

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

OWRD

NAME ARLEN AND/OR RICK WEAVER		PHONE (HM) 541-863-4751	
PHONE (WK)	CELL 541-680-6244	FAX	
ADDRESS 751 BILLS ROAD			
CITY MYRTLE CREEK	STATE OR	ZIP 97457	E-MAIL * RWEAVER419@GMIAL.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		PHONE	FAX
ADDRESS			CELL
CITY	STATE	ZIP	E-MAIL *

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

<u>Rick Weaver</u> Applicant Signature	<u>Rick Weaver</u> Print Name and Title if applicable	<u>Dec. 1 - 2021</u> Date
<u>Arlen Weaver</u> Applicant Signature	<u>Arlen Weaver</u> Print Name and Title if applicable	<u>12-1-2021</u> 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.

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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: Galesville Reservoir	Tributary to: Cow Creek >South Umpqua River
TRSQQ of POD: T.31S R.4W SWNE Sec. 28	Re-Diversion T.29S R.5W NESE Sec. 32
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).

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B. Applications to Use Stored Water

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

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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_trsqg_features/

If you need help to determine in which area the proposed POD is located, please call the customer service desk at (503) 986-0900.

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

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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
Galesville Reservoir	Irrigation	March1-Oct 31	19.95 <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, supplemental and/or nursery acres to be irrigated.
 Primary: _____ Acres Supplemental: 13.3 Acres Nursery Use: _____ Acres
 If supplemental acres are listed, provide the Permit or Certificate number of the underlying primary water right(s): 66474 is Supplemental to 66473. Both water rights are regulated early by ISWR_59955
 Indicate the maximum total number of acre-feet you expect to use in an irrigation season: 19.95

- 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

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A. Diversion and Conveyance

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

- Pump (give horsepower and type): 15 Horsepower. Electric.
 Other means (describe):

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.
 4" Mainline to 36 Rain bird sprinklers

B. Application Method

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

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.

Hay/Cattle pasture with minimum usage, 3 days every 2 weeks. Pump equals ~240 GPM, with 36 sprinklers @ 6.6 gpm= 237gpm

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: ODFW fish screen in place
- 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: Non-Planned.
- 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: Non-Planned.
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe planned actions: Will use best management practices to prevent erosion and control run-off.
- List other federal and state permits or contracts to be obtained, if a water right permit is granted.
Contract with Douglas County to purchase 19.95 AF of stored water from Galesville Reservoir.

SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: System in place
- b) Date construction will be completed:
- c) Date beneficial water use will begin: Upon issuance of permit

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SECTION 9: WITHIN A DISTRICT

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- 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).

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

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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: \$_____

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)

Land Use Information Form



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

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 ground water 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.

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Land Use Information Form



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

Applicant(s): Rick Weaver

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Mailing Address: 751 Bills Road

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City: Myrtle Creek

State: OR

Zip Code: 97457

Daytime Phone: 541-680-6244



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:
<u>29S</u>	<u>5W</u>	<u>32</u>	<u>NESE</u>	<u>500/600</u>	_____	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Irrigation</u>
<u>29S</u>	<u>5W</u>	<u>32</u>	<u>NWSE</u>	<u>500/600</u>	_____	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Irrigation</u>
<u>29S</u>	<u>5W</u>	<u>32</u>	<u>SESE</u>	<u>500/600</u>	_____	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Irrigation</u>
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Douglas

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 Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

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

Estimated quantity of water needed: 19.95 AF
 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:

Supplemental Water from Galesville Reservoir is needed for irrigation of 13.30 acres

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

See bottom of Page 3. →

For Local Government Use Only

OWRD

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 3.4.050(FC) + 3.21.050(M-2)
- 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
		<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.

R 02832 (7.08 Ac) + R 02860 (7.51 Ac); zoned (FC-1) Exclusive Farm Use-Cropland, 20 Ac and (M-2) Medium Industrial.

**DOUGLAS COUNTY PLANNING DEPARTMENT
ROOM 108, JUSTICE BUILDING
DOUGLAS COUNTY COURTHOUSE
ROSEBURG, OR 97470**

Name: Lisa A. Hawley Title: Senior Planner

Signature: Lisa A. Hawley Phone: 541-440-4289 Date: 11/18/21

Government Entity: Douglas County (Planning) WCES-WS 21-1152
Rcpt # P40650

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: _____

Douglas County Official Records
Patricia K. Hitt, County Clerk

2019-009865



\$106.00

DEED-DEC Cnt=1 Stn=17 RRHARRIS 06/27/2019 10:52:43 AM
\$25.00 \$11.00 \$60.00 \$10.00

DOUGLAS COUNTY CLERK

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CERTIFICATE PAGE

DO NOT REMOVE THIS PAGE FROM ORIGINAL
DOCUMENT

THIS PAGE MUST BE INCLUDED IF DOCUMENT IS RE-RECORDED

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IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR DOUGLAS COUNTY

ARLEN R. WEAVER and ARLEN WEAVER)	Case No. 19CV06078
AND BETTY C. WEAVER, TRUSTEES, or)	
their successors in interest, under the)	
WEAVER FAMILY TRUST DATED MAY)	
21, 2010, AND ANY AMENDMENTS)	
THERE TO,)	
)	GENERAL JUDGMENT
Plaintiffs,)	ON DEFAULT
)	
v.)	
)	
STEVEN ROSS WEAVER, individually and)	
as co-trustee of the Viven T. Weaver Living)	
Trust dated April 19, 2016, REBECCA)	
WEAVER, TIMOTHY PAUL WEAVER,)	
individually and as co-trustee of the Viven T.)	
Weaver Living Trust dated April 19, 2016,)	
and ALL OTHER PERSONS)	
OR PARTIES UNKNOWN CLAIMING)	
ANY RIGHT, TITLE, LIEN, OR INTEREST)	
IN THE PROPERTY DESCRIBED IN THE)	
COMPLAINT HEREIN,)	
)	
)	
Defendants.)	

This matter came before this court on the motion of Plaintiffs for a default judgment against Defendants. It appearing from the records that said Defendants were duly served with the summons and complaint in Douglas County, Oregon by personal service as provided by ORCP 7,

DOLE COALWELL
Attorneys
810 SE Douglas - PO Box 1205
Roseburg, OR 97470
Phone: (541)673-5541


1 and that said Defendants have not answered nor made any appearance herein, although the time
2 provided for appearance has expired; and,
3

4 The court having entered an order of default against said Defendants finding in favor of
5 Plaintiff and against Defendants on Plaintiffs' Complaint; now, therefore, it is
6 hereby, ORDERED and ADJUDGED as follows:
7

- 8 1. Plaintiffs are the owners in fee simple of the Property described in the attached
9 **Exhibit A**, and are entitled to possession thereof, free of any estate, title, claim,
10 lien or interest of Defendants or those claiming under Defendants; and
11
12 2) Defendants are enjoined, restrained, and prohibited from asserting any estate,
13 title, claim, lien or interest in the Property or any portion thereof.
14

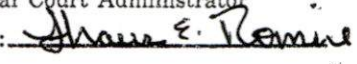
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Signed: 6/13/2019 04:21 PM

22 
23 _____
24 Kathleen E Johnson Circuit Court Judge
25

26 Submitted By:
27 Jason M. Montgomery, OSB #024004
28 DOLE COALWELL
29 Of Attorneys for Plaintiffs



Certified True Copy Of The Original
Dated This 25 Day Of June, 2019
Trial Court Administrator
By: 

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EXHIBIT "A"

OWRD

PARCEL ONE: (R62867)

Beginning at a point on the Westerly side of the Southern Pacific Railroad R/W; which point bears North, 1287.9 feet and West 2584.4 feet from the Southwest corner of the Henry Adams D.L.C. No. 42, Township 29 South, Range 5 West, W.M.; thence along said R.R. R/W line South 47°20' West, 255.0 feet; thence leaving said R.R. R/W bearing North 42°40' West, 750.9 feet to the intersection of the Easterly R/W line of the County road; thence along said county road R/W line North 44°49' East, 255 feet; thence leaving said county road R/W line bearing South 42°40' East, to the intersection of the said R.R. R/W line; the place of beginning; containing 4.5 acres all situated in Section 32, Township 29 South, Range 5 West, W.M., Douglas County, Oregon.

29-5-32C 2000 R62867

PARCEL TWO: (R62839)

The Southerly one half of the following described parcel, the dividing lines of which are to run parallel with the Northeasterly boundaries of said parcel (the record bearings of said lines being N. 42°40' W.)

BEGINNING at a point on the Westerly right of way line of the Southern Pacific Railroad, which point bears North 1287.9 feet and West 2584.4 feet from the Southwest corner of the Henry Adams DLC No. 42, Township 29 South, Range 5 West, Willamette Meridian; thence along said railroad right of way line North 47°20' East 265.0 feet; thence leaving said railroad right of way bearing North 42°40' West to the intersection of the Easterly right of way line of the County Road; thence along said County Road right of way line South 65°58' West 60.0 feet and South 44°49' West 210.3 feet; thence leaving said county road right of way line bearing South 42°40' East to the place of beginning, all situated in Section 32, Township 29 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

29-5-32C 2100 R62839

PARCEL THREE: (R62825; R62832)

Beginning at a point on the Westerly R/W line of the Southern Pacific Railroad; which point bears North, 1671.5 feet and West 2168.2 feet from the Southwest corner of the Henry Adams DLC No. 42, Township 29 South, Range 5 West, W.M.; thence along said railroad R/W line South 47°20' West, 301.0 feet; thence leaving said railroad R/W line bearing North 42°40' West to the intersection of the Easterly R/W line of the County Road; thence along said County road R/W line North 65°58' East, 313.8 feet; thence leaving said county road R/W line bearing South 42°40' East 644.3 feet to the place of beginning containing 4.90 acres all situated in Section 32, Township 29 South, Range 5 West, W.M., Douglas County, Oregon; and also the following parcel:

29-5-32C 2300 R62825

Beginning at a point on the West bank of the South Umpqua River; which point bears North, 780.5 feet and West, 773.2 feet from the Southwest corner of the Henry Adams DLC No. 42, Township 29 South, Range 5 West, W.M.; thence North 42°40' West, 1524.4 feet to the intersection of the Easterly R/W line of a 16 feet width lane; thence South 47°20' West, 248.0 feet; thence South 42°40' East, 1643.0 feet to a point on the West bank of said River; thence continuing South 42°40' East to the center line of said River; thence downstream along said center line North 38°55' East to a point from which the place of beginning bears North 42°40' West; thence North 42°40' West to the place of beginning containing 9.20 acres all situated in Section 32, Township 29 South, Range 5 West, W.M., Douglas County, Oregon.

PARCEL FOUR: (R62846; R62860; R62853)

29-5-32D 500 R62832

The Northerly one half of the following described parcels, the dividing lines of which are to run parallel with the Northeasterly boundaries of said parcels (the record bearings of said lines being N. 42°40' W.)

Beginning at a point on the Westerly right of way line of the Southern Pacific Railroad, which point bears North 1287.9 feet and West 2584.4 feet from the Southwest corner of the Henry Adams DLC No. 42, Township 29 South, Range 5 West, Willamette Meridian; thence along said railroad right of way line North 47°20' East 265.0 feet; thence leaving said railroad right of way bearing North 42°40' West to the intersection of the Easterly right of way line of the County Road; thence along said County Road right of way line South 65°58' West 60.0 feet and South 44°49' West 210.3 feet; thence leaving said county road right of way line bearing South 42°40' East to the place of beginning, all situated in Section 32, Township 29 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, and also the following described parcel:

29-5-32C 2200 R62846

Beginning at a point on the West bank of the South Umpqua River, which point bears North 525.2 feet and West 873.1 feet from the Southwest corner of the Henry Adams DLC No. 42, Township 29 South, Range 5 West, Willamette Meridian; thence North 42°40' West 1643.0 feet to the intersection of the Easterly right of way line of a 16 feet width lane; thence South 47°20' West 242.0 feet; thence South 42°40' East 1695.7 feet to a point on the West bank of said River; thence continuing South 42°40' East to the centerline of said River; thence downstream along said centerline North 38°55' East to a point from which the place of beginning bears North 42°40' West; thence North 42°40' West to the place of beginning, all situated in Section 32, Township 29 South, Range 5 West, Willamette Meridian, Douglas County, Oregon.

29-5-32D 600 R62860

EXCEPTING THEREFROM that property lying within U.S. Highway No. 99. 700 R62853

EXC R/W

END OF DOCUMENT

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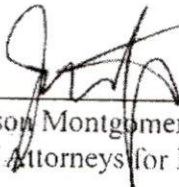
UTCR 5.100 CERTIFICATE

OWRD

This proposed order or judgment is ready for judicial signature because:

1. Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
2. Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me.
3. I have served a copy of this order or judgment on all parties entitled to service and:
 - a. No objection has been served on me.
 - b. I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
 - c. After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
4. The relief sought is against an opposing party who has been found in default.
5. An order of default is being requested with this proposed judgment.
6. Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
7. This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (5) of this rule.
8. Other: _____

DATED: June 12, 2019.



Jason Montgomery, OSB #024004
Of Attorneys for Plaintiffs

COPY

I-2021-12

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

OWRD

This contract is made on _____, 20__ between Douglas County, a political subdivision of the State of Oregon, ("County"), and _____
Rick Weaver, ("Customer").

COUNTY AND CUSTOMER AGREE:

1. TERM AND RENEWAL:

1.1. The initial term of this contract shall begin on March 1, 2022 and end on December 31, 2031, unless it is sooner terminated as provided herein.

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

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

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

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

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

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

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

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

2. AUTHORITY OF PUBLIC WORKS DIRECTOR:

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

2.2. The Director may delegate authority to administer this contract to the Manager of the County Public Works Department, Natural Resources Division (the Division Manager), except for authority to establish the price of water under section 11 of this

contract. The Director shall retain the right to supersede any decision of the Division Manager in the administration and interpretation of this contract.

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

3. WATER ALLOCATION: Each year during the term of this contract, County shall allocate sufficient acre feet of storage capacity in the Galesville Reservoir for Customer to irrigate 13.30 acres. This allocation shall not exceed 19.95 acre feet per irrigation season as specified on the attached Exhibit A.

4. PERMITS AND CERTIFICATES OF WATER RIGHTS:

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

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

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

5. RELEASE OF WATER:

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

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

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

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

6. DIVERSION AND USE OF WATER:

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

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

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

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

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

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

7. QUALITY OF WATER:

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

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

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

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

11. PRICE OF WATER:

11.1. During the initial term, the price for the allocation stated in section 3 shall be \$ 423.30 per year.

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

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

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

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

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

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

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

12. PAYMENT:

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

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

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

13. LIMITATIONS ON LIABILITY:

13.1. County shall not be liable for damages or other expenses sustained by Customer resulting from shortages in the quantity of water available for release, or interruptions in water deliveries to Customer, if such shortages or interruptions in

deliveries are caused partially or entirely by hostile diversion, accidental damage to County facilities, operational failure of County facilities, or any cause beyond County's control.

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

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

14. DEFAULT:

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

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

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

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

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

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

18. NOTICES:

18.1. Notices required by this Contract must be given in writing by personal delivery or mail, unless some other means or method of notice is required by law.

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

18.3. Notices to Customer shall be directed to: Rick Weaver
c/o Arlen Weaver
751 Bills Rd Myrtle Creek, OR 97457

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

20. TERMINATION FOR CONVENIENCE: County may terminate this Contract if the Director determines in good faith that termination is in the best interest of the public. The Director will endeavor to give Customer notice thirty days prior to the date of termination under this section, but failure to give notice will not invalidate the decision to terminate. Termination under this section will not affect the rights of County and/or Customer existing at the time of termination

CUSTOMER

By Rick Weaver
Title _____
Print Name Rick Weaver
Date Nov. 18 - 2021
Phone 541-680-6244

Physical Location:
0 Aviation Drive, Myrtle Creek
T29S R5W S32 Tax lots 500 & 600

DOUGLAS COUNTY

By _____
Scott Adams, Director of Public
Works Department. Authority to sign
contract granted by order of Board of
Commissioners dated February 21, 2018
Date _____

REVIEWED AS TO CONTENT

By _____
Division Manager
Date _____
Coding 21531201-281000

REVIEWED AS TO FORM

By _____
Office of County Counsel
Date _____

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EXHIBIT A

COMPUTATION OF RATE:

PRIMARY IRRIGATION

- 1. _____ acres of **primary irrigation**. This allocation shall not exceed **2.23** acre feet per acre each irrigation season.

Acre Feet: _____ Annual Cost: \$ _____

SUPPLEMENTAL IRRIGATION

- 2. Rights whose priority is between March 26, 1974, and November 3, 1983:

13.30 acres of **supplemental irrigation**. This allocation shall not exceed **1.5** acre feet per acre each irrigation season on the South Umpqua River and/or Cow Creek or **1.0** acre foot per acre each irrigation season on the main stem, Umpqua River.

Acre Feet: 19.95 Annual Cost: \$ 423.30

- 3. Rights whose priority is between October 24, 1958, and March 26, 1974:

_____ acres of **supplemental irrigation**. This allocation shall not exceed **1.0** acre feet per acre each irrigation season on the South Umpqua River and/or Cow Creek or **0.6** acre foot per acre each irrigation season on the main stem, Umpqua River.

Acre Feet: _____ Annual Cost: \$ _____

- 4. Rights whose priority is prior to October 24, 1958:

_____ acres of **supplemental irrigation**. This allocation shall not exceed **0.5** acre feet per acre each irrigation season on the South Umpqua River and/or Cow Creek or **0.3** acre foot per acre each irrigation season on the main stem, Umpqua River.

Acre Feet: _____ Annual Cost: \$ _____

Note: Instream delivery losses are not included in the above allocations.

Summary:

Total Acres:	<u>13.30</u>	acres
Total Allocation:	<u>19.95</u>	acre feet
Total Cost:	<u>\$ 423.30</u>	

Oregon Water Resources Department
Stored Water Only Applications - Expedited Secondary

-  [Main](#)
-  [Help](#)
-  [Return](#)
-  [Contact Us](#)

Today's Date: Thursday, November 18, 2021

Base Application Fee.		\$610.00
Acre feet of Stored Water to be diverted.	19.95	\$820.00
Subtotal:		\$1,430.00
Permit Recording Fee. ***		\$610.00
*** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed.	<input type="button" value="Recalculate"/>	
Estimated cost of Permit Application		\$2,040.00

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