="" type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

Please indicate the number of primary and supplemental acres to be irrigated.
 Primary: 1 Acres Supplemental: Acres
 If supplemental acres are listed, provide 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: 6

- 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 6: WATER MANAGEMENT

A. Diversion and Conveyance

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

See Attachment for sections 6, 7, and 8.

- Pump (give horsepower and type): _____
- 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)

C. Conservation

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

SECTION 7: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources:

Diversion will be screened per ODFW specifications in ORS 498.301 through 498.346 to prevent uptake of fish and other aquatic life.
Describe planned actions: _____

Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Note: If disturbed area is more than one acre, applicant should contact the Department of Environmental Quality to determine if a 1200C permit is required.
Describe planned actions and additional permits required for project implementation: _____

Operating equipment in a water body will be managed and timed to prevent damage to aquatic life. Describe planned actions and additional permits required for project implementation: _____

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

List other federal and state permits or contracts to be obtained, if a water right permit is granted.

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SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: _____
- b) Date construction will be completed: _____
- c) Date beneficial water use will begin: _____

SECTION 9: WITHIN A DISTRICT

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

Irrigation District Name	Address	
City	State	Zip

SECTION 10: REMARKS

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

Application for Surface Water Use Permit Supplemental Information:

Section 6: Water Management

A. Diversion and Conveyance

We will be using a 2 Hp Red Lion RLSP-200 LWN sprinkler pump that will be pulling water directly out of our reservoir through a filter suspended off the bottom of the reservoir. The water will flow directly to the overhead sprinklers in the greenhouse, drip line in the field, or a hose for hand watering. The pump will only be operational as the water is actively being used for nursery operations. No further means of diversion or conveyance will be necessary.

B. Application Method

Drip tape will be used on plants and shrubs that are planted directly in the field. Overhead sprinklers and hand watering will be used to maintain greenhouse stock. Timers will be used at all times in order to maintain efficient use of water.

C. Conservation

We will not be enlarging our reservoir. It has been "as is" for 50+ years. The water does not flow over the surface towards the Alsea River or any other public waterways, nor does the water flow off of the property in any direction; therefore, our use of this small reservoir should not be damaging to any public uses or neighbors water rights.

We will be implementing a water meter to gauge our use of the reservoir water as well as only operating irrigation equipment on timers so as not to use more than what is necessary. We will utilize a measuring stick in order to track fluctuations in reservoir water level throughout the season and over the years.

The woods and vegetation directly around the reservoir will also be left mostly undisturbed and we believe that the reservoir will remain useable and visited by local wildlife.

When applicable our plants will also be mulched in order to minimize evaporation and water loss. Our greenhouses can be equipped in the Summer months with shade cloth in order to lessen the water needs of the plants inside.

Hygrometers will be utilized in the soil in order to maintain optimal moisture content and limit over-watering.

Many of the plants that we want to cultivate are native species that require less inputs than non-native ornamental species.

Section 7: Resource Protection

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We will not be using water from a river, stream, or lake. Our source of water is a natural spring that arises approximately 10-15ft away from our reservoir. According to **ORS 498.306 any person who diverts water from any body of water in this state in which any fish, subject to this state fish and wildlife commissions regulatory jurisdiction, exist may be required to install, operate and maintain screening or by-pass devices to provide adequate for fish populations present at the water diversion in accordance with the provisions of this section.** Our small reservoir which at no point in the year is connected with any other water way contains no fish and is there for not subject to the rules and regulations specified in ORS 498.301 through 498.346. However our in-pond filter will have both a ¼" perforated plastic pre-filter around the pea gravel as well as another ¼" metal cage surrounding the pre-filter with a 6" gap between the cage and the pre-filter to prevent any aquatic life from being trapped against the filter.

There will be no excavation or clearing of banks. There will be no operation of equipment in the water body. Due to the fact that there is no further excavation or construction required erosion should be a nonissue. Any runoff from our farm that might reach the groundwater and later the Alsea River will be negligible in its effect as we will be implementing natural farming practices and avoiding the use synthetic pesticides, herbicides, and fertilizers.

No other federal or state permits or contracts will be necessary, if a water right permit is granted.

Section 8: Project Schedule

Construction will begin and will come to completion within 5 years of the water rights permit being issued. The beneficial water usage will also begin within that time frame. Also, because we are not diverting water from a stream or lake, in this case "construction" refers simply to the installation of a pump and irrigation equipment.

Land Use Information Form



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 503-986-0900
 www.oregon.gov/OWRD

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Applicant

NAME <i>Timothy D. van Horn</i>		PHONE (HM)	
PHONE (WK)	CELL <i>541-678-1066</i>	FAX	
ADDRESS <i>19930 Birch Ln</i> <i>1648 NW Ambrey Rd.</i>			
CITY <i>Bend</i>	STATE <i>OR</i>	ZIP <i>97703</i>	E-MAIL* <i>skippervanhorn@gmail.com</i>

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:
<i>14S</i>	<i>8W</i>	<i>2</i>	<i>NW-SE</i>	<i>402</i>	<i>EFU</i>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<i>Agriculture</i>
						<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:

B. Description of Proposed Use

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

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

Source of water: Reservoir/Pond Groundwater Surface Water (name) _____

Estimated quantity of water needed: *6* cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other _____

Briefly describe:
Water will be drawn directly from the reservoir and used to irrigate row crops and a small area of pasture.

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.

OWRD 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): BCC 55.105(1), BCC 51.020(15)(a)
- 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.

The proposed location is outside of the special Flood Hazard Area. The applicant has stated the water will be used to "irrigate row crops and a small area of pasture". Both of these uses are allowed as "Farm Use" in the EFU zone. No structural development of this property has been applied for or authorized at this time.

NAME <u>Toby Lewis</u>	TITLE: <u>Associate Planner</u>
SIGNATURE	PHONE: <u>541-766-6819</u>
GOVERNMENT ENTITY <u>Benton County Community Development</u>	DATE: <u>12/17/18</u>

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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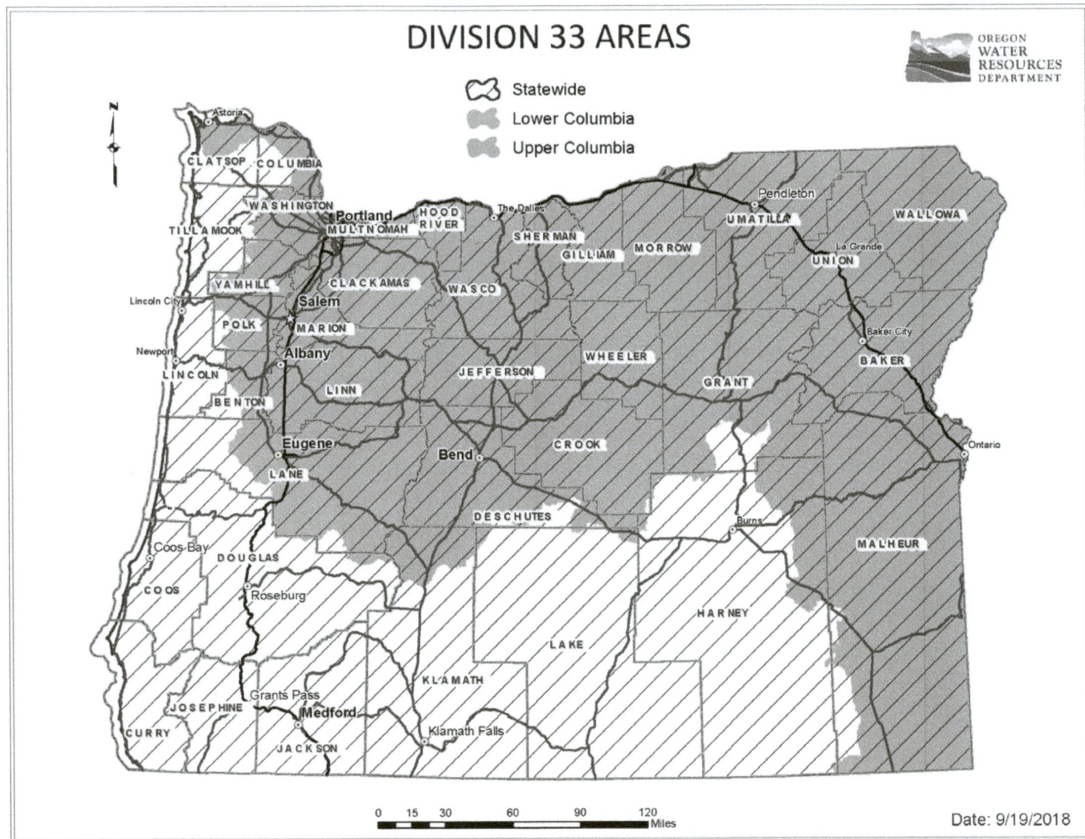
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Figure 1: Map of Division 33 Areas



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For more detailed information, click on the following link and enter the TRSQQ or the Lat/Long of a POD and click on "Submit" to retrieve a report that will show which section, if any, of the Division 33 rules apply: https://apps.wrd.state.or.us/apps/misc/lkp_trsqq_features/

5-88702

RECORDING REQUESTED BY:



400 SW 4th St, Ste 100
Corvallis, OR 97333

GRANTOR'S NAME:
Douglas Lavern Culley

GRANTEE'S NAME:
T. Duncan Van Horn, Devinne R. Fagen, Wade P. Fagen, and Toni R. Fagen

REVIEWED AND APPROVED

[Signature]
DATE 01/22/2015

AFTER RECORDING RETURN TO:

Order No.: 471818068111-DJ
T. Duncan Van Horn

2225 Southside Rd.
Grants Pass, OR 97527

SEND TAX STATEMENTS TO:

T. Duncan Van Horn

same as above

APN: 212211
Map: 148020000402
Vacant Land, OR

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Douglas Lavern Culley, Grantor, conveys and warrants to

T. Duncan Van Horn and Devinne R. Fagen and Wade P. Fagen and Toni R. Fagen, all as tenants in common, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Benton, State of Oregon:

A tract of land in Section 2, Township 14 South, Range 8 West of the Willamette Meridian, in the County of Benton and State of Oregon, more particularly described as follows:

Beginning at a 3/4" iron rod which is 33.19 feet North 43° 49' West from the most Easterly Southeast corner of the James Edwards Claim No. 41, Township 14 South, Range 8 West of the Willamette Meridian in the County of Benton and State of Oregon; thence, from said 3/4" iron rod, North 60° 17' East 144.16 feet to a 3/4" iron rod; thence, continuing North 60° 17' East 57 feet, more or less, to the center of the Alsea River; thence South 57° 46-3/4' East, along the center of said river, 123.01 feet; thence South 12° 16-3/4' West 248.21 feet to a 3/4" iron rod; thence North 64° 48-3/4' West 203.33 feet to a 3/4" iron rod; thence North 19° 00-1/2' West 128.9 feet to the point of beginning.

TOGETHER WITH an easement and right-of-way in like manner and along the same route as the easement described in deed to James Kirkland, et ax as recorded in Benton County Deed Records on September 18, 1968, Instrument No. 91527, M-10265, Microfilm Records.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS (\$85,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

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RECORDING REQUESTED BY:



400 SW 4th St, Ste 100
Corvallis, OR 97333

AFTER RECORDING RETURN TO:

Douglas Lavern Culley
27802 Vernon Rd
Alsea, OR 97324

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRUST DEED

THIS TRUST DEED, made on the Jan 22, 2018 between T. Duncan Van Horn and Devinne R. Fagen and Wade P. Fagen and Toni R. Fagen, as Grantor, Ticor Title Company of Oregon, as Trustee and Douglas Lavern Culley, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Benton County, Oregon described as:

A tract of land in Section 2, Township 14 South, Range 8 West of the Willamette Meridian, in the County of Benton and State of Oregon, more particularly described as follows:

Beginning at a 3/4" iron rod which is 33.19 feet North 43° 49' West from the most Easterly Southeast corner of the James Edwards Claim No. 41, Township 14 South, Range 8 West of the Willamette Meridian in the County of Benton and State of Oregon; thence, from said 3/4" iron rod, North 60° 17' East 144.16 feet to a 3/4" iron rod; thence, continuing North 60° 17' East 57 feet, more or less, to the center of the Alsea River; thence South 57° 46-3/4' East, along the center of said river, 123.01 feet; thence South 12° 16-3/4' West 248.21 feet to a 3/4" iron rod; thence North 64° 48-3/4' West 203.33 feet to a 3/4" iron rod; thence North 19° 00-1/2' West 128.9 feet to the point of beginning.

TOGETHER WITH an easement and right-of-way in like manner and along the same route as the easement described in deed to James Kirkland, et ax as recorded in Benton County Deed Records on September 18, 1968, Instrument No. 91527, M-10265, Microfilm Records.

together with all and singular the tenements, hereditaments and appurtenances and all other rights belonging in any way now or after appertaining, and the rents, issues and profits and all fixtures used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor and payment of the sum of Twenty-Four Thousand And No/100 Dollars (\$24,000.00) Dollars, with the interest according to the terms of a promissory note of even date, payable to beneficiary and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable February 1, 2023.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. In the event the within described property, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by grantor without first having obtained the written consent or approval of the beneficiary, then at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed, shall become immediately due and payable.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement; not to commit or permit any waste of the property.
2. To complete or restore promptly and in good and habitable conditions any building or improvement which now exists or may be constructed, and which is damaged or destroyed, and pay when due all costs incurred.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than the full insurable value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured and in such order as beneficiary may determine, or at the option of beneficiary the entire amount so collected, or any part, may be released to grantor. Such application or release shall not cure or waive any default or notice of default or invalidate any act done pursuant to such notice.

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