

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

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME PAUL E. NOFZIGER REVOCABLE LIVING TRUST		PHONE (HM)	
PHONE (WK)	CELL (541) 936-1726		FAX
ADDRESS 38737 CONSER RD. NE			
CITY ALBANY	STATE OR	ZIP 97321	E-MAIL * DAVENFARMS@GMAIL.COM

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 WILL MCGILL SURVEYING LLC		PHONE (503) 510-3026		FAX
ADDRESS 15333 PLETZER RD. SE			CELL (503) 931-0210	
CITY TURNER	STATE OR	ZIP 97392	E-MAIL * WILLMCGILL.SURVEYING@GMAIL.COM	

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the Department electronically. (Paper copies of the 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

Paul E. Noftziger
Applicant Signature

Paul E. Noftziger
Print Name and Title if applicable

7-3-21
Date

Applicant Signature

Print Name and Title if applicable

Date

SECTION 2: PROPERTY OWNERSHIP

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

- YES, there are no encumbrances.
- 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*).

Duane M. & Nancy M. Gray	Jackass Mountain Holdings, LLC
38024 Conser Rd. NE	660 Dogwood Rd.
Albany, OR 97321	Pasco, WA 99301

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: BOR Stored Water (Willamette River)	Tributary to: Columbia River
TRSQQ of POD: T10S, R3W, 30, NENE	
Source 2:	Tributary to:
TRSQQ of POD:	

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.)

For Department Use: App. Number: _____

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.

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:
An efficient system will be installed and care will be taken to keep it in good operating condition in order to avoid waste.

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
BOR Stored Water (Willamette River)	Irrigation	Mar. 1 - Oct. 31	240 <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
			<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: 96.0 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: 240 af

- 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?

- Pump (give horsepower and type): 30 HP Centrifugal
- Other means (describe):

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.
30 HP centrifugal pump conveys water to the field via 4-6" buried PVC mainline.

B. Application Method

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

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.

Equipment will be kept in good operating condition to prevent waste and a water use measuring device will be installed.

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: POD will be screened in accordance with ODFW specs.

- 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: No clearing necessary for this project.

- 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: Operating equipment in a water body not necessary.

- Water quality will be protected by preventing erosion and run-off of waste or chemical products. Describe planned actions: Equipment will be kept in good operating condition and monitored closely for run-off or waste.

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

SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: Upon permit issuance
- b) Date construction will be completed: Request standard 5-year completion time
- c) Date beneficial water use will begin: 2022 irrigation season if permitted

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).*

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

NOTE TO APPLICANTS

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

This form is NOT required if:

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

NOTE TO LOCAL GOVERNMENTS

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

Land Use Information Form



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

Applicant

NAME PAUL E. NOFZIGER REVOCABLE LIVING TRUST			PHONE (HM)		
PHONE (WK)		CELL (541) 936-1726		FAX	
ADDRESS 38737 CONSER RD. NE					
CITY ALBANY		STATE OR	ZIP 97321	E-MAIL* DAVENFARMS@GMAIL.COM	

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:
10S	3W	30	NENE	1005	EFU	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	farming
10S	3W	19	SESE	1005	EFU	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	farming
10S	3W	19	NESE	400	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	farming
10S	3W	20	NESW NWSW SESW	400	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	farming
10S	3W	20	NESW SESW	500	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	farming
10S	3W	20	NWSE SWSE	300	EFU	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	farming

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:
Linn 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 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) BOR Stored Water (Willamette River)

Estimated quantity of water needed: 240 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:

It is proposed to irrigate crops in tax lots 300, 400, & 500 with Willamette River BOR stored water pumped from POD 1.



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.

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): CC 928.310(B)(1)

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.

NAME <u>Jennifer Cepello</u>	TITLE: <u>Planner</u>
SIGNATURE 	PHONE: <u>541-967-3816</u>
GOVERNMENT ENTITY <u>Linn County</u>	DATE: <u>6/14/21</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: _____



After recording return to:
Jackass Mountain Holdings, LLC
660 Dogwood Road
Pasco, WA 99301

Until a change is requested all tax
statements shall be sent to the
following address:
Jackass Mountain Holdings, LLC
660 Dogwood Road
Pasco, WA 99301

File No.: 7091-1884167 (CLH)
Date: June 20, 2012

LINN COUNTY, OREGON 2012-09523
D-WD
Cnt=1 Str=1 COUNTER 06/29/2012 03:18:04 PM
\$25.00 \$11.00 \$15.00 \$9.00 \$10.00 \$70.00



I, Steve Druckenmiller, County Clerk for Linn
County, Oregon, certify that the instrument
identified herein was recorded in the Clerk
records.
Steve Druckenmiller - County Clerk



10-30-17 / 101
10-30-20 / 300

1884167

STATUTORY WARRANTY DEED

Mac Hugh's Views, LLC, Grantor, conveys and warrants to **Jackass Mountain Holdings, LLC, a Washington limited liability company**, Grantee, the following described real property free of liens and encumbrances, except as specifically set forth herein:

See Legal Description attached hereto as Exhibit A and by this reference incorporated herein.

Subject to:

1. Covenants, conditions, restrictions and/or easements, if any, affecting title, which may appear in the public record, including those shown on any recorded plat or survey.

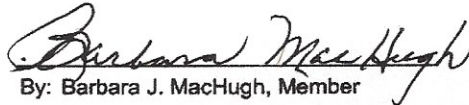
The true consideration for this conveyance is **\$607,905.82**. (Here comply with requirements of ORS 93.030)

First American Title

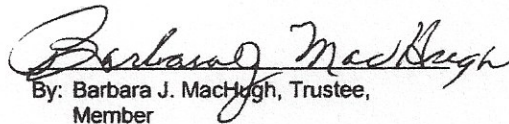
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2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

Dated this 28 day of June, 2017.

MEMBER:Mac Hugh's Views, LLC, a
Washington limited liability company

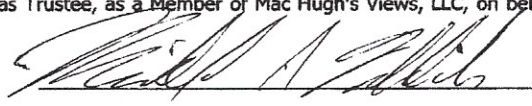

By: Barbara J. MacHugh, Member

By: MEMBER:Barbara J. MacHugh,
Trustee of the Lyle Mac Hugh Family
Trust


By: Barbara J. MacHugh, Trustee,
Member

STATE OF Washington)
)ss.
County of)

This instrument was acknowledged before me on this 28th day of June, 2012
by Barbara J. MacHugh Individually and as Trustee, as a Member of Mac Hugh's Views, LLC, on behalf of
the limited liability company



Notary Public for Washington
My commission expires:

EXHIBIT A

LEGAL DESCRIPTION: Real property in the County of Linn, State of Oregon, described as follows:

PARCEL I:

BEGINNING AT THE SOUTHEAST CORNER OF THE GEORGE MILLER, SR., D.L.C. NO. 58 IN SECTION 20 OF TOWNSHIP 10 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; AND RUNNING THENCE NORTH 0°17' EAST, ALONG THE EAST LINE OF SAID CLAIM, 300.88 FEET; THENCE NORTH 89°43' WEST 247.70 FEET TO A 5/8" IRON ROD; THENCE NORTH 0°17" EAST, PARALLEL TO THE EAST LINE OF SAID CLAIM, 206.70 FEET TO A 5/8" IRON ROD; THENCE NORTH 89°43' WEST 590.20 FEET TO A 5/8" IRON ROD ON THE EASTERLY RIGHT OF WAY LINE OF THE OREGON ELECTRIC RAILROAD; THENCE SOUTH 18°20' EAST, ALONG SAID RIGHT OF WAY LINE, 369.76 FEET TO THE CENTERLINE OF MARKET ROAD NO. 34; THENCE SOUTH 77°24' EAST 736.82 FEET TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PORTION LYING WITHIN EXISTING COUNTY ROADS.

PARCEL IA:

BEGINNING NORTH 77°32' WEST 1320.0 FEET FROM THE SOUTHEAST CORNER OF THE GEORGE MILLER, SR., D.L.C. NO. 58 IN SECTION 20 OF TOWNSHIP 10 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; AND RUNNING THENCE NORTH 1370 FEET, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF THE OREGON ELECTRIC RAILROAD; THENCE SOUTHEASTERLY, ALONG SAID RIGHT OF WAY LINE, TO A POINT WHICH BEARS SOUTH 77°32' EAST OF THE POINT OF BEGINNING; THENCE NORTH 77°32' WEST 466.60 FEET TO THE POINT OF BEGINNING; EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE EXISTING COUNTY ROAD.

PARCEL II:

BEGINNING ON THE EAST LINE OF AND NORTH 0°17' EAST 1068.23 FEET FROM THE SOUTHEAST CORNER OF THE GEORGE MILLER, SR., D.L.C. NO. 58 IN SECTION 20 OF TOWNSHIP 10 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; AND RUNNING THENCE NORTH 89°43' WEST 1026.77 FEET TO A 5/8" IRON ROD ON THE EASTERLY RIGHT OF WAY LINE OF THE OREGON ELECTRIC RAILROAD; THENCE NORTHERLY, ALONG SAID RIGHT OF WAY LINE TO THE SOUTH LINE OF THAT PARCEL CONVEYED TO HERBERT S. WOOD, ET UX, BY DEED RECORDED IN BOOK 177, PAGE 691, LINN COUNTY DEED RECORDS; THENCE EAST 1570 FEET, MORE OR LESS, TO THE NORTHWEST CORNER OF THE CHRISTIAN FARLOW D.L.C. NO. 54; THENCE SOUTH 0°17' WEST 2050 FEET MORE OR LESS, TO THE POINT OF BEGINNING, EXCEPTING THEREFROM THAT PORTION LYING WITHIN THE EXISTING COUNTY ROAD.

PARCEL III:

BEGINNING NORTH 77°32' WEST 20.00 CHAINS, NORTH 24.20 CHAINS AND WEST 47.23 CHAINS FROM THE SOUTHEAST CORNER OF THE GEORGE MILLER, SR., D.L.C. NO. 58 IN TOWNSHIP 10 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; SAID BEGINNING POINT BEING THE MOST WESTERLY SOUTHWEST CORNER OF THAT TRACT OF LAND CONVEYED TO C.L. PARKER, ET UX., BY DEED RECORDED IN BOOK 234, PAGE 191, LINN COUNTY DEED RECORDS; AND RUNNING THENCE NORTH 18.25 CHAINS; THENCE EAST 41.8 CHAINS, MORE OR LESS, TO THE WESTERLY RIGHT OF WAY LINE OF THE OREGON ELECTRIC RAILROAD; THENCE SOUTHERLY, ALONG SAID RIGHT OF WAY LINE TO THE SOUTH LINE OF THE WEST PROJECTION OF THE AFOREMENTIONED PARKER TRACT; THENCE WEST 46.25 CHAINS, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL IV:

BEGINNING ON THE NORTH LINE OF AND NORTH 89°37' WEST 1.25 CHAINS FROM THE NORTHEAST CORNER OF SECTION 17 IN TOWNSHIP 10 SOUTH, RANGE 3 WEST OF THE WILLAMETTE MERIDIAN, LINN COUNTY, OREGON; AND RUNNING THENCE NORTH 89°37' WEST, ALONG SAID NORTH LINE, 60.58 CHAINS TO THE EASTERLY RIGHT OF WAY LINE OF THE OREGON ELECTRIC RAILROAD; THENCE SOUTHERLY, ALONG SAID RIGHT OF WAY LINE, 37.36 CHAINS, MORE OR LESS, TO THE SOUTH LINE OF THAT PARCEL CONVEYED TO C.L. PARKER, ET UX., BY DEED RECORDED IN BOOK 167, PAGE 603, LINN COUNTY DEED RECORDS; THENCE NORTH 88°30' EAST, ALONG SAID SOUTH LINE, 54.75 CHAINS, MORE OR LESS, TO THE SOUTHEAST CORNER OF SAID PARKER PARCEL; THENCE NORTH 1°54' WEST 35.46 CHAINS TO THE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

400/500

LINN COUNTY, OREGON 2010-09163
D-WD
Cnt=1 Stn=1 COUNTER 06/04/2010 02:02:08 PM
\$25.00 \$11.00 \$15.00 \$9.00 \$10.00 \$70.00



I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.
Steve Druckenmiller - County Clerk



WARRANTY DEED -- STATUTORY FORM

Grantor: Paul E. Nofziger
Grantee: Paul E. Nofziger, Trustee
After recording return to:
Paul E. Nofziger, Trustee
38737 Conser Road NE
Albany, OR 97321

Address for tax statements:
Paul E. Nofziger, Trustee
38737 Conser Road NE
Albany, OR 97321

Consideration: The true consideration for this conveyance is \$NONE. The actual consideration consists of transfer of title to avoid probate.

PAUL E. NOFZIGER, Grantor, conveys and warrants to PAUL E. NOFZIGER, Trustee of the PAUL E. NOFZIGER Revocable Living Trust dated June 3, 2010, Grantee, the following described real property free of encumbrances except as specifically set forth herein situated in Linn County, Oregon:

- Linn County Assessor's Account No. 43352, Map No. T10S-R3W-S19D, Tax Lot 700 (.73 acre);
- Linn County Assessor's Account No. 369732, Map No. T10S-R3W-S19D, Tax Lot 600 (2.40 acres);
- Linn County Assessor's Account No. 50142, Map No. T10S-R4W-S13, Tax Lot 1100 (61.49 acres);
- Linn County Assessor's Account No. 43444, Map No. T10S-R3W-S20, Tax Lot 400 (71.17 acres);
- Linn County Assessor's Account No. 43261, Map No. T10S-R3W-S19D, Tax Lot 300 (8.79 acres); and
- Linn County Assessor's Account No. 43451, Map No. T10S-R3W-S20, Tax Lot 500 (14.60 acres); described as follows:

Parcel 1: Beginning at the Northwest corner of the West projection of the George Miller, Sr., Donation Land Claim No. 58 in Township 10 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; and running thence West along the South line of the Edmund C. McLaine Donation Land Claim No. 70 a distance of 16.466 chains; thence South parallel to the West line of said Donation Land Claim No. 58 a distance of 20.00 chains; thence East parallel to the South line of said Edmund C. McLaine Donation Land Claim No. 70 a distance of 16.466 chains to a 3/4" iron bolt on the West line of and South 20.00 chains from the Northwest corner of the West projection of the George Miller, Sr., Donation Land Claim No. 58; thence North 0.54 chains to a 3/4" iron bolt; thence East parallel

to the South line of said Donation Land Claim No. 70 a distance of 13.91 chains to a 3/4" iron bolt; thence North parallel with the West line of the West projection of said Donation Land Claim No. 58 a distance of 19.46 chains to the 1/2" iron pipe on the South line of said Donation Land Claim No. 70; thence West along the South line of said Donation Land Claim No. 70 a distance of 13.91 chains to the point of beginning.

Parcel 2: The following described real property situated in the county of Linn and state of Oregon, to-wit: Beginning at the Southwest corner of the D.L.C. of Madison D. Byland, Claim No. 40 in Section 24, Township 10 South, Range 4 West of the Willamette Meridian; thence East 87.27 chains to the Northeast corner of the D.L.C. of Hiram Farlow and wife, Claim No. 56 in Township 10 South, Range 3 West of the Willamette Meridian; thence North 53 deg. 45' East 1.20 chains to the most Westerly Southwest corner of the George Miller D.L.C. #58; thence East 13.73 chains; thence North 19.40 chains to the Southeast corner of that tract conveyed to Ezra H. Widmer and wife by deed recorded November 18, 1948, in Book 205, Page 364, Deed Records; thence West 13.82 chains; thence South 0.54 chains to the most Southerly Southeast corner of said Widmer property; thence West 54.54 chains to the center of the lake; thence North 15 deg. West along the center of said lake 16.50 chains; thence North 7 deg. West 4 chains to the line between Sections 18 and 19 in Township 10 South, Range 3 West of the Willamette Meridian; thence West 56 links to the Northwest corner of Section 19, thence South 13.90 chains to the Northeast corner of said Claim No. 40; thence West 31.60 chains to the Northwest corner of said Claim No. 40; thence South 19 deg. East with the meanders of the Willamette River 5.80 chains; thence South 9 deg. East 20.68 chains to the place of beginning; SAVE AND EXCEPT the following: Beginning at the Northwest corner of Section 19, in Township 10 South, Range 3 West of the Willamette Meridian; thence South 13.90 chains to the Northeast corner of Claim No. 40 in Township 10 South, Range 4 West of the Willamette Meridian; thence West 31.40 chains to the meander line of the right bank of the Willamette River; thence South 11 deg. East 26.60 chains along said meander line to the South line of said Claim No. 40; thence East 47.30 chains along the South line of said Claim to a point 21.12 chains East of the quarter section corner of the West line of said Section 19; thence North 7.25 chains; thence North 81 deg. 45' West 16.65 chains to the center of a certain lake; thence North 10 deg. East 10 chains and North 17 deg. West 21.50 chains along the center of said lake to the point of beginning.

Parcel 3: Beginning on the North boundary line of and West 12.30 chains distant from the Northeast corner of the Donation Land Claim of Hiram Farlow, Notification No. 1672, Claim No. 56, Township 10 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; and running thence East 12.30 chains to the Northeast corner of said claim; thence North 53 deg. 45' East 1.20 chains to the Southwest corner of the Donation Land Claim of George Miller, Sr., Claim No. 58, said corner being in Section 19, said township and range; thence East 13.73 chains; thence South 16.19 chains to a point in the center of a county road; thence in a Northwesterly direction in the center of said county road, 27.60 chains, more or less, to a point due South of the Southwest corner of the 33.60 acre tract deeded by J.C. Holbrook and wife to the said James S. Wiggle and Bertha E. Wiggle, by deed dated December 9, 1913, recorded April 28, 1915, at Page 212, of Volume 107, of Deed Records of said county; thence North 36 feet, more or less, to said Southwest corner of said 33.60 acre tract; thence North 9.00 chains to the place of beginning. EXCEPT that portion described in a contract recorded March 10, 1967, in Miscellaneous Book 13, Page 859 and EXCEPT that portion described in a deed recorded February 8, 1950, in Deed Book 213, Page 51.

ALSO INCLUDING: Beginning at a point on the North line of and North 89 deg. 45' West 811.8 feet from the Northeast corner of the Hiram Farlow Donation Land Claim No. 56 in Township 10 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; and running thence South 381.50 feet to the Southerly right of way of the newly

located Market Road; thence North 41 deg. 48' West along said right of way 166.2 feet; thence on a 686.19 foot radius curve to the left (the chord of which bears North 65 deg. 36-1/2' West 557.66 feet, a distance of 574.27 feet; thence North 0 deg. 15' East 30 feet to the North line of said claim; thence South 89 deg. 45' East 618.53 feet to the point of beginning. EXCEPTING THEREFROM a strip of land 60 feet wide along the Southwest side of said property, being the relocated line of Market Road No. 34, EXCEPT that portion described in deed recorded June 26, 1947, in Deed Book 193, Page 547.

Parcel 4: Beginning at a point which is south 77 deg. 32' east 8.818 chains from a point which is 48.76 chains south 53 deg. 45' minutes (sic) west of the northeast corner of the Silas Haight and wife's donation land claim in Township 10 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; thence south 12 deg. 24' west 200 feet; thence south 77 deg. 32' east 175 feet; thence north 12 deg. 24' east 200 feet; thence north 77 deg. 32' west 175 feet to the point of beginning.

ALSO the right to use water from a well and easement for pipeline purposes from the well to the property above described said well and pipeline being located on the property as described in a deed from R.O. Conser also known as a Rocky O. Conser, in a deed dated November 30, 1960, recorded in Deed Records, Linn County, Oregon, Book 274, page 192.

Parcel 5: Beginning in the centerline of Linn County Market Road No. 34 at a point South 89 deg. 55' East 137.08 feet and South 889.89 feet from the most Westerly Southwest corner of the George Miller, Sr., Donation Land Claim 58 in Section 19, Township 10 South, Range 3 West, of the Willamette Meridian, Linn County, Oregon, said Donation Land Claim corner being on the Northwesterly line of the Silas Haight Donation Land Claim 55; and running thence North 77 deg. 32' West 691.64 feet; thence South 12 deg. 28' West 260.0 feet; thence South 77 deg. 32' East 260.0 feet; thence North 86 deg. 08'40" East 555.04 feet to a point which bears South 31 deg. 42' East of the point of beginning; thence North 31 deg. 42' West 145.0 feet to the point of beginning; and containing 3.657 acres, more or less, of which 0.486 acre lies within the existing county road; EXCEPTING THEREFROM that parcel conveyed to Paul E. Nofziger, et ux, by deed recorded in Book 320, page 501 of Deed Records. Subject to the rights of the public in the use of the existing county road.

Parcel 6: Beginning North 77 deg. 32' West 26.66 chains distant from the Southeast corner of the Donation Land Claim of George Miller, Sr., Not. No. 1674, Claim #58 in Township 10 South, Range 3 West of the Willamette Meridian in Linn County, Oregon; thence North 77 deg. 32' West 41.98 chains; thence North 14.11 chains; thence East 40.98 chains; thence South 22.76 chains to the place of beginning, containing 75.27 acres, all in Linn County, Oregon.

Parcel 7: Beginning at a point which is North 77 deg. 32' West 20 chains distant from the Southeast corner of the Donation Land Claim of George Miller, Sr., Claim No. 58 in Township 10 South, Range 3 West of the Willamette Meridian, running thence North 24.20 chains; thence West 6.50 chains; thence South 22.76 chains; thence South 77 deg. 32' East 6.66 chains to the place of beginning. Excepting therefrom that certain parcel of land deeded to Oregon Electric Railway Company as shown by deeds recorded in Volume 98 at page 136 and all of the Deed Records of Linn County, Oregon. SAVE AND EXCEPT that portion of the above described tract of land lying within the boundaries of public roads and highways.

Parcel 8: Beginning in the centerline of Linn County Market Road No. 34 at a point South 89 deg. 55' East 137.08 feet, South 889.89 feet and South 77 deg. 32' East 1001.67 feet from the most Westerly Southwest corner of the George Miller, Sr., Donation Land Claim No. 58 in Section 19, Township 10 South, Range 3 West, said Donation Land Claim corner being on the Northwesterly line of the

Silas Haight Donation Land Claim 55; and running thence South 1 deg. 18' West along the centerline of a ditch 1319.24 feet to the intersection of said ditch with a second ditch; thence Southerly along the centerline of the last mentioned ditch, following the meanders thereof, approximately 1750 feet to the right bank of the Willamette River; thence following the meanders of said right bank Easterly up stream approximately 1150 feet to a point South 1 deg. 09' West of a 1-1/2" iron pipe, said pipe being West 2660.50 feet and South 1093.81 feet from the most Easterly corner of said Silas Haight Donation Land Claim 55; thence North 1 deg. 09' East 40 feet, more or less, to said 1-1/2" iron pipe; thence continuing North 1 deg. 09' East 322.55 feet to a 5/8" iron bolt; thence North 75 deg. 29' East 1119.77 feet to a 5/8" iron bolt; thence North 34 deg. 30' East 232.36 feet to a 1 inch iron pipe; thence South 89 deg. 46' East 771.83 feet to a 5/8" iron bolt; thence North 25 deg. 00' East 973.54 feet to a 1" iron pipe; thence North 18 deg. 28' West 706.65 feet to the centerline of the aforementioned Linn County Market Road No. 34; thence North 77 deg. 32' West along said centerline, to the point of beginning, subject to the rights of the public in the use of said county road.

Parcel 9: Beginning at the Southeast corner of the George Miller, Sr., Donation Land Claim No. 58 in Township 10 South, Range 3 West of the Willamette Meridian, Linn County, Oregon; and running thence East 14.79 chains to a point on the North line of and West 37.50 chains from the Northeast corner of the Isaac Miller, Sr., Donation Land Claim No. 46; thence South 1 deg. 15' East, 28.56 chains; thence West 2.50 chains; thence South 1 deg. 15' East 16.71 chains; more or less, to a point North 1 deg. 15' West 2402.9 feet from the South line of the said Isaac Miller Sr., Donation Land Claim No. 46; thence Westerly, parallel to said South line, 570.65 feet to the Easterly right of way line of the Oregon Electric Railroad; thence South 18 deg. 28' East, along said right of way, 1138.3 feet to a point North 1 deg. 15' West 1320.0 feet from the South line of said Isaac Miller, Sr., Donation Land Claim No. 46; thence Westerly, parallel to said South line 846.91 feet to the Southeast corner of that parcel conveyed to Western Kraft Corporation and recorded in Volume 281, page 254, Linn County Deed Records; thence North 24 deg. 13' West 936.69 feet to a 1/2" iron rod at an angle point in the Easterly line of said Wester Kraft Corporation parcel; thence North 30 deg. 00' West 1721.5 feet to a 1/2" iron rod at the Northeast corner of said parcel, said 1/2" rod being on the Northerly line of said Isaac Miller, Sr., Donation Land Claim No. 46; thence North 52 deg. 50' East, along said Northerly line, 279.47 feet to a stone which bears South 52 deg. 50' West, 897.60 feet from the most Easterly corner of the Silas Haight Donation Land Claim No. 55; thence North 24 deg. 27' East (called North 23 deg. East in old deeds) 1705.3 feet to the Southerly line of the aforementioned George Miller, Sr., Donation Land Claim No. 58; thence South 77 deg. 33' East, along said Claim line, 414.60 feet to the point of beginning. EXCEPTING THEREFROM that part lying within the right of way of the Oregon Electric Railroad as recorded in Volume 98, pages 136 and 311 and Volume 344, page 316, Deed Records; ALSO SAVE AND EXCEPT that portion of the above described tract of land lying within the boundaries of public roads and highways.

SAVE AND EXCEPT that tract of land lying Southwesterly of and adjacent to the Southwesterly right of way of the Oregon Electric Railroad.

Parcel 10: Beginning at a point which is 9.04 chains South and 5.90 chains East of the Southeast corner of the Donation Land Claim of Elias A. Johnson Not. No. 1717, Claim No. 74 in Township 10 South, Range 4 West of the Willamette Meridian; and running thence West parallel with the North boundary line of Claim No. 72 in said Township and Range 41.45 chains to the center of a county road; thence South 3 deg. 44' East along the center of said county road 13.88 chains to the South boundary line of a tract of land conveyed to Alfred C. Schultz and John H. Mulligan by Koza Neis, by deed recorded on page 22, Volume 90, Deed Records for Linn County, Oregon; thence East parallel with the North boundary line of Claim

No. 72, said Township and Range 40.54 chains to the Southeast corner of said tract of land conveyed to Alfred C. Schultz and John H. Mulligan aforesaid; thence North 5.35 chains; thence North 52 deg. 01' East 15.15 chains; thence West 12 chains to a point due North of the Place of beginning; thence South 34 links to the place of beginning.

The said property is free from encumbrances except easements, conditions, restrictions and roadways of record.

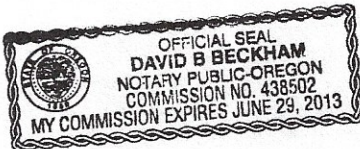
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS 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.

Dated this 3rd day of June, 2010.

Paul E. Nofziger
PAUL E. NOFZIGER

STATE OF OREGON)
County of Linn) ss. June 3, 2010.

Personally appeared the above-named **PAUL E. NOFZIGER** and acknowledged the foregoing instrument to be his voluntary act and deed.



Paul B. Beckham
Notary Public for Oregon
My Commission expires: 6-29-2013

AFTER RECORDING RETURN TO:
FIDELITY NATIONAL TITLE INSURANCE CO.

RECORDING REQUESTED BY
FIDELITY NATIONAL TITLE COMPANY OF OREGON

GRANTOR'S NAME
Darrell W. Mishler and Peggy Lynn Mishler

GRANTEE'S NAME
Gray Living Trust, dated April 11, 1997

SEND TAX STATEMENTS TO:
Mr. and Mrs. Gray
38024 Conser Rd NE
Albany, OR 97321

AFTER RECORDING RETURN TO:
Mr. and Mrs. Gray
38024 Conser Rd NE
Albany, OR 97321

SPACE ABOVE THIS LINE FOR RECORDER'S USE

112417
112811

STATUTORY WARRANTY DEED

Darrell W. Mishler and Peggy Lynn Mishler, as tenants in common, each an undivided 1/2 interest, Grantor, conveys and warrants to

Duane M. Gray and Nancy M. Gray, Trustees of their successors in trust under the Gray Living Trust dated April 11, 1997, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Linn, State of Oregon,

SEE EXHIBIT ONE ATTACHED HERETO AND MADE A PART HEREOF

Subject to and excepting:

See attachment made a part hereof

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

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS \$200,000.00 (See ORS 93.030)

DATED: March 23, 2004

Darrell W. Mishler
Darrell W. Mishler

Peggy Lynn Mishler
Peggy Lynn Mishler

STATE OF OREGON
COUNTY OF Linn

This instrument was acknowledged before me on

3/26/04

by Darrell W. Mishler & Peggy Lynn Mishler

Marcy Taisey

NOTARY PUBLIC FOR OREGON
MY COMMISSION EXPIRES: 4/15/05



Escrow No. 01-112417-CM -22
Title Order No. 00112417

EXHIBIT ONE

Beginning at a point on the centerline of Market Road No. 34, which point is 137.08 feet South $89^{\circ}55'$ East, and 889.89 feet South of the most Westerly Southwest corner of the George Miller Senior Donation Land Claim 58, Township 10 South, Range 3 West of the Willamette Base and Meridian, Linn County, Oregon; thence South $77^{\circ}32'$ East along the center line of said road 1001.67 feet to the center line of a ditch; thence South $1^{\circ}18'$ West along the center line of said ditch 1319.24 feet to the intersection of a second ditch; thence Southerly along the center line of said second ditch 1750 feet, more or less, to the right bank of the Willamette River; thence Westerly along the right bank of the Willamette River to a point which bears South 2680 feet, more or less, of a point on the South line of that parcel conveyed to Paul E. Nofziger, by deed recorded in MF Volume 281, Page 284, Linn County Microfilm Records, which point is 137.08 feet South $89^{\circ}55'$ East, 889.89 feet South, 691.64 feet North $77^{\circ}32'$ West, 260 feet South $12^{\circ}28'$ West, 260 feet South $77^{\circ}32'$ East, and 285 feet North $86^{\circ}08'40''$ East of the Westerly Southwest corner of the said George Miller Senior Claim 58; thence North 2680 feet, more or less to the South line of said Nofziger parcel; thence along the lines of said Nofziger parcel North $86^{\circ}08'40''$ East 270.04 feet, and North $31^{\circ}42'$ West 145 feet to the point of beginning.

Subject to attachment made a part hereof

The herein described property has been classified for farm use, as disclosed by the tax roll. In the event of disqualification, said property may be subject to additional taxes and/or penalties.

The described premises are within the boundaries of Linn Soil and Water Conservation District and are subject to the statutory powers, including the power of assessment.

Any adverse claim based upon the assertion that:

- a. Said land or any part thereof is now or at any time has been below the highest of the high watermarks of the Willamette River, in the event the boundary of said river has been artificially raised or is now or at any time has been below the high watermark, if said river is in its natural state.
- b. Some portion of said land has been created by artificial means or has accreted to such portion so created.
- c. Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Willamette River, or has been formed by accretion to any such portion.

Rights and easements for recreation, navigation and fishery which may exist over that portion of said land lying beneath the waters of Willamette River.

Affects Parcel I, II, IV

Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Mountain States Power Co.
 Purpose: Utilities
 Recorded: October 3, 1947, Book 196, Page 196

An oil and gas lease for the term therein provided with certain covenants, conditions and provisions, together with easements, if any, as set forth therein.

Dated: September 13, 1974
 Lessor: Richard D. Gray and Ethel M. Gray
 Lessee: Mobil Oil Corporation
 Recorded: September 25, 1975, Book 117, Page 409

The lessee's interest under said lease was duly assigned of record to American Quasar Petroleum Company of New Mexico, by instrument recorded March 2, 1983, in Volume 329, page 828, Microfilm Records for Linn County, Oregon.

The interest, if any, of Atlantic Richfield Company, as set out in assignment recorded February 7, 1986 in Volume 403, page 645, Microfilm Records of Linn County, Oregon.

Easement(s) for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to: Pacific Power & Light Company
 Purpose: Electric transmission line, poles, and anchors
 Recorded: July 7, 1976, Book 138, Page 476

STATE OF OREGON
County of Linn

I hereby certify that the attached was received and duly recorded by me in Linn County records.

STEVE DRUCKENMILLER
Linn County Clerk

M 75
R 70
S 70
A 71
O —

MF 1560

By *[Signature]* Deputy PAGE 345

36

2004 MAR 29 P 12:16

CONTRACT DATA SHEET



Bureau of Reclamation
Attn: PN-6323
1150 N. Curtis Road
Boise, ID 83706-1234
208-378-5346

RECLAMATION Managing Water in the West

1. Applicant Information:

A. Landowners

- 1) Name of Landowner(s): Paul E. Nofziger Revocable Living Trust
- 2) Address: 38737 Conser Rd. NE, Albany, OR 97321
- 3) Mailing Address (if different): _____
- 4) Taxpayer Identification Number(s): _____
(Social Security Number or Employer Identification Number¹)
- 5) Do you own all of the land where you propose to divert and make use of water? No

B. Water User Organizations (e.g., Irrigation Districts, Ditch/Canal Companies, Water Control Districts, Water User Associations & Cooperatives, Irrigation Improvement Districts, and similar entities organized according to State Law)

- 1) Name of Organization: _____
- 2) Name & Title of Applicant: _____
- 3) Mailing Address of Organization: _____
- 4) Taxpayer Identification Number: _____
(Social Security Number or Employer Identification Number)
- 5) Please provide the following information:
 - (a) A description of the area served by the organization (location, total acreage, number of water users, prominent crops, etc.) _____
 - (b) Copy of organization by-laws, articles of incorporation (if applicable), board resolution authorizing the applicant to represent and bind the organization under contract with the United States.

2. Source of water (name of stream, river): Willamette River
3. Proposed point of diversion: 975 feet S and 500 feet W of NE corner of Section 30, Township 10S, Range 3W, Willamette Meridian.
4. A water right permit to divert storage water is required. Application or file number with Oregon Water Resources Department (OWRD) if you have applied for a permit to divert storage water: Application submitted to OWRD. Number not yet assigned.
5. Include a map of lands and diversion points. (Same as required by OWRD for application of surface/ground water permit).

6. Do you currently hold a right to natural flows for irrigating the property described herein? No
If yes, what is/are the priority date(s)? _____
7. Total quantity of water from storage requested: 220.5 acre-feet.
8. Location of land to be irrigated in each 40-acre tract:

TOWNSHIP	RANGE	SECTION	40-ACRE TRACT (1/4) (1/4)	NO. of ACRES	TYPE of IRRIGATED CROP
10S	3W	19	NESE	9.9	beans, fescue, rye grass
10S	3W	20	NESW	39.8	beans, fescue, rye grass
10S	3W	20	NWSW	34.3	beans, fescue, rye grass
10S	3W	20	SESW	4.2	beans, fescue, rye grass

9. What is the present use of the land identified above? (farming; idle [fallow cultivated land]; native [appears never to have been tilled]; planted pasture or other [please specify]).
Farming
10. Is the land identified above currently being irrigated? No If yes, what is the source? (natural flows, wells, etc.) _____
11. Diversion must be screened to prevent uptake of fish and other aquatic life. Describe plan(s) to comply with State/Federal fish screen standards: The POD will be screened per ODFW specs.
-
12. Telephone number where you can be reached during the day: (541) 936-1726 / CWRE: (503) 510-3026

Before returning the completed Contract Data Sheet to the address provided on page 1, please ensure you have:

- ANSWERED ALL QUESTIONS COMPLETELY
- ATTACHED AND IDENTIFIED ADDITIONAL SHEET(S) AS NECESSARY
- ATTACHED THE REQUIRED MAP
- SUBMIT PAYMENT FOR THE APPROPRIATE CONTRACT ADMINISTRATION FEE². MAKE CHECK PAYABLE TO THE U.S. BUREAU OF RECLAMATION

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

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

Minimum Requirements Checklist

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

Include this checklist with the application

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

Please submit the original application and signatures to the Water Resources Department. Applicants are encouraged to keep a copy of the completed application.

- SECTION 1: Applicant Information and Signature
- SECTION 2: Property Ownership
- SECTION 3: Source of Water
- SECTION 4: Sensitive, Threatened or Endangered Fish Species Public Interest Information
- SECTION 5: Water Use
- SECTION 6: Water Management
- SECTION 7: Resource Protection
- SECTION 8: Project Schedule
- SECTION 9: Within a District
- SECTION 10: Remarks

Include the following additional items:

- Land Use Information Form with approval and signature of local planning department (*must be an original*) or signed receipt.
- Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
- Fees - Amount enclosed: \$ 2,004.00
See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.
- Map that includes the following items:
 - Permanent quality and drawn in ink
 - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
 - North Directional Symbol
 - Township, Range, Section, Quarter/Quarter, Tax Lots
 - Reference corner on map
 - Location of each diversion, by reference to a recognized public land survey corner (distances north/south and east/west)
 - Indicate the area of use by Quarter/Quarter and tax lot identified clearly.
 - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
 - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)