

beAuthorization ID: **BEN1158**
Contact ID:
Expiration Date: **12/31/2037**
Use Code: **914**

FS-2700-4 (V. 01/2014)
OMB 0596-0082

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE
SPECIAL USE PERMIT**

Authority: FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976

BEND, CITY OF – UTILITY DEPARTMENT, 62975 BOYD ACRES ROAD, BEND, OR UNITED STATES 97701 (hereinafter "the holder") is authorized to use or occupy National Forest System lands in the **DESCHUTES NATIONAL FOREST** or the **Bend-Fort Rock Ranger District** unit of the National Forest System, subject to the terms and conditions of this special use permit (**BEN1158**).

This permit covers **approximately 10 miles/18.75 acres as described below** ("the permit area"), as shown on the map attached as **Appendix A**. This permit issued for the purpose of:

THE OPERATION AND MAINTENANCE OF A DOMESTIC WATER SYSTEM AND IMPROVEMENTS:

Bridge Creek Water System

Township (T) 17S, Range(R) 11E, Section 34; T 18S, R 10E, Sections 1, 2, 7, 8, 9, 10, and 11; and T 18S, R 11E, Sections 3, 4, 5, 6, 7, and 8. One 30-inch diameter water pipeline of which 8.07 miles is located on National Forest System Lands including monitoring devices and the necessary appurtenances for transporting water between the Intake at Bridge Creek and the Outback Site. The total right-of-way width is 15 feet (approximately 16 acres).

Garage/Storage Shed

- T 18 S., R. 10 E., SW1/4 NE1/4 Section 10 - Garage/storage building near Skyliner Lodge used to support the operation and maintenance of the water system (approximately .25 acres).

Bridge Creek Intake Facility, Caretaker Cabin and Diversion Weir

- T. 18 S., R. 10 E., SE1/4 NE1/4 Section 7 - Intake Facility, caretaker cabin, and diversion weir located on Bridge Creek to divert water into city water distribution system via pipeline (approximately .5 acres).

Bridge Creek Water Diversion Wash Line near Tumalo Falls

- T. 18 S., R. 10 E., S1/2 NE1/4 Section 7- Waterline less than 12 inches in diameter to provide water from Bridge Creek under gravity pressure for cleaning filters at the domestic water intake building. Right of-way is approximately 10 ft. x 900 ft. in size (approximately .25 acres/.17 miles).

Water System Access Gate

- Gate across Forest Service Road 4603.

Operation and maintenance of this domestic water system and associated facilities will adhere to the "Operation and Maintenance Plan" attached as Appendix B.

TERMS AND CONDITIONS

I. GENERAL TERMS

A. AUTHORITY. This permit is issued pursuant to the **FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976** and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

B. AUTHORIZED OFFICER. The authorized officer is the Forest or Grassland Supervisor or a subordinate officer with delegated authority.

C. TERM. This permit shall expire at midnight on **12/31/2037, 20 years** from the date of issuance.

D. RENEWAL. This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit that would renew the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Renewal of the use and occupancy authorized by this permit shall be at the sole discretion of the authorized officer. At a minimum, before renewing the use and occupancy authorized by this permit, the authorized officer shall require that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit; and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

E. AMENDMENT. This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS. In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

G. NON-EXCLUSIVE USE. The use or occupancy authorized by this permit is not exclusive. The Forest Service reserves the right of access to the permit area, including a continuing right of physical entry to the permit area for inspection, monitoring, or any other purpose consistent with any right or obligation of the United States under any law or regulation. The Forest Service reserves the right to allow others to use the permit area in any way that is not inconsistent with the holder's rights and privileges under this permit, after consultation with all parties involved. Except for any restrictions that the holder and the authorized officer agree are necessary to protect the installation and operation of authorized temporary improvements, the lands and waters covered by this permit shall remain open to the public for all lawful purposes.

H. ASSIGNABILITY. This permit is not assignable or transferable.

I. TRANSFER OF TITLE TO THE IMPROVEMENTS.

1. Notification of Transfer. The holder shall notify the authorized officer when a transfer of title to all or part of the authorized improvements is contemplated.

2. Transfer of Title. Any transfer of title to the improvements covered by this permit shall result in termination of the permit. The party who acquires title to the improvements must submit an application for a permit. The Forest Service is not obligated to issue a new permit to the party who acquires title to the improvements. The authorized officer shall determine that the applicant meets requirements under applicable federal regulations.

II. IMPROVEMENTS

A. LIMITATIONS ON USE. Nothing in this permit gives or implies permission to build or maintain any structure or facility or to conduct any activity, unless specifically authorized by this permit. Any use not specifically authorized by this permit must be proposed in accordance with 36 CFR 251.54. Approval of such a proposal through issuance of a new permit or permit amendment is at the sole discretion of the authorized officer.

B. PLANS. All plans for development, layout, construction, reconstruction, or alteration of improvements in the permit area, as well as revisions to those plans must be prepared by a professional engineer, architect, landscape architect, or other qualified professional based on federal employment standards acceptable to the authorized officer. These plans and plan revisions must have written approval from the authorized officer before they are implemented. The authorized officer may require the holder to furnish as-built plans, maps, or surveys upon completion of the work.

B. CONSTRUCTION. Any construction authorized by this permit shall commence **N/A** and shall be completed by **N/A**.

III. OPERATIONS.

A. PERIOD OF USE. Use or occupancy of the permit area shall be exercised at least 365 days each year.

B. CONDITION OF OPERATIONS. The holder shall maintain the authorized improvements and permit area to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the authorized officer and consistent with other provisions of this permit. Standards are subject to periodic change by the authorized officer when deemed necessary to meet statutory, regulatory, or policy requirements or to protect national forest resources. The holder shall comply with inspection requirements deemed appropriate by the authorized officer.

C. OPERATING PLAN. The holder shall prepare and annually revise an operating plan, which will occur as necessary after each annual monitoring committee meeting for the life of this permit. The operating plan shall be prepared in consultation with the authorized officer or the authorized officer's designated representative and shall cover all operations authorized by this permit. The operating plan shall outline steps the holder will take to protect public health and safety and the environment and shall include sufficient detail and standards to enable the Forest Service to monitor the holder's operations for compliance with the terms and conditions of this permit. The operating plan shall be submitted by the holder and approved by the authorized officer or the authorized officer's designated representative prior to commencement of operations and shall be attached to this permit as an appendix. The authorized officer may require an annual meeting with the holder to discuss the terms and conditions of the permit or operating plan, annual use reports, or other concerns either party may have.

D. INSPECTION BY THE FOREST SERVICE. The Forest Service shall monitor the holder's operations and reserves the right to inspect the permit area and transmission facilities at any time for compliance with the terms of this permit. The holder's obligations under this permit are not contingent upon any duty of the Forest Service to inspect the permit area or transmission facilities. A failure by the Forest Service or other governmental officials to inspect is not a justification for noncompliance with any of the terms and conditions of this permit.

IV. RIGHTS AND LIABILITIES

A. LEGAL EFFECT OF THE PERMIT. This permit, which is revocable and terminable, is not a contract or a lease, but rather a federal license. The benefits and requirements conferred by this authorization are reviewable solely under the procedures set forth in 36 CFR 251, Subpart C and 5 U.S.C. 704. This permit does not constitute a contract for purposes of the Contract Disputes Act, 41 U.S.C. 601. The permit is not real property, does not convey any interest in real property, and may not be used as collateral for a loan.

B. VALID OUTSTANDING RIGHTS. This permit is subject to all valid outstanding rights. Valid outstanding rights include those derived under mining and mineral leasing laws of the United States. The United States is not liable to the holder for the exercise of any such right.

C. ABSENCE OF THIRD-PARTY BENEFICIARY RIGHTS. The parties to this permit do not intend to confer any rights on any third party as a beneficiary under this permit.

D. SERVICES NOT PROVIDED. This permit does not provide for the furnishing of road or trail maintenance, water, fire protection, search and rescue, or any other such service by a government agency, utility, association, or individual.

E. RISK OF LOSS. The holder assumes all risk of loss associated with use or occupancy of the permit area, including but not limited to theft, vandalism, fire and any fire-fighting activities (including prescribed burns), avalanches, rising waters, winds, falling limbs or trees, and other forces of nature. If authorized temporary improvements in the permit area are destroyed or substantially damaged, the authorized officer shall conduct an analysis to determine whether the improvements can be safely occupied in the future and whether rebuilding should be allowed. If rebuilding is not allowed, the permit shall terminate.

F. DAMAGE TO UNITED STATES PROPERTY. The holder has an affirmative duty to protect from damage the land, property, and other interests of the United States. Damage includes but is not limited to fire suppression costs, damage to government-owned improvements covered by this permit, and all costs and damages associated with or resulting from the release or threatened release of a hazardous material occurring during or as a result of activities of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees on, or related to, the lands, property, and other interests covered by this permit. For purposes of clause IV.F and section V, "hazardous material" shall mean (a) any hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any petroleum product or its derivative, including fuel oil, and waste oils; and (d) any hazardous substance, extremely hazardous substance, toxic substance, hazardous waste, ignitable, reactive or corrosive materials, pollutant, contaminant, element, compound, mixture, solution or substance that may pose a present or potential hazard to human health or the environment under any applicable environmental laws.

1. The holder shall avoid damaging or contaminating the environment, including but not limited to the soil, vegetation (such as trees, shrubs, and grass), surface water, and groundwater, during the holder's use or occupancy of the permit area. If the environment or any government property covered by this permit becomes damaged during the holder's use or occupancy of the permit area, the holder shall immediately repair the damage or replace the damaged items to the satisfaction of the authorized officer and at no expense to the United States.
2. The holder shall be liable for all injury, loss, or damage, including fire suppression, prevention and control of the spread of invasive species, or other costs in connection with rehabilitation or restoration of natural resources associated with the use or occupancy authorized by this permit. Compensation shall include but not be limited to the value of resources damaged or destroyed, the costs of restoration, cleanup, or other mitigation, fire suppression or other types of abatement costs, and all administrative, legal (including attorney's fees), and other costs. Such costs may be deducted from a performance bond required under clause IV.I.
3. The holder shall be liable for damage caused by use of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees to all roads and trails of the United States to the same extent as provided under clause IV.F.1, except that liability shall not include reasonable and ordinary wear and tear.

G. HEALTH, SAFETY, AND ENVIRONMENTAL PROTECTION. The holder shall promptly abate as completely as possible and in compliance with all applicable laws and regulations any activity or condition arising out of or relating to the authorized use or occupancy that causes or threatens to cause a hazard to public health or the safety of the holder's employees or agents or harm to the environment (including areas of vegetation or timber, fish or other wildlife populations, their habitats, or any other natural resources). The holder shall prevent impacts to the environment and cultural resources by implementing actions identified in the operating plan to prevent establishment and spread of invasive species. The holder shall immediately notify the authorized officer of all serious accidents that occur in connection with such activities. The responsibility to protect the health and safety of all persons affected by the use or occupancy authorized by this permit is solely that of the holder. The Forest

Service has no duty under the terms of this permit to inspect the permit area or operations and activities of the holder for hazardous conditions or compliance with health and safety standards.

H. INDEMNIFICATION OF THE UNITED STATES. The holder shall indemnify, defend, and hold harmless the United States for any costs, damages, claims, liabilities, and judgments arising from past, present, and future acts or omissions of the holder in connection with the use or occupancy authorized by this permit. This indemnification provision includes but is not limited to acts and omissions of the holder or the holder's heirs, assigns, agents, employees, contractors, or lessees in connection with the use or occupancy authorized by this permit which result in (1) violations of any laws and regulations which are now or which may in the future become applicable, and including but not limited to those environmental laws listed in clause V.A of this permit; (2) judgments, claims, demands, penalties, or fees assessed against the United States; (3) costs, expenses, and damages incurred by the United States; or (4) the release or threatened release of any solid waste, hazardous waste, hazardous materials, pollutant, contaminant, oil in any form, or petroleum product into the environment. The authorized officer may prescribe terms that allow the holder to replace, repair, restore, or otherwise undertake necessary curative actions to mitigate damages in addition to or as an alternative to monetary indemnification.

I. BONDING. The authorized officer may require the holder to furnish a surety bond or other security for any of the obligations imposed by the terms and conditions of this permit or any applicable law, regulation, or order.

V. RESOURCE PROTECTION

A. COMPLIANCE WITH ENVIRONMENTAL LAWS. The holder shall in connection with the use or occupancy authorized by this permit comply with all applicable federal, state, and local environmental laws and regulations, including but not limited to those established pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., the Oil Pollution Act, as amended, 33 U.S.C. 2701 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., CERCLA, as amended, 42 U.S.C. 9601 et seq., the Toxic Substances Control Act, as amended, 15 U.S.C. 2601 et seq., the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. 136 et seq., and the Safe Drinking Water Act, as amended, 42 U.S.C. 300f et seq.

B. VANDALISM. The holder shall take reasonable measures to prevent and discourage vandalism and disorderly conduct and when necessary shall contact the appropriate law enforcement officer.

C. PESTICIDE USE. Pesticides may not be used outside of buildings to control undesirable woody and herbaceous vegetation (including aquatic plants), insects, rodents, fish, and other pests and weeds without prior written approval from the authorized officer. A request for approval of planned uses of pesticides shall be submitted annually by the holder on the due date established by the authorized officer. The report shall cover a 12-month period of planned use beginning 3 months after the reporting date. Information essential for review shall be provided in the form specified. Exceptions to this schedule may be allowed, subject to emergency request and approval, only when unexpected outbreaks of pests or weeds require control measures that were not anticipated at the time an annual report was submitted. Only those materials registered by the U.S. Environmental Protection Agency for the specific purpose planned shall be considered for use on National Forest System lands. Label instructions and all applicable laws and regulations shall be strictly followed in the application of pesticides and disposal of excess materials and containers.

D. ARCHAEOLOGICAL-PALEONTOLOGICAL DISCOVERIES. The holder shall immediately notify the authorized officer of all antiquities or other objects of historic or scientific interest, including but not limited to historic or prehistoric ruins, fossils, or artifacts discovered in connection with the use and occupancy authorized by this permit. The holder shall leave these discoveries intact and in place until directed otherwise by the authorized officer. Protective and mitigative measures specified by the authorized officer shall be the responsibility of the holder.

E. NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION. In accordance with 25 U.S.C. 3002(d) and 43 CFR 10.4, if the holder inadvertently discovers human remains, funerary objects, sacred objects, or objects of cultural patrimony on National Forest System lands, the holder shall immediately cease work in the area of the discovery and shall make a reasonable effort to protect and secure the items. The holder shall

immediately notify the authorized officer by telephone of the discovery and shall follow up with written confirmation of the discovery. The activity that resulted in the inadvertent discovery may not resume until 30 days after the authorized officer certifies receipt of the written confirmation, if resumption of the activity is otherwise lawful, or at any time if a binding written agreement has been executed between the Forest Service and the affiliated Indian tribes that adopts a recovery plan for the human remains and objects.

F. PROTECTION OF HABITAT OF THREATENED, ENDANGERED, AND SENSITIVE SPECIES The location of sites within the permit area needing special measures for protection of plants or animals listed as threatened or endangered under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531 et seq., as amended, or identified as sensitive or otherwise requiring special protection by the Regional Forester under Forest Service Manual (FSM) 2670, pursuant to consultation conducted under section 7 of the ESA, may be shown on the ground or on a separate map. The map shall be attached to this permit as an appendix. The holder shall take any protective and mitigative measures specified by the authorized officer. If protective and mitigative measures prove inadequate, if other sites within the permit area containing threatened, endangered, or sensitive species or species otherwise requiring special protection are discovered, or if new species are listed as threatened or endangered under the ESA or identified as sensitive or otherwise requiring special protection by the Regional Forester under the FSM, the authorized officer may specify additional protective and mitigative measures. Discovery of these sites by the holder or the Forest Service shall be promptly reported to the other party.

G. CONSENT TO STORE HAZARDOUS MATERIALS. The holder shall not store any hazardous materials at the site without prior written approval from the authorized officer. This approval shall not be unreasonably withheld. If the authorized officer provides approval, this permit shall include, or in the case of approval provided after this permit is issued, shall be amended to include specific terms addressing the storage of hazardous materials, including the specific type of materials to be stored, the volume, the type of storage, and a spill plan. Such terms shall be proposed by the holder and are subject to approval by the authorized officer.

H. CLEANUP AND REMEDIATION

1. The holder shall immediately notify all appropriate response authorities, including the National Response Center and the authorized officer or the authorized officer's designated representative, of any oil discharge or of the release of a hazardous material in the permit area in an amount greater than or equal to its reportable quantity, in accordance with 33 CFR Part 153, Subpart B, and 40 CFR Part 302. For the purposes of this requirement, "oil" is as defined by section 311(a)(1) of the Clean Water Act, 33 U.S.C. 1321(a)(1). The holder shall immediately notify the authorized officer or the authorized officer's designated representative of any release or threatened release of any hazardous material in or near the permit area which may be harmful to public health or welfare or which may adversely affect natural resources on federal lands.

2. Except with respect to any federally permitted release as that term is defined under Section 101(10) of CERCLA, 42 U.S.C. 9601(10), the holder shall clean up or otherwise remediate any release, threat of release, or discharge of hazardous materials that occurs either in the permit area or in connection with the holder's activities in the permit area, regardless of whether those activities are authorized under this permit. The holder shall perform cleanup or remediation immediately upon discovery of the release, threat of release, or discharge of hazardous materials. The holder shall perform the cleanup or remediation to the satisfaction of the authorized officer and at no expense to the United States. Upon revocation or termination of this permit, the holder shall deliver the site to the Forest Service free and clear of contamination.

I. CERTIFICATION UPON REVOCATION OR TERMINATION. If the holder uses or stores hazardous materials at the site, upon revocation or termination of this permit the holder shall provide the Forest Service with a report certified by a professional or professionals acceptable to the Forest Service that the permit area is uncontaminated by the presence of hazardous materials and that there has not been a release or discharge of hazardous materials upon the permit area, into surface water at or near the permit area, or into groundwater below the permit area during the term of the permit. This certification requirement may be waived by the authorized officer when the Forest Service determines that the risks posed by the hazardous material are minimal. If a release or discharge has occurred, the professional or professionals shall document and certify that the release or discharge has been fully remediated and that the permit area is in compliance with all federal, state, and local laws and regulations.

VI. LAND USE FEE AND ACCOUNTING ISSUES

A. LAND USE FEES. The holder shall pay an initial annual land use fee of **TBD** for the period from January 1, 2017 to December 31, 2017, and thereafter on January 1, shall pay an annual land use fee of (an amount to be determined).

B. MODIFICATION OF THE LAND USE FEE. The land use fee may be revised whenever necessary to reflect the market value of the authorized use or occupancy or when the fee system used to calculate the land use fee is modified or replaced.

C. FEE PAYMENT ISSUES.

1. Crediting of Payments. Payments shall be credited on the date received by the deposit facility, except that if a payment is received on a non-workday, the payment shall not be credited until the next workday.

2. Disputed Fees. Fees are due and payable by the due date. Disputed fees must be paid in full. Adjustments will be made if dictated by an administrative appeal decision, a court decision, or settlement terms.

3. Late Payments

(a) Interest. Pursuant to 31 U.S.C. 3717 et seq., interest shall be charged on any fee amount not paid within 30 days from the date it became due. The rate of interest assessed shall be the higher of the Prompt Payment Act rate or the rate of the current value of funds to the Treasury (i.e., the Treasury tax and loan account rate), as prescribed and published annually or quarterly by the Secretary of the Treasury in the Federal Register and the Treasury Fiscal Requirements Manual Bulletins. Interest on the principal shall accrue from the date the fee amount is due.

(b) Administrative Costs. If the account becomes delinquent, administrative costs to cover processing and handling the delinquency shall be assessed.

(c) Penalties. A penalty of 6% per annum shall be assessed on the total amount that is more than 90 days delinquent and shall accrue from the same date on which interest charges begin to accrue.

(d) Termination for Nonpayment. This permit shall terminate without the necessity of prior notice and opportunity to comply when any permit fee payment is 90 calendar days from the due date in arrears. The holder shall remain responsible for the delinquent fees.

4. Administrative Offset and Credit Reporting. Delinquent fees and other charges associated with the permit shall be subject to all rights and remedies afforded the United States pursuant to 31 U.S.C. 3711 et seq. and common law. Delinquencies are subject to any or all of the following:

(a) Administrative offset of payments due the holder from the Forest Service

(b) If in excess of 60 days, referral to the Department of the Treasury for appropriate collection action as provided by 31 U.S.C. 3711 (g)(1).

(c) Offset by the Secretary of the Treasury of any amount due the holder, as provided by 31 U.S.C. 3720 et seq.

(d) Disclosure to consumer or commercial credit reporting agencies.

VII. REVOCATION, SUSPENSION, AND TERMINATION

A. REVOCATION AND SUSPENSION. The authorized officer may revoke or suspend this permit in whole or in part:

1. For noncompliance with federal, state, or local law.
2. For noncompliance with the terms of this permit.
3. For abandonment or other failure of the holder to exercise the privileges granted.
4. With the consent of the holder.
5. For specific and compelling reasons in the public interest.

Prior to revocation or suspension, other than immediate suspension under clause VII.B, the authorized officer shall give the holder written notice of the grounds for revocation or suspension. In the case of revocation or suspension based on clause VII.A.1, 2, or 3, the authorized officer shall give the holder a reasonable time, typically not to exceed 90 days, to cure any noncompliance.

B. IMMEDIATE SUSPENSION. The authorized officer may immediately suspend this permit in whole or in part when necessary to protect public health or safety or the environment. The suspension decision shall be in writing. The holder may request an on-site review with the authorized officer's supervisor of the adverse conditions prompting the suspension. The authorized officer's supervisor shall grant this request within 48 hours. Following the on-site review, the authorized officer's supervisor shall promptly affirm, modify, or cancel the suspension.

C. APPEALS AND REMEDIES. Written decisions by the authorized officer relating to administration of this permit are subject to administrative appeal pursuant to 36 CFR Part 214 as amended. Revocation or suspension of this permit shall not give rise to any claim for damages by the holder against the Forest Service.

D. TERMINATION. This permit shall terminate when by its terms a fixed or agreed upon condition, event, or time occurs without any action by the authorized officer. Examples include but are not limited to expiration of the permit by its terms on a specified date and termination upon change of control of the business entity. Termination of this permit shall not require notice, a decision document, or any environmental analysis or other documentation. Termination of this permit is not subject to administrative appeal and shall not give rise to any claim for damages by the holder against the Forest Service.

E. RIGHTS AND RESPONSIBILITIES UPON REVOCATION OR TERMINATION WITHOUT RENEWAL. Upon revocation or termination of this permit without renewal of the authorized use, the holder shall remove all structures and improvements, except those owned by the United States, within a reasonable period prescribed by the authorized officer and shall restore the site to the satisfaction of the authorized officer. If the holder fails to remove all structures and improvements within the prescribed period, they shall become the property of the United States and may be sold, destroyed, or otherwise disposed of without any liability to the United States. However, the holder shall remain liable for all costs associated with their removal, including costs of sale and impoundment, cleanup, and restoration of the site.

VIII. MISCELLANEOUS PROVISIONS

A. MEMBERS OF CONGRESS. No member of or delegate to Congress or resident commissioner shall benefit from this permit either directly or indirectly, except to the extent the authorized use provides a general benefit to a corporation.

B. CURRENT ADDRESSES. The holder and the Forest Service shall keep each other informed of current mailing addresses, including those necessary for billing and payment of land use fees.

C. SUPERSEDED PERMIT. This permit supersedes a special use permit designated **BEN490 dated July 16, 2008.**

D. SUPERIOR CLAUSES. If there is a conflict between any of the preceding printed clauses and any of the following clauses, the preceding printed clauses shall control.

E. NOXIOUS WEED AND EXOTIC PLANT PREVENTION AND CONTROL. The holder shall be responsible for the prevention and control of noxious weeds and exotic plants arising from the authorized use. For purposes of this clause, noxious weeds and exotic plants include those species recognized as such by USDA Forest Service. The holder shall follow prevention and control measures required by the Bend-Fort Rock Ranger District. When determined to be necessary by the authorized officer, the holder shall develop a plan for noxious weed and exotic plant prevention and control. These plans must have prior written approval from the authorized officer and, upon approval, shall be attached to this permit as an appendix.

F. SURVEYS, LAND CORNERS. The holder shall protect, in place, all public land survey monuments, private property corners, and Forest boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of the privileges permitted by this authorization, depending on the type of monument destroyed, the holder shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States," (2) the specifications of the county surveyor, or (3) the specifications of the Forest Service.

Further, the holder shall cause such official survey records as are affected to be amended as provided by law. Nothing in this clause shall relieve the holder's liability for the willful destruction or modification of any Government survey marker as provided at 18 U.S.C. 1858.

THIS PERMIT IS ACCEPTED SUBJECT TO ALL ITS TERMS AND CONDITIONS.

ACCEPTED:



PAUL RHEAULT
UTILITY DIRECTOR, CITY OF BEND

10.11.17

DATE

APPROVED:



JOHN ALLEN
FOREST SUPERVISOR, DESCHUTES NATIONAL FOREST

10-13-17

DATE

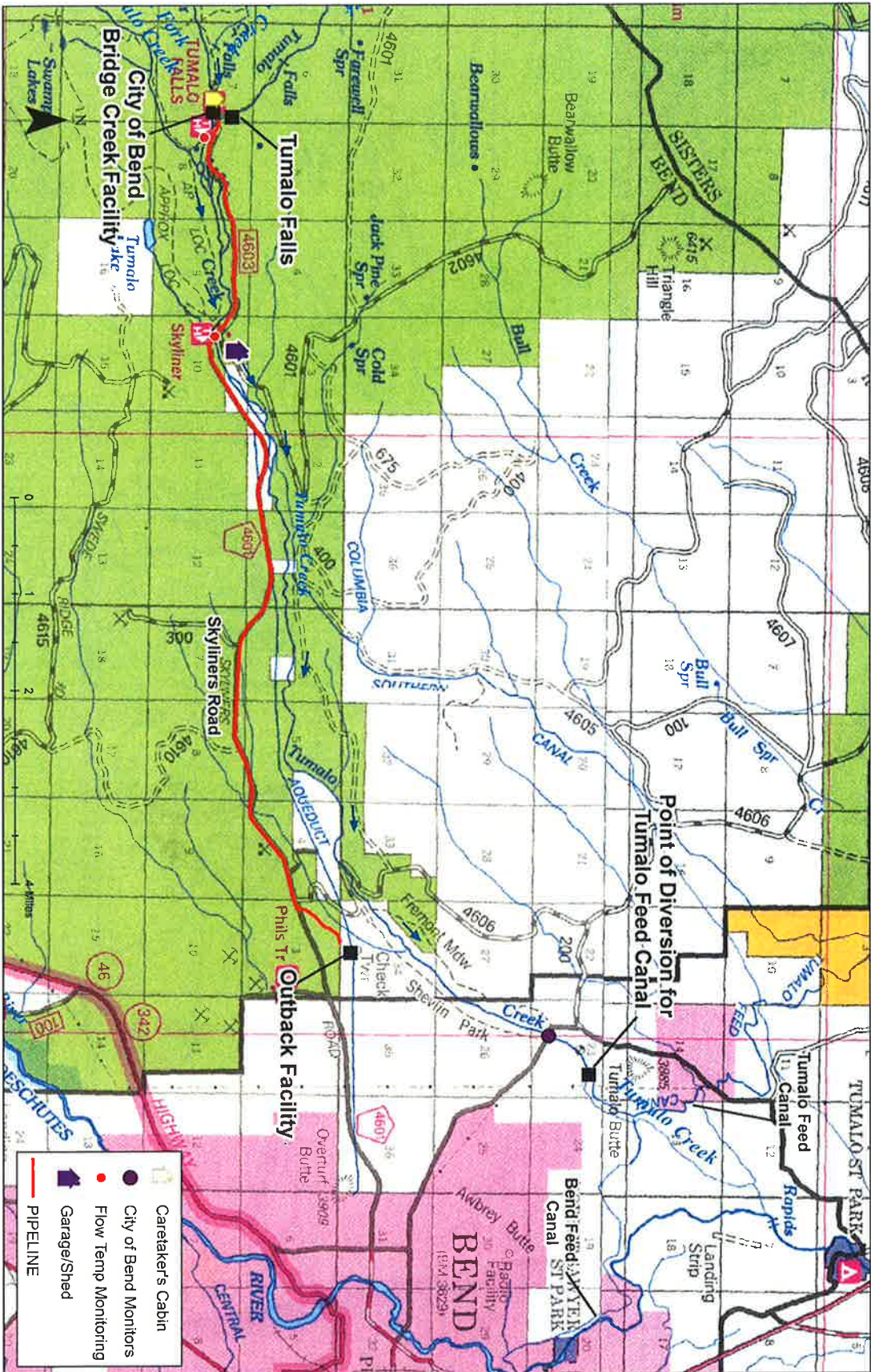
According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0082. The time required to complete this information collection is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 975-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

The Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552) govern the confidentiality to be provided for information received by the Forest Service.

APPENDIX A - MAP



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APPENDIX B



**CITY OF BEND
BRIDGE CREEK WATER SUPPLY
SYSTEM**

OPERATION AND MAINTENANCE PLAN



**HOLDER:
CITY OF BEND**

**US DEPARTMENT OF AGRICULTURE
DESCHUTES NATIONAL FOREST**

By: Paul Rheault
Paul Rheault – Utility Director

By: John Allen
John Allen – Forest Supervisor

Date: 10-11-17

Date: 10-13-17



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I. INTRODUCTION

The Special-Use Permit (SUP) (BEN1158) granted by the U.S. Department of Agriculture Forest Service (USFS) authorizes a right-of-way (ROW) to the City of Bend (The holder) to operate and maintain a water system located on the Deschutes National Forest in the State of Oregon. The provisions of this Plan shall be incorporated by reference as terms and conditions of the special-use permit described above. Unlike the SUP however, this Plan may be amended as conditions change.

The permit area is located west of Bend, Oregon, from the holder's Bridge Creek Water Intake to the Outback Reservoir Site. The pipeline ROW is primarily following Forest Service Roads 4601 (Skyliners Road) and 4603. The pipeline originates at the holder's intake facility located on Bridge Creek approximately thirteen miles west of the city of Bend, near the Tumalo Falls Overlook parking area and terminates at the holder's Outback Reservoir Site located approximately 3.5 miles west of Bend off of Skyliners Road.

The permit area is in unincorporated Deschutes County in Township 17 South, Range 11 East, Section 34; Township 18 South, Range 10 East, Sections 1, 2, 7, 8, 9, 10, and 11; and Township 18 South, Range 11 East, Sections 3, 4, 5, 6, 7, and 8 on the Bend-Fort Rock Ranger District of the Deschutes National Forest. The project lies within the Upper and Lower Tumalo Creek 6th Field Sub-watersheds.

II. PURPOSE AND NEED

This Operations and Maintenance Plan (O&M Plan) documents a mutual commitment between the holder and the United States Forest Service (individually referred to as "Party" and collectively the "Parties") concerning the operation and maintenance of the ROW including the waterline, improvements, and Forest Service access roads.

Unless otherwise noted, any obligation or requirement in this O&M Plan applies to the contractors, agents, lessees, licensees and permittees of both Parties.

III. COMMUNICATIONS PROTOCOL

Efficient and accurate communication during operations and maintenance of these permitted improvements is essential. A clear and consistent communication protocol will help to ensure that any issue is quickly and satisfactorily resolved.

The Bend-Fort Rock Lands Permit Administrator will be the Point-of-Contact (POC) for all activities and coordinating approvals by the responsible official (District Ranger) or the authorized officer (Forest Supervisor - Deschutes National Forest). Prior to any significant and/or non-routine operation and maintenance activity on any portion of NFS (ground disturbing activity), the holder will notify the POC.

The POC shall also be the contact in emergency maintenance situations during FS office hours. However, when the POC/District Permit Administrator cannot be reached, the holder will contact the District Ranger or the Forest Supervisor. When an emergency occurs, the POC will



be notified within 48 hours unless the emergency occurs on the weekend then the POC will be notified the next workday. Following is the contact information for both agencies.

CONTACT INFORMATION

U.S. Forest Service, Deschutes National Forest Contact Information

Forest Supervisor John Allen	541-383-5512	jpallen@fs.fed.us
Kevin Larkin, Bend-Ft. Rock District Ranger	541-383-4760	klarkin@fs.fed.us
Steve Bigby (District Road Manager)	541-383-4005	sbigby@fs.fed.us
Robert Newey (BFR-Fuels Technician)	541-383-4735	rnewey@fs.fed.us
Char Powers (BFR Botanist)	541-383-4743	mrfisher@fs.fed.us
Barb Webb (Wildlife Biologist-BFR)	541-383-4788	jkittrell@fs.fed.us
Tom Walker (Fisheries Biologist-BFR)	541-383-4787	tawalker@fs.fed.us
Jason Gritzner (Forest Hydrologist)	541-383-5537	jgriztner@fs.fed.us
BFR Lands Permit Administrator	541-383-4025	
BEND-FORT ROCK RANGER DISTRICT	541-383-4000	
Central Oregon Interagency Dispatch	541-416-6800	

City of Bend Contact Information

Eric King (City Manager)	541-388-5505	eking@bendoregon.gov
Paul Rheault (Utility Director)	541-317-3006	prheault@bendoregon.gov
Patrick Griffiths (Water Resource Manager, Permit Coordinator- Liaison – POC)	541-317-3008	pgriffiths@bendoregon.gov
Steve Prazak – Water Quality Manager	541-322-6349	sprazak@bendoregon.gov
Rod Mingus – Water Operations Supervisor	541-693-2180	rmingus@bendoregon.gov

In case of Emergency – Bend Utility Water Operations On-Call 541- 480-7419

If the holder facilities are involved in a catastrophic event such as a wildfire, washout or other detrimental occurrence notify Bend-Ft. Rock District Ranger Kevin Larkin, 541-383-4760, klarkin@fs.fed.us and Central Oregon Interagency Dispatch, 541-416-6800.

The holder will be responsible for notifying permittees and other regular users of NFS in advance of any maintenance activity that might affect their businesses or operations. This will include, but not be limited to, posting signs for work on or adjacent to roadways, removal and/or cutting of fences, and disturbances to improvements or other land use related structures.



IV. COMPLIANCE WITH FEDERAL ACTS, REGULATIONS, EXECUTIVE ORDERS ETC

O&M Plan is executed under the Federal Land Policy and Management Act (FLPMA) including Title 5, section 507. The holder and the FS must both comply with the National Environmental Policy Act (NEPA) as well as the environmental laws cited in this permit under Section V. Resource Protection.

V. IMPLEMENTATION OF RESOURCE PROTECTION MEASURES

A. Noxious Weeds and Unwanted Vegetation

1. All maintenance related equipment will be cleaned prior to entering National Forest System lands to remove mud, dirt, and plant parts.

B. Water Quality, Aquatic Species, and Riparian Areas

1. **Fueling Equipment** - To the extent possible, the holder will service and refuel equipment on developed roads in areas that are at least 300 feet from streams. When equipment must be serviced in off-road areas or near surface waters, the holder will exercise best management practices to prevent pollutants from entering natural bodies of water.
2. **Fish Passage Mitigation Plan**
As stated in Clause I.F of Special Use Permit BEN1158, the holder shall comply with all present and future federal laws and regulations and all present and future state laws and regulations regarding fish passage requirements. The Forest Service will work with the holder to implement any required modifications to activities or improvements to be in legal compliance.

VI. IMPLEMENTATION OF RESOURCE PROTECTION MONITORING

- ##### **A. Implementation Timeline** – Monitoring requirements will be in place and operational within 6 months of the signing date of this special use permit.

B. Monitoring Committee

The monitoring committee is comprised of the holder, the USFS and any other parties agreed to by the committee.

For the duration of the SUP, the committee will hold a meeting at the end of each monitoring season (A monitoring season is defined as a “water year”, the 12-month period between October 1 – September 30 each year) to review monitoring results, identify trends and concerns, and possibly refine the monitoring program. If applicable water quality values are found that prevent attainment of state or federal water quality standards applicable to Tumalo Creek, and can be determined to be the result of holder’s activities authorized by the SUP, USFS, after consulting with the holder, and potentially with ODFW and OWRD, may amend the terms and conditions of the SUP to ensure flows that do not “retard attainment of water quality standards”.



The committee will convene each fall for the duration of this permit, hosted by the holder. Currently, the target month for each annual meeting will be November/December of each year, starting in 2017. The committee will determine what changes if any, need to occur within the monitoring program.

C. Noxious Weed Monitoring and Treatment

The Caretaker Cabin permit area will need to be treated for weeds per BFR District botanist specifications to prevent the spread of noxious weeds. Cost Recovery may be charged if the Forest Service conducts the treatment.

DATA REPORTING

City of Bend will conduct weed monitoring in consultation with the Bend / Ft. Rock botanist, Charmaine Powers (541-383-4730, cpowers@fs.fed.us) on an annual basis prior to weed treatment.

If required after consultation with the District botanist, the holder will send monitoring/treatment reports to the District Weed Coordinator by August 31 of each year that the holder is responsible for weed monitoring and treatment. (See **EXHIBIT B**).

D. Water Diversion Rate Monitoring

The City of Bend will monitor water diversion rates (in pipe water flow) continuously using either an ultrasonic or magnetic type flow meter located at both the Intake Facility and the Outback site. Under normal operations, the diversion control system will be designed to check flow at least every fifteen minutes and adjust the diversion controls to maintain the desired flow. Reporting will include the average hourly flow rate and the daily (24-hour) volume of water diverted. This will allow the holder to control water diversions, as the holder shall be limited by municipal demand, up to a maximum hourly average diversion rate of 18.2 cfs.

DATA REPORTING

Data reporting on water diversion rate monitoring will be posted on City of Bend website readily available to the public. An annual report will be provided by the holder at the year-end monitoring meeting.

E. Specific Stream Flow and Temperature Monitoring Actions

1. OWRD Flow and Temperature Monitoring

The City of Bend contracted with OWRD to provide year round flow and temperature monitoring services to City of Bend at approximately the following locations:

Location A (See Figure 1):

Upper OWRD Location Station ID #14070920



LAT 44° 01' 47.8" N, LONG 121° 33' 46.5" W (44.02994, -121.56292)

Location B (See Figure 1):

Lower OWRD Location Station ID # 14070980

LAT 44° 01' 54.7" N, LONG 121° 31' 15.3" W (44.03187, -121.52093)

DATA REPORTING

Web link: http://apps.wrd.state.or.us/apps/sw/hydro_near_real_time/

2. City of Bend Temperature Monitoring

Additional temperature monitoring will be performed by the holder's monitoring staff using submersible temperature data loggers and secure, non-obtrusive instream equipment.

The holder will provide temperature monitoring at:

Location C (See Figure 1):

Note: This site is at the existing bridge and culvert under the existing crossing of Shevlin Park road and Tumalo Creek.

LAT 44° 04' 58.3" N, LONG 121° 22' 34.8" W (44.08286, -121.37632)

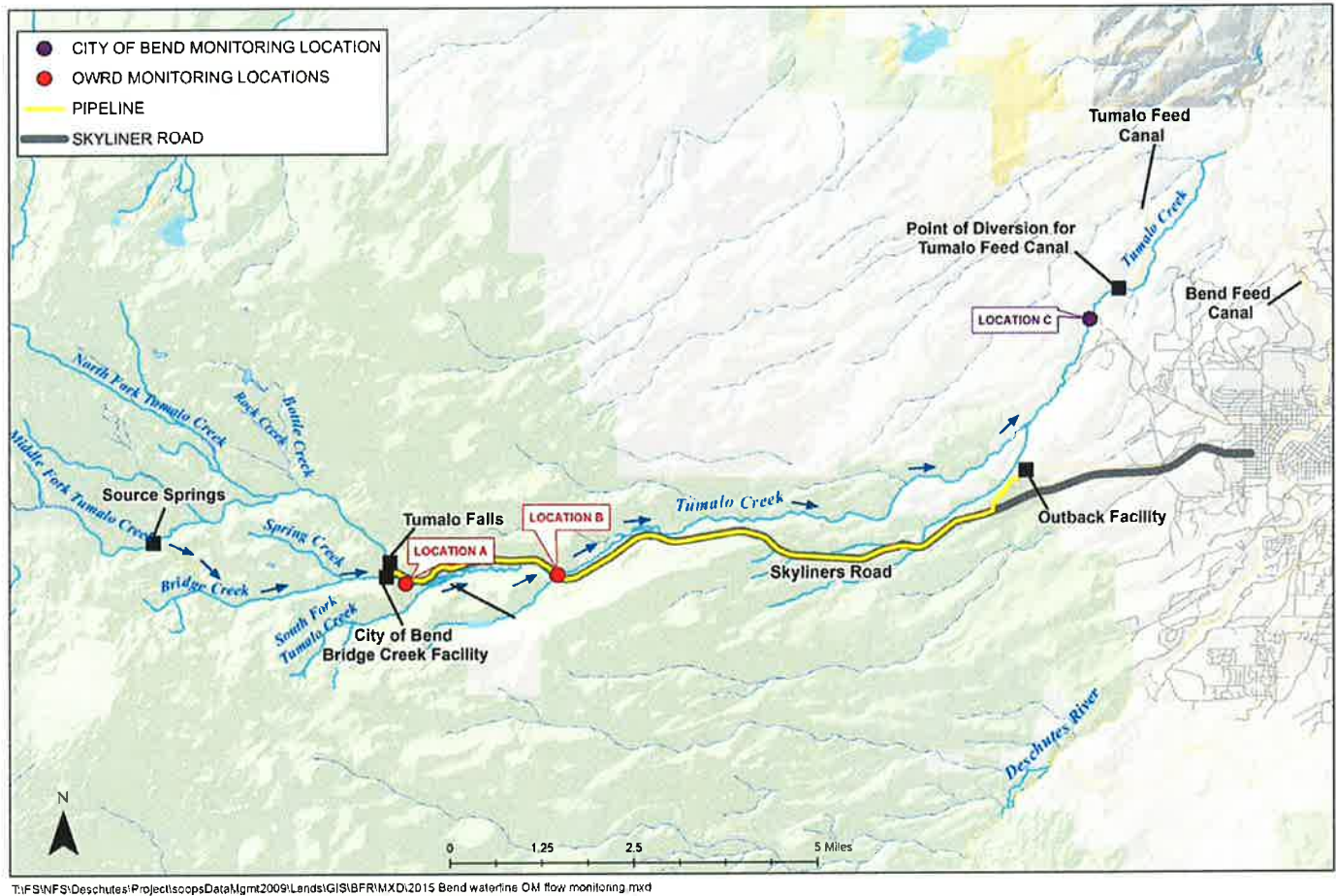
Temperature loggers and temperature data will be audited and graded based on the City of Bend's Water Quality Monitoring Program's quality assurance and quality control procedures.

DATA REPORTING

Data will be made available monthly, or as requested by USFS for use in the monitoring program. Additionally, data relative to the holder's temperature monitoring at the Shevlin Park Road (location C) will be posted on City of Bend website readily available to the public.



Figure 1 – Monitoring Map



F. Fish Monitoring

Redband trout populations are to be monitored in Tumalo Creek to determine trends in population size and age class structure. The methodology will be snorkeling in late summer in sub-reach A1 and an area above the confluence with Bridge Creek using stations that were established during a 2011 fisheries survey conducted by the Forest Service. This data will supplement the fisheries data collected during the 2011 survey.

The fish snorkeling and related report will be completed by USFS Fish biologists and paid for by the City of Bend. The costs for monitoring during the years it is required will be assessed and collected pursuant to cost recovery regulations in 36 CFR 251.58.

Fish monitoring will include a total of five sites to be surveyed annually in late summer for three years, (2016, 2017, and 2018), then biennially over the next six years (2020, 2022, and 2024). This schedule is subject to change based on an annual evaluation of the monitoring program. One monitoring site will be above the City of Bend intake facility (between the junction with Bridge Creek and Tumalo Falls) and the four remaining sites will be within the affected area of Tumalo Creek which fall within sub-reach A1. These monitoring sites will include two sites within sub-reach A1-RR and two



sites within sub-reach A1-B. (See Tumalo Creek stream reach map in **EXHIBIT E**). The four sites within the affected area will be those previously surveyed in the 2011 fisheries survey of Tumalo Creek. The one site above the holder’s intake facility will be a new survey and control site. Each site will be 200 meters in length. The holder will enter into a multi-year cost recovery agreement with the Forest Service to recover the following monitoring costs:

Approximate Annual Budget for Tumalo Creek Snorkel Surveys

Item	Person Days	Cost/person Day	Total Cost
Monitoring Site Assessment	1	\$380	\$380
Snorkel 5 sites	12	\$408	\$4896
Post-project report	1	\$283	\$283
Vehicle use			\$200
Misc. equipment (dive light, dry suit repair, etc.)			\$264
Inflation & Overhead Costs			\$1401
Total			\$7,424

Holder will be responsible for any unforeseen additional monitoring costs and an amendment to the cost recovery agreement will be issued. See **EXHIBIT D** for an example of a Major Cost Recovery Agreement.

DATA REPORTING

Fish monitoring information will be reported by the USFS at the annual monitoring meeting with the holder. The Forest Service may require adjustments in flow or ramping rates when necessary.

VII. RAMPING RATES

The holder will continue to work with the USFS to develop and modify the following ramping rate procedures to ensure that they are operationally sound and reasonably protective of fish. USFS guidance for ramping rate procedures is provided in **EXHIBIT F**.

A. Water Diversion Rates - City of Bend Surface Water Supply

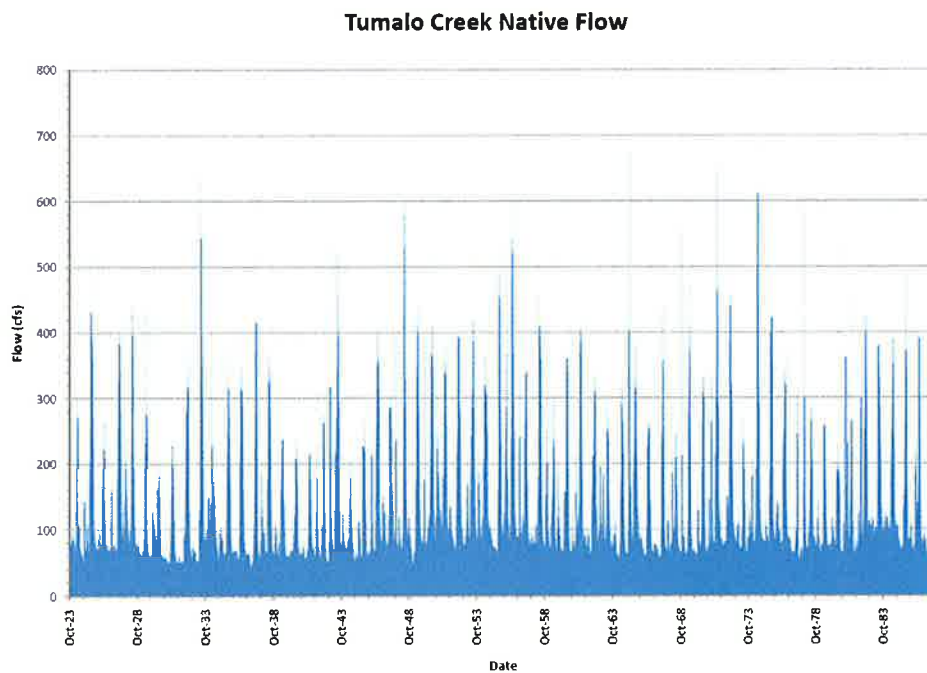
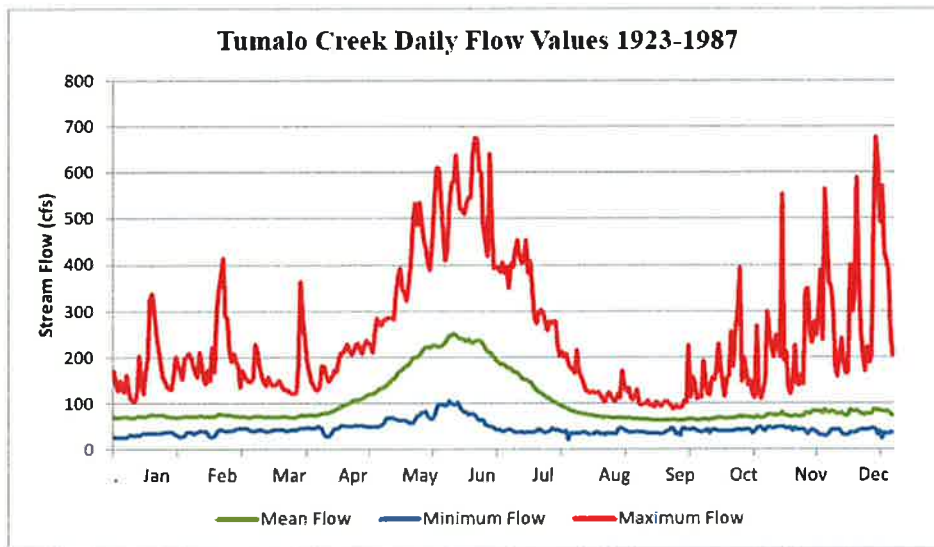
The holder’s surface water filtration facility began operating in spring of 2016. Operational protocols will continue to be developed to guide operations as experience builds and staff gain experience running under different seasonal conditions. These protocols will balance protections for stream, as well as for the operational constraints from equipment and water demand changes that occur during normal operations.



B. Stream Flow Conditions

Flows in Bridge and Tumalo Creeks vary dramatically by season. Daily flow changes during spring runoff season can differ by 60-100 cfs in some conditions for Tumalo Creek, and less so, but similarly in Bridge Creek. Storm events at any time of year can increase flows dramatically as well (see flow graph from USFS 2013 Environmental Assessment, and instantaneous “native flow” record from OWRD).

Figure 15. Maximum, minimum, and mean flow values for Tumalo Creek.
Flow includes a compilation of in-stream flow and flow from the Columbia Southern canal. Data do not include water use by the City of Bend

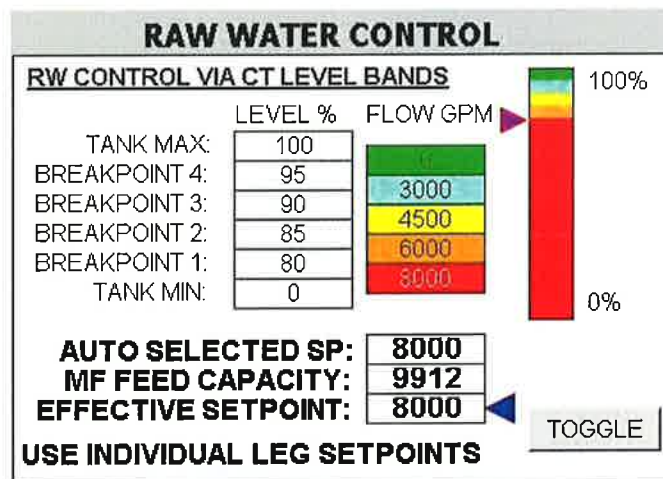




C. Operational Details

A key operational goal is to minimize energy use by maximizing the use of surface water which is delivered to holder's water system by gravity. A sophisticated control system is in place and programmed to look at the reservoir levels (See Figure 2). This system allows holder to stay at or under the maximum diversion rate is 18.2 cfs.

Figure 2: Raw Water Reservoir Control Operating Settings



A guiding principle of plant operations is to run the plant *consistently* and *continuously*. The goal is for the water system to never shut down and the design has included redundant equipment to support continuous operation. However, periodic equipment maintenance or failures may require a shut down and re-start under *abnormal* conditions.

Raw water is controlled through the flow control valves located ahead of the water system at the Outback facility. The flow control valves are designed and controlled to be slow-acting. The need for slow-acting valves is to prevent hydraulic surges in the raw water pipeline.

Water flows through the intake on Bridge Creek, where it is screened and flows into the pipeline. It then enters the flow control valve structure, then through the treatment process within the plant and into water storage reservoirs (above ground steel tanks) at the Outback site. Water flows out of the reservoirs and to the city to supply water demands that vary up and down during the day. An operation goal of this water system is to run a uniform rate (consistent and continuous), despite the variance in demand for water use in the city. This is accomplished by allowing the Outback storage tanks to be depleted when demand in the city is high, and then to refill when demand in the city is low, all while water is being processed to the Outback Reservoirs at a relatively uniform rate. This will enable holder's staff to keep the withdrawal from Bridge Creek as consistent and continuous as possible.

If the Outback tanks were to become full, then the water supply would have to be stopped to prevent the tanks from spilling. The flow control system has been designed to try and avoid this situation to try and keep the diversion from Bridge Creek as consistent and continuous as possible. The control of flow has been automated and is based on the water level in the



Outback tanks. As the level in the Outback tanks increases, the diversion rate decreases, all to avoid the need to shut down and then re-start the water supply system.

Overall, holder's staff are focused on maintaining a consistent and continuous flow diversion from Bridge Creek because they understand this is preferential for aquatic habitat. The supply system has been designed for this and is currently being operated in this manner. It is the opinion of consulting engineers and holder's staff that the plant is currently being operated as consistent and continuous as possible, given the limitations of equipment, instrumentation, and controls.

DATA REPORTING

Ramping rate monitoring will be done by holder. Information will be reported to the USFS and discussed at the annual monitoring meeting with the City of Bend, and USFS may require adjustments in ramping rates when necessary.

VI. MAJOR CONSTRUCTION PROJECT NOTIFICATION AND PROCEDURE

Major construction proposals that are NOT categorically excluded under 36 CFR 220.6 but require an EIS (36 CFR 220.5) or EA (36 CFR 220.7) should be submitted at least **two years** prior to proposed implementation dates to allow time for authorized officer review and the appropriate level of environmental analysis to be completed by the Forest Service. Major construction activities will require environmental review prior to making a decision to conduct the work to comply with the National Environmental Policy Act (NEPA) and other environmental laws. Major construction projects may include: new waterlines, building construction, new access roads that are longer than one mile, widening a ROW, projects that impact TES species, projects that have extraordinary circumstances as stated in 36 CFR 220.6(a), or even projects within the permitted ROW that involve complex work activities or are over five acres in scope.

Major Construction proposals should be submitted on a Standard Form 299 (SF299) attached as **EXHIBIT A** and should include plans and enough description to determine the scope of the project and the level of environmental analysis needed. Major construction projects may be delayed dependent upon the required depth and/or results of the environmental analysis as well as the outcome of consultation with the State Historical Preservation Office (SHPO) and the Tribes.

IX. ADDITIONAL REVIEW TIME REQUIRED

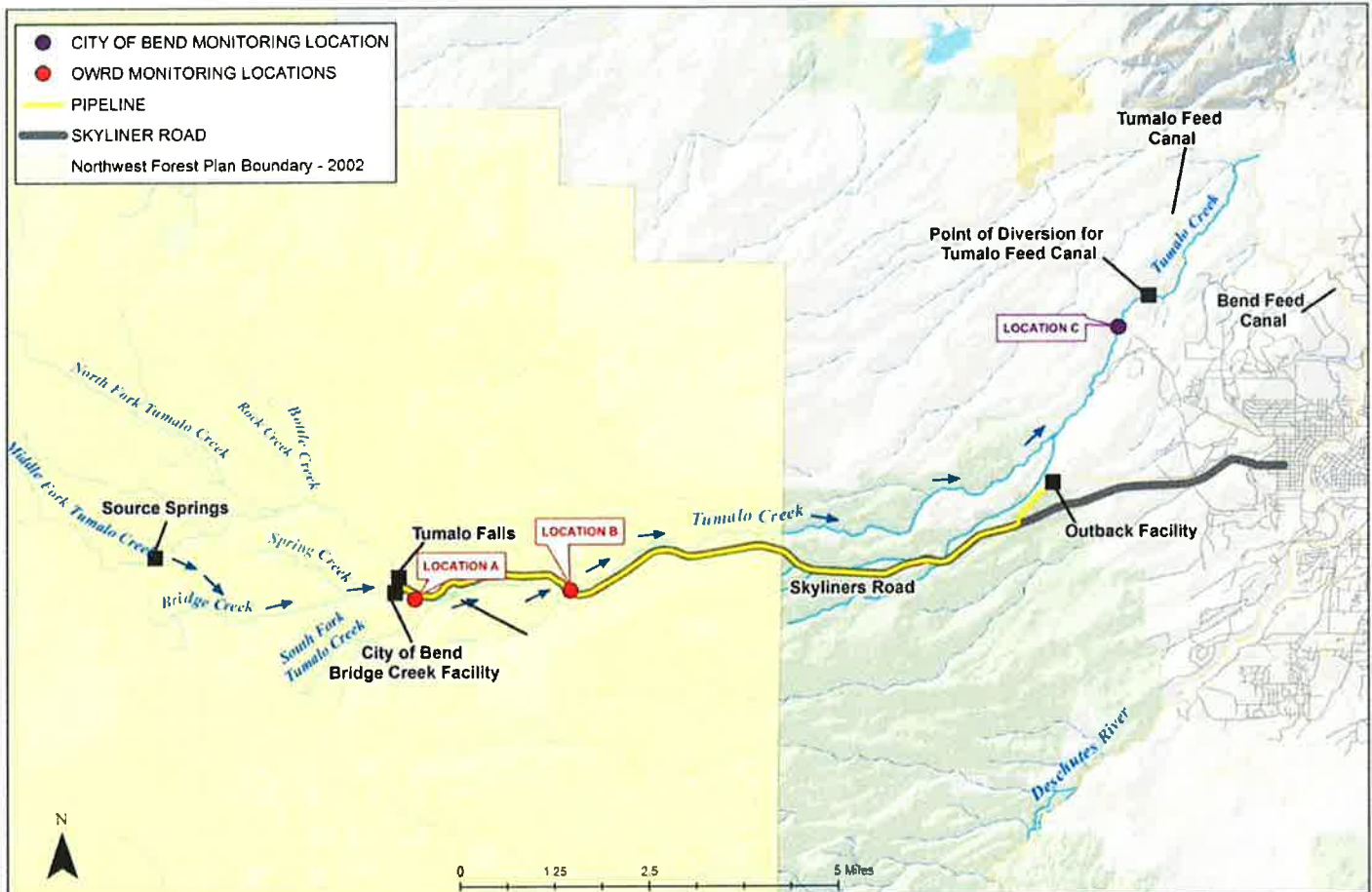
Proposals submitted in some management areas may require additional time for USFS review. There are areas and sites that may have sensitive resources that need protection which may require additional mitigations.

- A. Recreation Sites** – Project timelines and review may be affected by the proximity of recreation areas, permitted recreation events, and other recreation uses. Please allow additional review time for proposed projects in these areas. Recreation events usually occur on existing roads and trails. The Forest Service will endeavor to notify the holder when these events are scheduled near project areas.

- B. Northwest Forest Plan** - Proposed projects located within the Northwest Forest Plan Boundary may require two years of surveys for affected species. Projects located in this



area should be submitted at least two years prior to the proposed implementation date. See map below.



T:\FS\NFS\Deschutes\Project\soops\Data\grnt2009\Lands\GIS\BFR\MXD\2015 Bend waterline DM flow monitoring.mxd

C. SECTION 106 - Section 106 of the National Historic Preservation Act of 1966 (NHPA) requires Federal agencies to take into account the effects of their undertakings on historic properties, and afford the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment. The historic preservation review process mandated by Section 106 is outlined in regulations issued by ACHP. Revised regulations, "Protection of Historic Properties" (36 CFR Part 800), became effective August 5, 2004. Consultation with the State Historic Preservation Office (SHPO) may add, at a minimum, an additional 30 days to the review time. If, in order to protect resources, the proposed project requires additional mitigations and the development of a memorandum of agreement (MOA) with the SHPO, an additional 90 days may be required. If an MOA is executed, the agency ensures that the project proceeds under the terms of the MOA.

The regulations also place major emphasis on consultation with Native American Tribes in keeping with the 1992 amendments to NHPA. Consultation with a tribe must respect tribal sovereignty and the government-to-government relationship between the Federal Government and the tribes. Even if a tribe has not been certified by NPS to have a Tribal Historic Preservation Officer who can act for the SHPO on its lands, it must be consulted about undertakings on or affecting its lands on the same basis and in addition to the SHPO. The local Tribes who are consulted with about proposed



projects on the Deschutes National Forest are as follows: The Confederated Tribes of the Warm Springs, the Burns Paiute Tribe, and the Klamath Tribes.

The agency consults to resolve adverse effects with the SHPO/THPO* and others, who may include the Tribes, local governments, permit or license applicants, and members of the public. ACHP may participate in consultation when there are substantial impacts to important historic properties, when a case presents important questions of policy or interpretation, when there is a potential for procedural problems, or when there are issues of concern to the Tribes.

Consultation usually results in a Memorandum of Agreement (MOA), which outlines agreed-upon measures that the agency will take to avoid, minimize, or mitigate the adverse effects. In some cases, the consulting parties may agree that no such measures are possible, but that the adverse effects must be accepted in the public interest. Public involvement is a key ingredient in successful Section 106 consultation, and the views of the public should be solicited and considered throughout the process.

D. WILDLIFE

Disturbing activities (such as tree removal, grubbing, rock crushing, blasting, etc.) shall not be conducted within ¼ mile and/or line of sight from any active nest of the following species during the listed periods. Distance increases to 1 mile for blasting.

Northern goshawk	March 1 – August 31
Cooper’s hawk	April 15 – August 31
Sharp-shinned hawk	April 15 – August 31

X. ROADS

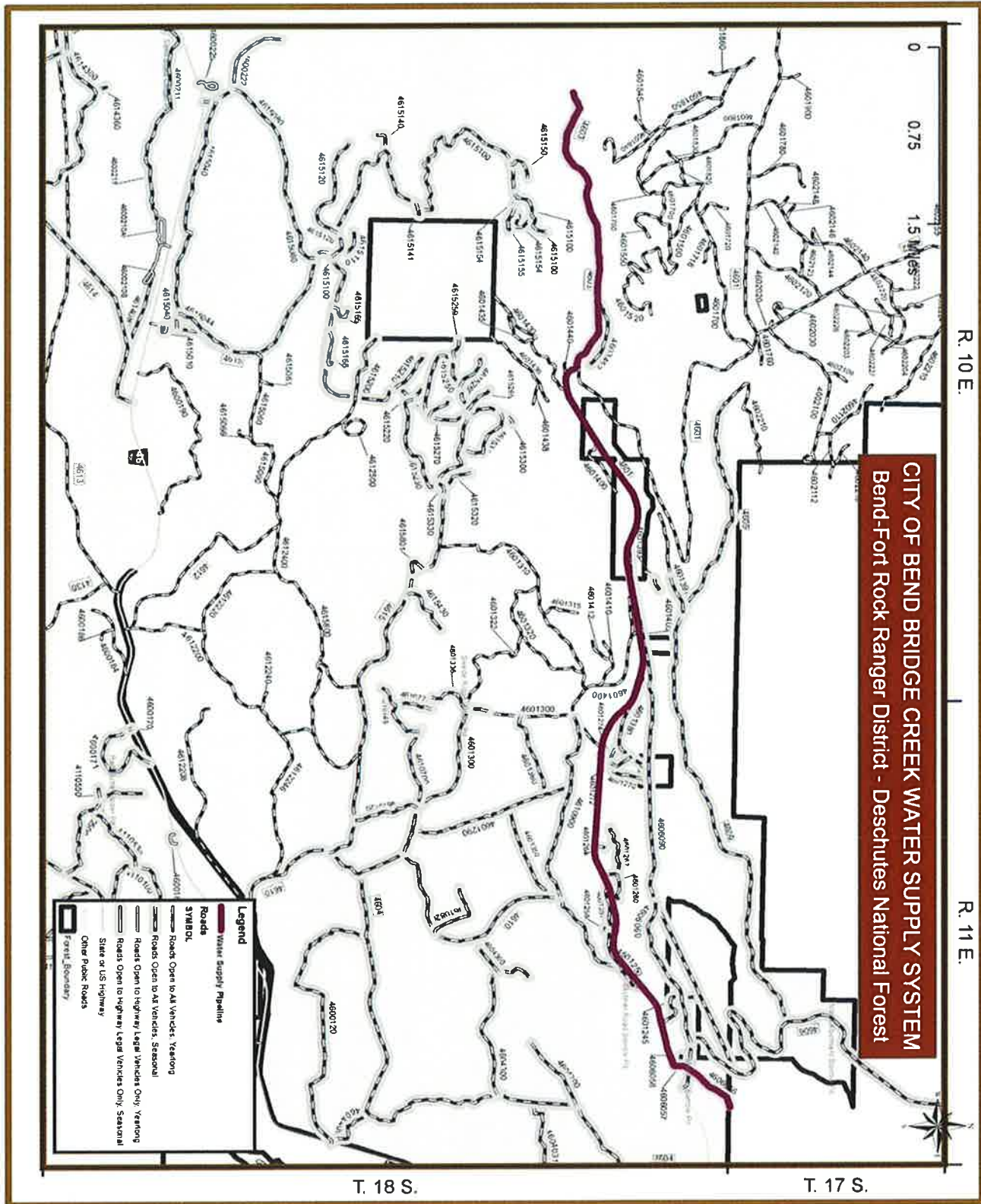
Approval must be obtained prior to commencement of road related activities and will require a USFS road-use permit. All roads under USFS jurisdiction that provide access to holder’s water lines and facilities shall be maintained to the extent necessary to meet their objective while adhering to USFS guidelines and standards for ensuring safe roadway operation in addition to complying with all applicable environmental regulations. Authorization to perform any and all road related activities must be submitted in writing to the Forest Service, allowing for a reasonable time period for review.

Other Road Access Information

A. Travel Access on USFS Lands- Access on USFS roads and/or within restricted or closed areas will be in accordance with the current Deschutes National Forest Guidelines. Locks of the appropriate agencies/cooperators/permittees will be used at each applicable closure to facilitate entry for administrative use. During the closure, access will be by written authorization. Contact the USFS for procedures. Emergency access is allowed without a written authorization to avoid or reduce damages to the line or for extended outages. The holder is responsible for notifying the USFS at the earliest convenience and is fully responsible for any damage or area rehab associated with the emergency entry.



See the following map for open roads and seasonal open roads:





- B. Wet weather access provisions** – The holder maintains a fleet of four wheel drive vehicles and ATVs that can be used in inclement weather and various terrains. Forest Service regulations prohibit the operation of any vehicles or equipment having cleats or other tracks on USFS roads which will injure the surface of the roadway. The holder will take precautions to avoid rutting damage to unsurfaced roads by rerouting travel routes whenever possible.

XI. HEALTH AND SAFETY

A. Safety Plan

The holder is responsible for the safety of all personnel employed by itself or others in the performance of operation and maintenance activities. The holder recognizes the importance of providing employees with a safe and healthy work environment, free from recognized hazards, and conducting business in the safest manner possible. Safety is taken very seriously by the City and employees are to actively promote safety and accident prevention on a daily basis. Additional information can be provided at the USFS request.

B. Traffic Control

All maintenance work where members of the public may be recreating shall be signed according to the *Manual on Uniform Traffic Control Devices for Streets and Highways* (U.S. Department of Transportation, Federal Highway Administration, 1988) and applicable Department of Transportation (DOT) standards.

C. Accident Reports

During normal business hours, the holder shall notify the USFS, as soon as practicable, that an accident occurred during the performance of operation and maintenance, to either the holder's employees, a member of the public, or to the environment. After hours, and on weekends, the appropriate sheriff's office will be notified and the USFS will be notified the next normal workday. The holder will provide a copy of the accident report to the USFS.

D. Waste Disposal

All forms of refuse and waste produced along the ROW will be disposed of in a designated landfill or appropriate waste disposal site. Disposal sites on the NFS will only be used with prior designation and approval of the USFS. Refuse and waste is defined as any discarded material, trash, garbage, packing material, containers, waste petroleum products, broken equipment (poles, cross arms, wire, other hardware), used parts, excess construction materials including waste rock and excess excavation, or human waste.

E. Occupational Safety and Health Administration (OSHA) Standard 29 CFR 1910.269

OSHA standard 1910.269 applies to line clearance and tree trimming operations performed by qualified employees (those who have knowledge of the construction and operation of electric power generation, transmission, and distribution equipment and their associated hazards). These employees typically perform tree-trimming as an incidental part of their work.



XII. HAZARDOUS AND TOXIC SUBSTANCES

A. Fuels and Lubricants

No equipment will be re-fueled within 300 feet of any wetland or waterway without prior approval of the USFS.

All equipment will be regularly inspected for leaks. Any significant leaks detected will be promptly corrected. During fueling operations, personnel will prevent overfill of equipment. Absorbent materials will be kept at the work site to clean up and contain spills. Vehicles and equipment with leaks will have drip pans, heavy plastic sheeting or other containment devices placed on the ground beneath them and the vehicle or equipment will not be used until the leak is corrected.

B. Prevention of Oil Spills and Contamination

The holder shall not dispose of any oil, oil products or petroleum containers on NFS lands. Appropriate preventive measures shall be taken to insure that any such spill of oil or oil products does not enter any stream or other waters of the United States. The holder shall notify the USFS when a spill does occur and cleanup will be in accordance with the Code of Federal Regulations and all applicable state environmental laws. When applicable, the holder shall prepare a Spill Prevention Control and Counter Measure Plan and provide a copy to the USFS prior to work commencement.

C. Hazardous Materials

The holder will be responsible for any hazmat associated with their facilities and as stated in the SUP.

XIII. FIRE PROTECTION PLAN

All projects and activities are subject to Industrial Fire Precaution Level regulations which may cause delays in project implementation. The holder will take appropriate fire prevention and suppression measures in conjunction with its operations and maintenance on the ROW. The holder will comply with the following Industrial Fire Precaution Levels and call the fire information line at **1-800-523-4737** prior to implementing a project during fire season (usually May through October depending upon fire indicators). The USFS may make periodic inspections. Failure to comply shall result in a temporary shutdown of all non-compliant maintenance activities until compliance is met. If necessary, the holder may contact the Permit Administrator to obtain a fire waiver, an example of which is attached as **EXHIBIT C**.

The USFS may require additional resource protection measures to be consistent with Industrial Fire Precaution Regulations which may be listed in the fire waiver.



IFPL Level	Industrial Fire Precaution Levels Definition
<p>Level One</p> <p style="text-align: center; font-size: 48pt; color: red;">I</p>	<p>Closed Season - Fire precaution requirements are in effect. A Fire Watch/Security is required at this and all higher levels unless otherwise waived.</p>
<p>Level Two</p> <p style="text-align: center; font-size: 48pt; color: red;">II</p>	<p>Partial Hootowl - The following may operate only between the hours of 8 p.m. and 1 p.m. local time:</p> <ul style="list-style-type: none"> • power saws except at loading sites; • cable yarding; • blasting; • welding or cutting of metal.
<p>Level Three</p> <p style="text-align: center; font-size: 48pt; color: red;">III</p>	<p>Partial Shutdown - the following are prohibited except as indicated:</p> <ul style="list-style-type: none"> • cable yarding - except that gravity operated logging systems employing nonmotorized carriages may operate between 8 p.m. and 1 p.m. when all blocks and moving lines are suspended 10 feet above the ground except the line between the carriage and the chokers. • power saws - except power saws may be used at loading sites and on tractor/skidder operations between the hours of 8 p.m. and 1 p.m. local time. <p>In addition, the following are permitted to operate between the hours of 8 p.m. and 1 p.m. local time:</p> <ul style="list-style-type: none"> • Tractor, skidder, feller-buncher, forwarder, or shovel logging operations where tractors, skidders, or other equipment with a blade capable of constructing fireline are immediately available to quickly reach and effectively attack a fire start; • mechanized loading or hauling of any product or material; blasting; • welding or cutting of metal • any other spark emitting operation not specifically mentioned.
<p>Level Four</p> <p style="text-align: center; font-size: 48pt; color: red;">IV</p>	<p style="text-align: center; font-size: 24pt; color: red;">General Shutdown - All Operations</p>



XIV. ENVIRONMENTAL RESOURCE PROTECTION

The holder shall take all reasonable measures to protect environmental resources. If emergency maintenance jeopardizes the continued existence of endangered species or results in the destruction of designated critical habitat and requires immediate corrective action, the holder shall:

1. Notify the applicable federal regulatory agencies (e.g., United States Fish and Wildlife Service, United States Army Corps of Engineers, National Oceanic and Atmospheric Administration) with jurisdiction over the resource(s) potentially affected by the emergency and plan for corrective actions/mitigation measures as soon as possible.
2. Notify the USFS of the emergency immediately following notification to federal regulatory agencies. The holder shall also follow any USFS recommended mitigation measures.
3. Take all necessary corrective actions.

XV. INSPECTIONS

The holder will inspect every structure at a minimum of five year intervals and periodically as necessary for regular operations. Needed repairs and maintenance will be based on the results of these inspections and operations. These inspections review the structures for hazards or safety concerns to ensure the continued safe, reliable operation of the system. The Forest Service may inspect improvements at any time and may ask for inspection documents from the holder.

XVI. COOPERATION

The Forest Service and the holder shall meet annually each fall, to discuss operations, and any proposed projects for the next fiscal year. This meeting can be held separately, or combined with the monitoring committee meeting held each November / December.

A. NOTIFICATIONS

- a. NEPA notices shall follow the process designated by law.
- b. Notifications shall provide sufficient time to ensure cooperation and to proactively respond to any potential conflicts with the Parties management activities. Notices should contain an adequate description of the area impacted to allow the receiving Party the ability to locate the area without additional information.
- c. The holder shall notify the USFS prior to conducting planned, non-emergency, ground disturbing or vegetation management activities.
- d. The USFS shall notify the holder prior to conducting any operational, maintenance or land management activities that have the potential to impact the holder's utility water lines, facilities, access roads such as:
 - timber sales,
 - major road maintenance,
 - road closures,
 - changes to the forest plan,



- land sales or land exchanges.
- e. The Parties will work together to improve notification processes when problems are identified.

B. ONGOING COORDINATION

The Parties agree to schedule meetings annually, typically in the fall, or on an as-needed basis to promote ongoing coordination. Either Party may request, organize and schedule a meeting. Meetings may occur at different levels of responsibility depending on whether the issues are local, regional or national.

Discussion topics may include but are not limited to:

- Planned projects for the upcoming year
- Review of External Access Road Work Requests
- Proposed roads to be abandoned
- Authorized public use concerns
- Unauthorized use concerns
- Vegetation Management concerns
- Safety concerns

XVII. RELATED ENVIRONMENTAL DOCUMENTATION

Future maintenance, construction projects, or any changes in operations or environmental conditions applicable to permitted activities or improvements under SUP BEN1158 may necessitate further NEPA analysis. In this instance, final documentation developed pursuant to NEPA, such as mitigation provisions, shall be attached to and made part of this O&M Plan.

XVIII. COST RECOVERY (36 CFR 251.58)

Under the Forest Service's cost recovery regulations and directives (36 CFR 251.58 and FSH 2709.11, Ch. 20), applicants for a special use authorization for a ROW are subject to fees for costs incurred by the USFS that are necessary for processing the special use application, including USFS costs incurred in approving an operating plan and resource surveys, associated environmental analysis conducted, and ESA consultation needed to process an application. Holders of a special use authorization for a ROW are also subject to fees for costs incurred by the USFS in monitoring compliance with the terms and conditions of their special use authorization. A Category 5 Master Agreement or Category 6 Agreement (an example of which is attached as **EXHIBIT D**) may be appropriate for cost recovery associated with anticipated expansion, monitoring, or maintenance of a water line ROW, particularly where compliance with NEPA, ESA, NHPA, or other environmental laws is required. If the environmental analysis of a project requires less than 50 hours of review, the holder will pay a non-refundable fee based on the annual cost recovery fee schedule and the number of hours USFS personnel spend processing the application. Routine and emergency maintenance will be exempt from this requirement.

XIX. OPERATION AND MAINTENANCE PLAN UPDATES

This plan may be updated by the Forest Service at any time based on the discretion of the authorized officer in coordination with the holder.



EXHIBIT A

STANDARD FORM 299 (5/2009)
Prescribed by DOI/USDA/DOT
P.L. 96487 and Federal
Register Notice 5-22-95

FORM APPROVED OMB NO. 1004-0189
Expires: April 30, 2012

APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS

FOR AGENCY USE ONLY

NOTE: Before completing and filing the application, the applicant should completely review this package and schedule a preapplication meeting with representatives of the agency responsible for processing the application. Each agency may have specific and unique requirements to be met in preparing and processing the application. Many times, with the help of the agency representative, the application can be completed at the preapplication meeting.

Application Number

Date filed

1. Name and address of applicant (include zip code)

2. Name, title, and address of authorized agent if different from Item 1 (include zip code)

3. TELEPHONE (area code)

Applicant

Authorized Agent

As applicant are you? (check one)

- a. Individual
- b. Corporation*
- c. Partnership/Association*
- d. State Government/State Agency
- e. Local Government
- f. Federal Agency

Specify what application is for: (check one)

- a. New authorization
- b. Renewing existing authorization
- c. Amend existing authorization
- d. Assign existing authorization
- e. Existing use for which no authorization has been received*
- f. Other*

* If checked, complete supplemental page

* If checked, provide details under Item 7

6. If and individual, or partnership are you a citizen(s) of the United States Yes No

7. Project description (describe in detail): (a) Type of system or facility, (e.g., canal, pipeline, road); (b) related structures and facilities; (c) physical specifications (length, width, grading, etc.); (d) term of years needed; (e) time of year of use or operation; (f) Volume or amount of product to be transported; (g) duration and timing of construction; and (h) temporary work areas needed for construction (Attach additional sheets, if additional space is needed.)

8. Attach a map covering area and show location of project proposal

9. State or local government approval: Attached Applied for Not required

10. Nonreturnable application fee: Attached Not required

11. Does project cross international boundary or affect international waterways? Yes No (If "yes," indicate on map)

12. Give statement of your technical and financial capability to construct, operate, maintain, and terminate system for which authorization is being requested.

(Continued on page 2)

This form is authorized for local reproduction.



- 13a. Describe other reasonable alternative routes and modes considered.
- b. Why were these alternatives not selected?
- c. Give explanation as to why it is necessary to cross Federal Lands
14. List authorizations and pending applications filed for similar projects which may provide information to the authorizing agency. (Specify number, date, code, or name)
15. Provide statement of need for project, including the economic feasibility and items such as: (a) cost of proposal (construction, operation, and maintenance); (b) estimated cost of next best alternative; and (c) expected public benefits.
16. Describe probable effects on the population in the area, including the social and economic aspects, and the rural lifestyles.
17. Describe likely environmental effects that the proposed project will have on: (a) air quality; (b) visual impact; (c) surface and ground water quality and quantity; (d) the control or structural change on any stream or other body of water; (e) existing noise levels; and (f) the surface of the land, including vegetation, permafrost, soil, and soil stability.
18. Describe the probable effects that the proposed project will have on (a) populations of fish, plant life, wildlife, and marine life, including threatened and endangered species; and (b) marine mammals, including hunting, capturing, collecting, or killing these animals.
19. State whether any hazardous material, as defined in this paragraph, will be used, produced, transported or stored on or within the right-of-way or any of the right-of-way facilities, or used in the construction, operation, maintenance or termination of the right-of-way or any of its facilities. "Hazardous material" means any substance, pollutant or contaminant that is listed as hazardous under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 et seq., and its regulations. The definition of hazardous substances under CERCLA includes any "hazardous waste" as defined in the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 9601 et seq., and its regulations. The term hazardous materials also includes any nuclear or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq. The term does **not** include petroleum, including crude oil or any fraction thereof that is not otherwise specifically listed or designated as a hazardous substance under CERCLA Section 101(14), 42 U.S.C. 9601(14), nor does the term include natural gas.
20. Name all the Department(s)/Agency(ies) where this application is being filed.

I HEREBY CERTIFY, That I am of legal age and authorized to do business in the State and that I have personally examined the information contained in the application and believe that the information submitted is correct to the best of my knowledge.

Signature of Applicant	Date
------------------------	------

Title 18, U.S.C. Section 1001 and Title 43 U.S.C. Section 1212, make it a crime for any person knowingly and willfully to make to any department or agency of the United States any false, fictitious, or fraudulent statements or representations as to any matter within its jurisdiction.
(Continued on page 3) (SF-299, page 2)



APPLICATION FOR TRANSPORTATION AND UTILITY SYSTEMS AND FACILITIES ON FEDERAL LANDS

GENERAL INFORMATION ALASKA NATIONAL INTEREST LANDS

This application will be used when applying for a right-of-way, permit, license, lease, or certificate for the use of Federal lands which lie within conservation system units and National Recreation or Conservation Areas as defined in the Alaska National Interest Lands Conservation Act. Conservation system units include the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, and National Forest Monuments.

Transportation and utility systems and facility uses for which the application may be used are:

1. Canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other systems for the transportation of water.
2. Pipelines and other systems for the transportation of liquids other than water, including oil, natural gas, synthetic liquid and gaseous fuels, and any refined product produced therefrom.
3. Pipelines, slurry and emulsion systems, and conveyor belts for transportation of solid materials.
4. Systems for the transmission and distribution of electric energy.
5. Systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communications.
6. Improved rights-of-way for snow machines, air cushion vehicles, and all-terrain vehicles.
7. Roads, highways, railroads, tunnels, tramways, airports, landing strips, docks, and other systems of general transportation.

This application must be filed simultaneously with each Federal department or agency requiring authorization to establish and operate your proposal.

In Alaska, the following agencies will help the applicant file an application and identify the other agencies the applicant should contact and possibly file with:

U.S. Department of Agriculture FOREST SERVICE (USFS)
Alaska Regional Office (Region 10)
Physical Address:
Federal Office Building
709 West 9th Street
Juneau, Alaska 99801
Mailing Address:
P.O. Box 21628
Juneau, Alaska 99802
Telephone: 907-586-8806

U.S. Department of the Interior BUREAU OF INDIAN AFFAIRS (BIA)
Alaska Regional Office (Juneau)
Mailing/Physical Address:
P.O. Box 25520
709 West 9th Street
Juneau, Alaska 99802
Telephone: 800-645-8397

U.S. Department of the Interior BUREAU OF LAND MANAGEMENT (BLM)
Alaska State Office
Mailing/Physical Address:
222 West 7th Avenue #13
Anchorage, Alaska 99513
Telephone: 907-271-5960

U.S. Department of the Interior NATIONAL PARK SERVICE (NPS)
Alaska Regional Office (Anchorage)
Mailing/Physical Address:
240 West 5th Avenue, Room 114
Anchorage, Alaska 99501
Telephone: 907-644-3501

U.S. Department of the Interior FISH AND WILDLIFE SERVICE
Alaska Regional Office (Region 7)

Mailing/Physical Address:
1011 East Tudor Road
Anchorage, Alaska 99501
Telephone: 907-271-5011

Note: Filings with any Department of the Interior agency may be filed with any office noted above or with the:

U.S. Department of the Interior
OFFICE OF ENVIRONMENTAL POLICY AND COMPLIANCE
Alaska Regional Office (Anchorage)
Regional Environmental Officer
1689 C Street, Room 119
Anchorage, Alaska 99501
Telephone: (907) 271-5011

U.S. Department of Transportation FEDERAL AVIATION ADMINISTRATION
Alaska Regional Office (Anchorage) 222 West 7th Avenue, #14
Anchorage, Alaska 99513
Telephone: 907-271-5269

NOTE - The Department of Transportation has established the above central filing point for agencies within that Department. Affected agencies are: Federal Aviation Administration (FAA), Coast Guard (USCG), Federal Highway Administration (FHWA), Federal Railroad Administration (FRA).

OTHER THAN ALASKA NATIONAL INTEREST LANDS

Use of this form is not limited to National Interest Conservation Lands of Alaska.

Individual departments/agencies may authorize the use of this form by applicants for transportation and utility systems and facilities on other Federal lands outside those areas described above.

For proposals located outside of Alaska, applications will be filed at the local agency office or at a location specified by the responsible Federal agency.

SPECIFIC INSTRUCTIONS
(Items not listed are self-explanatory)

Item
7 Attach preliminary site and facility construction plans. The responsible agency will provide instructions whenever specific plans are

required.

8 Generally, the map must show the section(s), township(s), and ranges within which the project is to be located. Show the proposed location of the project on the map as accurately as possible. Some agencies require detailed survey maps. The responsible agency will provide additional instructions.

9, 10, and 12 - The responsible agency will provide additional instructions.

13 Providing information on alternate routes and modes in as much detail as possible, discussing why certain routes or modes were rejected and why it is necessary to cross Federal lands will assist the agency(ies) in processing your application and reaching a final decision. Include only reasonable alternate routes and modes as related to current technology and economics.

14 The responsible agency will provide instructions.

15 Generally, a simple statement of the purpose of the proposal will be sufficient. However, major proposals located in critical or sensitive areas may require a full analysis with additional specific information. The responsible agency will provide additional instructions.

16 through 19 - Providing this information in as much detail as possible will assist the Federal agency(ies) in processing the application and reaching a decision. When completing these items, you should use a sound judgment in furnishing relevant information. For example, if the project is not near a stream or other body of water, do not address this subject. The responsible agency will provide additional instructions.

Application must be signed by the applicant or applicant's authorized representative.

If additional space is needed to complete any item, please put the information on a separate sheet of paper and identify it as "Continuation of Item"; (SF-299, page 3)



UPPLEMENTAL

NOTE: The responsible agency(ies) will provide additional instructions	CHECK APPROPRIATE BLOCK	
	ATTACHED	FILED*
I - PRIVATE CORPORATIONS		
a. Articles of Incorporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Corporation Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
c. A certification from the State showing the corporation is in good standing and is entitled to operate within the State.	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. The name and address of each shareholder owning 3 percent or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote and the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.	<input type="checkbox"/>	<input type="checkbox"/>
f. If application is for an oil or gas pipeline, describe any related right-of-way or temporary use permit applications, and identify previous applications	<input type="checkbox"/>	<input type="checkbox"/>
g. If application is for an oil and gas pipeline, identify all Federal lands by agency impacted by proposal.	<input type="checkbox"/>	<input type="checkbox"/>
II - PUBLIC CORPORATIONS		
a. Copy of law forming corporation	<input type="checkbox"/>	<input type="checkbox"/>
b. Proof of organization	<input type="checkbox"/>	<input type="checkbox"/>
c. Copy of Bylaws	<input type="checkbox"/>	<input type="checkbox"/>
d. Copy of resolution authorizing filing	<input type="checkbox"/>	<input type="checkbox"/>
e. If application is for an oil or gas pipeline, provide information required by Item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>
III - PARTNERSHIP OR OTHER UNINCORPORATED ENTITY		
a. Articles of association, if any	<input type="checkbox"/>	<input type="checkbox"/>
b. If one partner is authorized to sign, resolution authorizing action is	<input type="checkbox"/>	<input type="checkbox"/>
c. Name and address of each participant, partner, association, or other	<input type="checkbox"/>	<input type="checkbox"/>
d. If application is for an oil or gas pipeline, provide information required by Item "I-f" and "I-g" above.	<input type="checkbox"/>	<input type="checkbox"/>

* If the required information is already filed with the agency processing this application and is current, check block entitled "Filed." Provide the file identification information (e.g., number, date, code, name). If not on file or current, attach the requested information.

(Continued on page 5)

(SF-299, page 4)

NOTICES

NOTE: This applies to the Department of the Interior/Bureau of Land Management (BLM).

The Privacy Act of 1974 provides that you be furnished with the following information in connection with the information provided by this application for an authorization.

AUTHORITY: 16 U.S.C. 310 and 5 U.S.C. 301.

PRINCIPAL PURPOSE: The primary uses of the records are to facilitate the (1) processing of claims or applications; (2) recordation of adjudicative actions; and (3) indexing of documentation in case files supporting administrative actions.

ROUTINE USES: BLM and the Department of the Interior (DOI) may disclose your information on this form: (1) to appropriate Federal agencies when concurrence or supporting information is required prior to granting or acquiring a right or interest in lands or resources; (2) to members or the public who have a need for the information that is maintained by BLM for public record; (3) to the U.S. Department of Justice, court, or other adjudicative body when DOI determines the information is necessary and relevant to litigation; (4) to appropriate Federal, State, local, or foreign agencies responsible for investigating, prosecuting violation, enforcing, or implementing this statute, regulation, or order; and (5) to a congressional office when you request the assistance of the Member of Congress in writing.

EFFECT OF NOT PROVIDING THE INFORMATION: Disclosing this information is necessary to receive or maintain a benefit. Not disclosing it may result in rejecting the application.

The Paperwork Reduction Act of 1995 requires us to inform you that:

The Federal agencies collect this information from applicants requesting right-of-way, permit, license, lease, or certifications for the use of Federal Lands.

Federal agencies use this information to evaluate your proposal.

No Federal agency may request or sponsor and you are not required to respond to a request for information which does not contain a currently valid OMB Control Number.

BURDEN HOURS STATEMENT: The public burden for this form is estimated at 25 hours per response including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of this form to: U.S. Department of the Interior, Bureau of Land Management (1004-0189), Bureau Information Collection Clearance Officer (WO-630) 1849 C Street, N.W., Mail Stop 401 LS, Washington, D.C. 20240.

A reproducible copy of this form may be obtained from the Bureau of Land Management, Division of Lands, Realty and Cadastral Survey, 1620 L Street, N.W., Rm. 1000 LS, Washington, D.C. 20036.

EXHIBIT B

Ochoco/Deschutes National Forest & Crooked River NG Invasive Species Inventory Field Form Adapted from NRIS/FACTS Invasive Plant Data Recording Protocols (* designates required fields)

General Information

*Site ID: _____	*Date: _____ (MM/DD/YYYY)	New Site?	Re-visit?
*Examiner (Last, First, MI) _____			
*Region: <u>06</u> Forest: <u>01</u>	*District: <u>Bend-Fort Rock</u>	*State: <u>OR</u>	
*County: <u>Deschutes</u>	*Ownership: <u>USDA Forest Service</u>		

Location

Site Location / Project Name: <u>City of Bend Water System</u>	
*Legal Description: <u>Township 17S, Range 11E, Section 34; Township 18S, Range 10E, Sections 1, 2, 7, 8, 9, 10, and 11; and Township 18S, Range 11E, Sections 3, 4, 5, 6, 7, and 8 WM</u>	
Latitude/Longitude: <u>44° 02' 2.969" N / 121° 34' 3.467" W to 44° 03' 12.568" N / 121° 24' 41.384" W</u>	
Elevation: _____	* Slope _____ %

Data Elements

NRM Data Entry

*Species Code _____	Fractions of an acre (for reference): 1 acre = 209' x 209' = 43,560 sq. ft. 0.25 acre = 104' x 104' = 10,816 sq. ft. 0.1 acre = 66' x 66' = 4,356 sq. ft. 0.01 acre = 20.1' x 20.1' = 436 sq. ft. 0.001 acre = 6.1 x 6.6' = 43.6 sq. ft. 0.25 acre = 59' radius of a circle 0.1 acre = 37' radius of a circle 0.01 acre = 12' radius of a circle 0.001 acre = 4' radius of a circle	Initials: _____
Total Area (gross ac) _____		Date Entered: _____
* Percent Infested _____ (% of Total Area occupied by weeds, usually 100%. Percent infested ≠ canopy cover)		Treated Acreage: _____
		Treatment SUID: _____
Distribution (circle one): CL- Clumps (CL = more dense than SP) SP- Scattered Patchy SE- Scattered Even LI- Linear		
Approximate number of weeds present _____ Plants _____ Stems _____		
Phenology (circle all that apply): seedlings / rosettes / 1 st year bolted / mature plants / previous year seedheads		
*Soil Texture (circle one): clay clay loam loam silt silt loam loamy sand sandy loam sand		
Is the soil saturated all or part of the year? _____ How many months? _____		
Soil / Site Comments: _____		
Site Type (circle one): administrative forest improved pasture rangeland right-of-way trail/trailhead campground irrigation ditch stream/river land/pond		
*Horizontal Distance to Water: _____ Feet Vertical distance to Water: _____ Feet		

Treatment Type _____ (C-Cultural, H-Herbicide, B-Biological, N-None, M-Manual, ME-Mechanical)

Date _____ Acres Treated _____ # Person Hours for Treatment _____
Date _____ Acres Treated _____ # Person Hours for Treatment _____

Date Monitored _____ Treatment Efficacy (%) _____ Examiner's Name _____

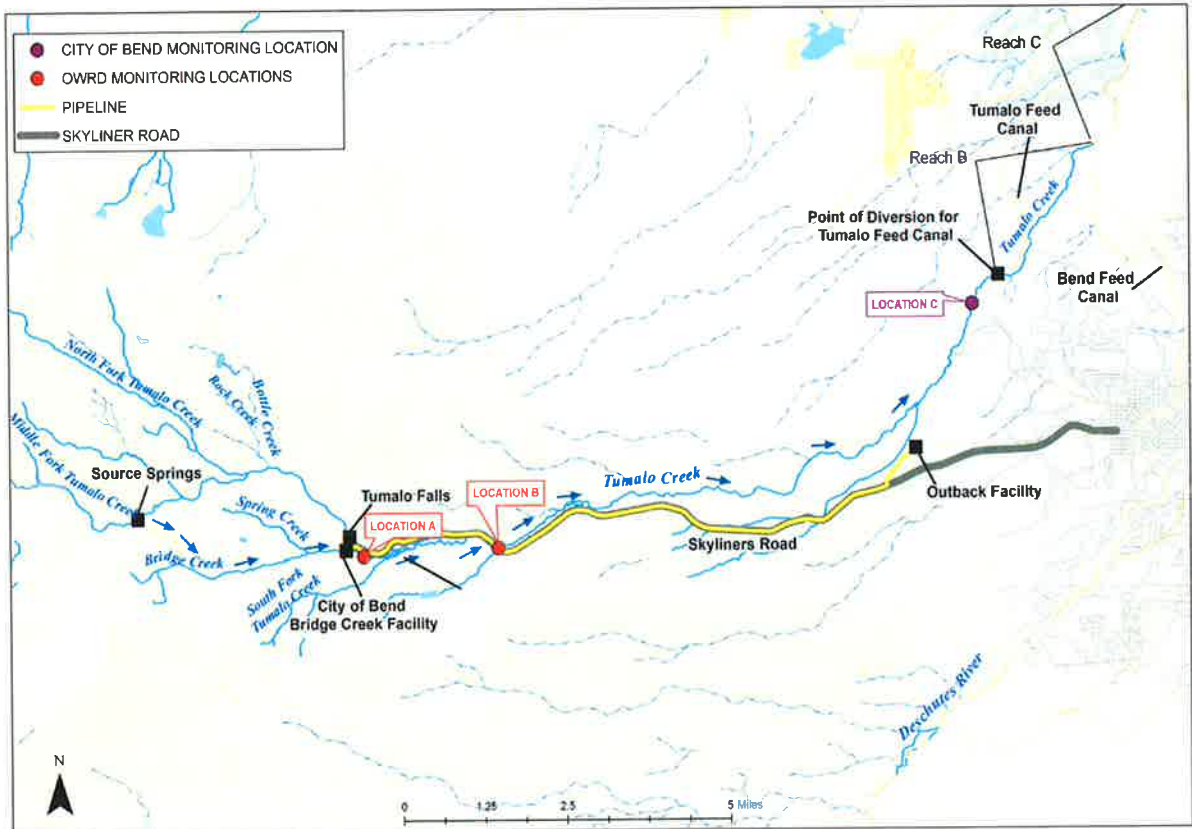
Plant Codes:

Bull thistle= CIVU	Dalmatian toadflax= LIDAD	Orange hawkweed= HIAU	Ribbon grass = PHARP	Spotted knapweed= CEBI2
Canada thistle= CIAR4	Diffuse knapweed= CEDI3	Oxeye daisy = LEVU	Russian thistle = SAKA	St. Johnswort= HYPE
Cheatgrass = BRTE	Leafy spurge= EUES	Puncturevine= TRTE	Scotch broom= CYSC4	Tansy ragwort= SEJA
Common mullein= VETH	Medusahead rye= TACA8	Reed canarygrass = PHAR3	Scotch thistle= ONAC	

Directions: _____

Site Comments: _____

SITE MAP



T:\FS\NFS\Deschutes\Projects\ocps\Data\Mgmt\2009\Lands\GIS\BFRM\XD\2015 Bend waterline OM flow monitoring.mxd

N ↑

AGENCY PERSONNEL or PERMIT HOLDER REQUEST FOR WAIVER AND SUBSTITUTE MEASURES:

Project or Sale Name: ___ Authorization ID: ___ (Attach Map)
Location Description: ___ Legal: T. ___ S., R. ___ E., Section __, __ (¼) __ (¼)

EXHIBIT C

We, the __, request the following:
(insert name(s) of Agency working group or Permit Holder, point of contact, and phone number)

- 1) Industrial Fire Precaution Level to be waived:
IFPL: II III IV (identify one)
- 2) Equipment to be utilized: power saw use, cable yarding, blasting, welding and/or cutting of metal, tractor, skidder, feller-buncher, forwarder, dozer, OTHER __ (identify all that apply)
- 3) Effective dates: __

Reviewed by: ___ Date: ___
(Local Prevention Technician or Designate and phone number)

The US Forest Service, __ Ranger District authorizes the request from __, with the following provisions:
(insert name(s) of Agency working group or Permit Holder and point of contact)

- 1) Site requirements (identify each that apply):

<ul style="list-style-type: none"> ___ Fire Security ___ Communications (radio, cellphone) ___ Fuel equipment free of vegetation ___ 5-gallon back pack pump(s) ___ hour fire watch ___ Call 800 523 4737 option #1 DAILY for current restrictions ___ Monitor Weather* 	<ul style="list-style-type: none"> ___ Fire tools ___ Fire truck – specs __ ___ Fire extinguishers in all equipment ___ Spark Arrestors on all equipment ___ Other - Specify __ ___
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Waiver valid for authorized IFPL level only

**During operations; weather (temperature, wind speed and relative humidity) will be monitored and documented hourly and said documentation MUST be provided upon request by any Agency representative. If any TWO of the following conditions exist terminate operations until conditions recover: 1) Temperature - above 90 degrees Fahrenheit; 2) Wind speed (eye level) – at or above 12 miles per hour; 3) Relative Humidity – below 12 percent.*

If you have further questions, contact your local Fire Prevention Technician, Designate or Forest Service Official

2) Effective dates: __

YOU MUST PROVIDE A COPY OF WAIVER IN THE FIELD DURING ALL OPERATIONS UPON REQUEST BY ANY AGENCY REPRESENTATIVE

Recommended by: _____ Date: _____
(FS Official and phone number)

Recommended by: _____ Date: _____
(Fire Management Officer or Assistant)

Approved by: _____ Date: _____
(District Ranger/Acting District Ranger)

APPROVAL MAY BE CANCELED AT ANY TIME

Cancelled by: _____ Effective: _____
(District Ranger/Acting District Ranger/Authorized Agency Official) *(Date)*

(FS Official or Authorized Agency working group point of contact or Permit Holder) *(Date)*

EXHIBIT D

FS-2700-26 (05/09)
USDA Forest Service
OMB No. 0596-0082

CATEGORY 6 MAJOR COST RECOVERY AGREEMENT Between USDA, FOREST SERVICE, Deschutes National Forest, And *the holder of*

This agreement is entered into between the UNITED STATES DEPARTMENT OF AGRICULTURE, Forest Service, Deschutes National Forest (the Forest Service), and *APPLICANTS NAME* (the applicant) under 36 CFR 251.58.

A. RECITALS

1. On *Month, XX, XXXX*, the Forest Service accepted the applicant's application for use and occupancy of National Forest System lands (hereinafter "the application"), which is enumerated in Appendix A. The Forest Service shall assess the applicant a cost recovery fee for the agency's costs to process the application.
2. The Forest Service has determined that the fee for processing the application falls within category 6 under the applicable Forest Service processing fee schedule and/or that the fee for monitoring the applicant's special use authorization falls within category 6 under the applicable Forest Service monitoring fee schedule.
3. A special use authorization ("the authorization") may be issued to the applicant. The authorization is enumerated in Appendix A and subject to assessment of monitoring fees by the Forest Service.
4. The geographic area to be covered by this agreement is:

TRS

5. The application has been submitted or the applicant's special use authorization is being issued under an authority other than the Mineral Leasing Act, and the applicant has not waived payment of reasonable costs. Therefore, the Forest Service is entitled to recover its full reasonable costs incurred in processing the application or monitoring the authorization.
6. Payment of a processing fee by the applicant does not obligate the Forest Service to authorize the applicant's proposed use and occupancy. If the application is denied or withdrawn in writing, the applicant is responsible for costs incurred by the Forest Service in processing the application up to and including the date the agency denies the application or receives written

notice of the applicant's withdrawal. If the applicant withdraws the application, the applicant also is responsible for any costs subsequently incurred by the Forest Service in terminating consideration of the application.

7 The Forest Service shall determine the appropriate level of environmental analysis for the application and inform the applicant prior to initiating the environmental analysis.

8. Information associated with this agreement may be released to the public in accordance with the provisions of the Freedom of Information Act and Privacy Act.

PART I – PROCESSING FEES

B. BASIS FOR PROCESSING FEES

Processing fees for the application are based upon the direct and indirect costs that the Forest Service incurs in reviewing the application, conducting environmental analyses of the effects of the proposed use, reviewing any applicant-generated environmental documents and studies, conducting site visits, evaluating the applicant's technical and financial qualifications, making a decision on whether to issue the authorization, and preparing documentation of analyses, decisions, and authorizations for the application. The processing fee for the application shall be based only on costs that are necessary for processing the application. "Necessary for" means that but for the application, the costs would not have been incurred. The processing fee shall not include costs for studies for programmatic planning or analysis or other agency management objectives, unless they are necessary for processing the application. Proportional costs for analyses, such as capacity studies, that are necessary for the application may be included in the processing fee.

C. AGREEMENT

In consideration of the foregoing, the parties agree as follows:

1. Scope of Work. The Forest Service shall develop a scope of work for processing the application and an estimate of the agency's costs to process the application, which will be incorporated into this agreement as Appendix C. This scope of work shall report direct costs in categories that correspond to those in the agency's accounting system, e.g., job code, personnel compensation based upon the cost to the government (salary and benefits), travel, and other direct services, materials, and supplies. In addition, the estimate of the agency's processing costs shall include the agency's indirect costs based upon the approved annual indirect cost rate. Classification of costs as direct or indirect shall be in accordance with the published Forest Service budget for the applicable fiscal year.

2. Environmental Analysis. The Forest Service shall supervise the preparation of the environmental analysis associated with the application in compliance with applicable legal requirements, including public review of the analysis, analysis of public comments, and decision documentation. In exercising this responsibility, the Forest Service shall endeavor to foster

cooperation among other agencies involved in the process, and to integrate National Environmental Policy Act requirements and other environmental review and consultation requirements to avoid, to the fullest extent possible, duplication of efforts by those agencies. However, the Forest Service shall not delegate to any other agency its authority over the scope and content of the environmental analysis, or approval or denial of the application.

3. Billing. The Forest Service shall bill the applicant prior to commencement of work. The applicant agrees to pay the estimated processing fee of \$**XX,XXX.XX**. The bill for the estimated processing fee is attached.

4. Payment. The applicant shall pay the estimated processing fee within 30 days of the date the bill for the fee is issued. The Forest Service shall not initiate processing the application until the estimated processing fee is paid. If the applicant fails to pay the estimated processing fee or the fee is late, the Forest Service shall cease processing the application until the fee is paid.

5. Statement of Costs. The Forest Service shall, **upon completion of the project**, report costs incurred for processing the application by providing a financial statement from the agency's accounting system to the applicant.

6. Underpayment. When the estimated processing fee is lower than the full actual costs of processing an application submitted under the Mineral Leasing Act, or lower than the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under other authorities, the applicant shall pay the difference between the estimated and full actual or reasonable processing costs within 30 days of billing.

7. Overpayment. If payment of the processing fee exceeds the full actual costs of processing an application submitted under the Mineral Leasing Act, or the full reasonable costs (when the applicant has not waived payment of reasonable costs) of processing an application submitted under other authorities, the Forest Service shall either (a) refund the excess payment to the applicant or (b) at the applicant's request, credit it towards monitoring fees due.

8. Disputes

a. If the applicant disagrees with the estimated dollar amount of the processing costs, the applicant may submit a written request before the disputed fee is due for substitution of alternative estimated costs to the immediate supervisor of the authorized officer who determined the estimated costs. The written request must include supporting documentation.

b. If the applicant pays the full disputed processing fee, the Forest Service shall continue to process the application during the supervisory officer's review of the disputed fee, unless the applicant requests that the application processing cease.

c. If the applicant fails to pay the full disputed processing fee, the Forest Service shall suspend further processing of the application pending the supervisory officer's determination of an appropriate processing fee and the applicant's payment of that fee.

d. The authorized officer's immediate supervisor shall render a decision on a disputed processing fee within 30 calendar days of receipt of the written request from the applicant. The supervisory officer's decision is the final level of administrative review. The dispute shall be decided in favor of the applicant if the supervisory officer does not respond to the written request within 30 days of receipt.

9. Lack of Administrative Appeal. A decision by an authorized officer to assess a processing fee or to determine the estimated costs is not subject to administrative appeal. A decision by an authorized officer's immediate supervisor in response to a request for substitution of alternative estimated costs likewise is not subject to administrative appeal.

10. Amendment. Modifications to this agreement shall be made in writing and shall be signed and dated by both parties.

11. Expiration and Termination. This agreement expires on **Month XX, XXXX**. Either party, in writing, may terminate this agreement in whole or in part at any time before it expires. The applicant is responsible for all Forest Service costs covered by this agreement that are incurred up to the date of expiration or termination.

12. Principal Point of Contact. The Forest Service and the applicant shall each establish a principal point of contact for purposes of this agreement.

The Forest Service's contact is **Lands Special Use Administrator, (541) 383-4025**

The applicant's contact is **Patrick Griffiths, (541) 317-3008**

This agreement is accepted subject to all its terms and conditions.

Paul Rheault
Utility Director
City of Bend

Date

JOHN ALLEN
Forest Supervisor
USDA, Forest Service

Date

EXHIBIT E

Figure 13. Reaches and sub-reaches within the Bridge Creek Water Supply Project.

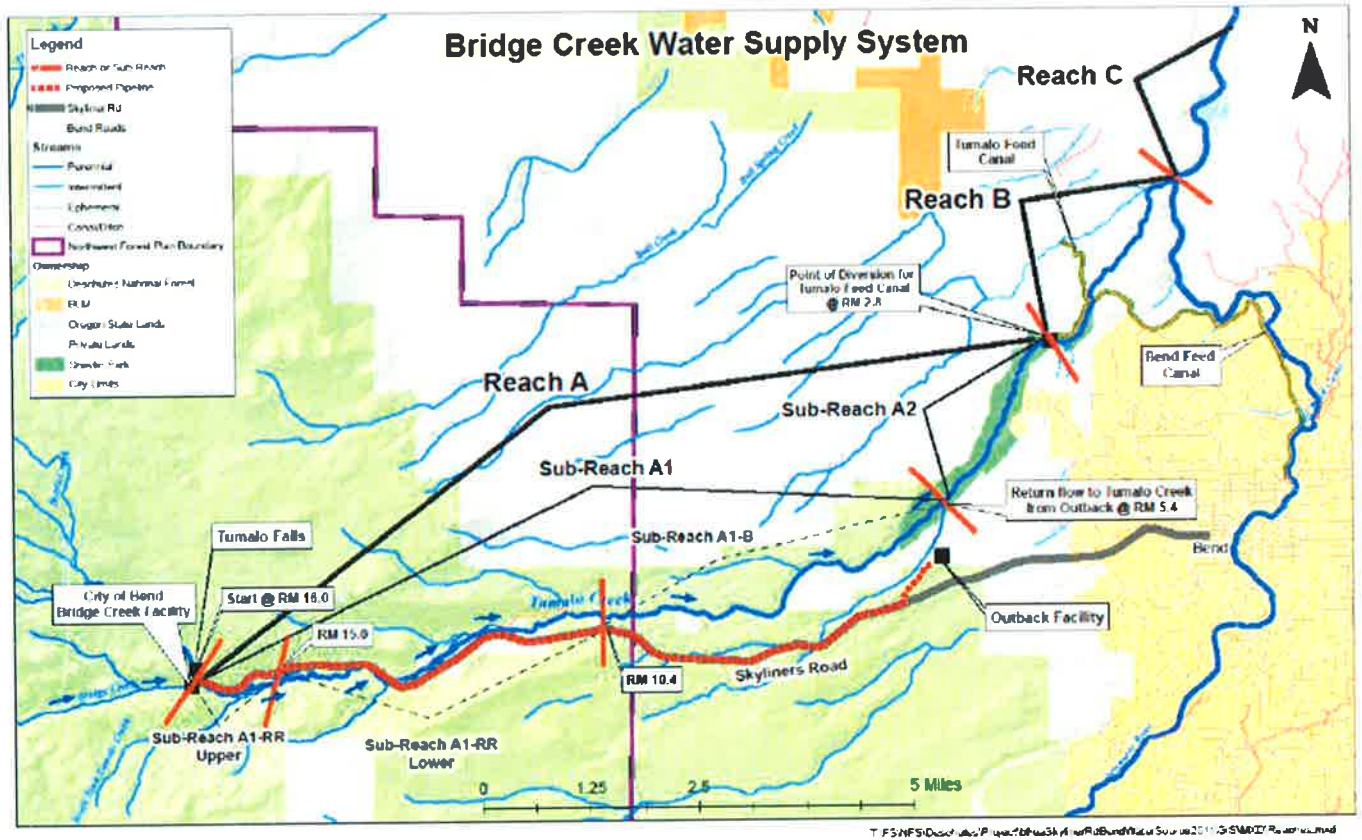


EXHIBIT F

Ramping Rates Determination for the City of Bend Bridge Creek Water System

7/28/17

Tom Walker, Deschutes National Forest

I. Introduction

Operation of the City of Bend Surface Water System now allows flow control at the Bridge Creek intake diversion to meet municipal demand (new system began operations in April, 2016). Previously, 18.2 cfs was continually diverted with no capacity for adjustment, other than to infrequently close off the system for maintenance. The maximum diversion with the new system under Special Use permit from the Deschutes National Forest is limited to 18.2 cfs. The City will often operate the system at less than 18.2 cfs, resulting in more instream flow within Bridge Creek and Tumalo Creek below the junction of the two streams. The City would typically operate the system with little fluctuation in intake diversion rates. A guiding principle is to run the plant consistently and continuously, with a goal to never shut down. An operating goal is to run the Bridge Creek system much more uniform than the fluctuating rate of water use in the city, utilizing storage in tanks at the Outback site (City of Bend, 2016).

Periodic equipment maintenance or failures may require a shut down and restart of the intake under abnormal conditions. Complete shutdown would result in 0 cfs diversion and more discharge into Bridge Creek and Tumalo Creek below the diversion, and the re-start of the system would decrease discharge in Bridge Creek and Tumalo Creek. The maximum change in discharge in Bridge Creek and Tumalo Creek below the diversion intake would either be an increase or decrease of 18.2 cfs. Rapid decreases in discharge are of the most concern for adverse effects to fish. The Forest Service has been tasked with working with the City on developing ramping rates for operations of the Bridge Creek system. The redband trout population, a Region 6 Forest Service and State of Oregon sensitive species, is the species of concern when considering ramping rates. Redband trout in Bridge Creek are more vulnerable than in Tumalo Creek, considering it is a much smaller stream with more pronounced habitat changes expected with any rapid changes in discharge.

Long term habitat quality is not of concern with the determined ramping rates with this system, as more discharge into Bridge Creek would likely benefit redband trout habitat. An instream flow analysis using the Physical Habitat Simulation Model (PHABSIM) with Habitat Duration Analysis (HAD) determined redband trout habitat would be improved with more flow within Tumalo Creek. Similar results would likely be found within Bridge Creek.

II. Ramping Rate Determination for Operations

The conditions set forth below address the 4 primary factors for effects to trout from flow fluctuations: ramping rate, timing (seasonal and diurnal), frequency (unknown but abnormal), and amplitude (maximum of 18.2 cfs down-ramping or up-ramping).

The largest concern to fisheries from operation of the Bridge Creek system is the potential to strand redband trout juvenile fish, especially newly-emerged fry, within the 0.22 mile reach of Bridge Creek below the intake diversion when diversion rates are increased significantly and at a rapid rate. The greatest potential for stranding would occur when the system has been turned off, then turned back on to maximum capacity, reducing the discharge below the diversion by 18.2 cfs. This would typically occur under infrequent, abnormal conditions, such as for maintenance, as it is the intent of the city to operate a reasonably stable intake diversion

rate. Stranding of redband trout in Tumalo Creek is of less concern with sudden increases in diversion based on the small change in stage exhibited during a field study conducted on Bridge and Tumalo creeks. Accretion of flows from tributary streams and springs continues to temper stranding potential in a downstream direction in Tumalo Creek.

The Forest Service will work with the City on ramping rates to protect redband trout under an Adaptive Management approach. Future cooperative research will likely include additional field study of changes in stage in Bridge and Tumalo Creeks with changing diversion rates at the intake facility, and monitoring of redband trout populations in Bridge Creek and Tumalo Creek. As the City becomes more experienced and knowledgeable on system operations and capabilities, the ability to adjust ramping rates to accommodate redband trout will become improved.

A literature review on effects to trout from ramping discharge was conducted by the Forest Service. Findings from the literature review were used to develop ramping rate objectives listed below. These objectives may not be achievable initially, but may become attainable as experience is gained in operating the new operating system. The objectives may be adjusted over time under the adaptive management approach. These objectives pertain only to abnormal conditions when the intake at Bridge Creek is shut down for maintenance, and not daily operations under normal operating conditions.

Down-Ramping Diversion Rate Under Abnormal Conditions

Down-ramping occurs when the diversion rate at the intake is increased and discharge in Bridge Creek and Tumalo Creek below the intake is decreased, with the potential to strand redband trout along the margins. Abnormal conditions would occur when the system is completely shut down (maintenance, emergencies) with a subsequent restart. The ability to store water at the Outback site and the flexibility of using groundwater wells alleviates some of the concern for the City of Bend in continuing to deliver water during temporary shut downs or reduced intake diversion capacity. The field study demonstrated that there is approximately 4 inches (0.33 feet) difference in elevation between no diversion and maximum diversion within Bridge Creek below the intake facility. To mimic ramping rates for redband trout determined from the literature review, strive to meet the following objectives:

(A) November 1 through June 30th

- During this period there will be none or very few newly emergent redband trout fry present. Juvenile redband trout will be greater than 40 mm and have increased swimming ability and are less susceptible to stranding.
- Attempt to increase diversion rates at the intake that result in a stage change in Bridge Creek of 2 inches or less/hour. Under a scenario of no diversion, then re-starting the system to maximum capacity of 18.2 cfs (8167 gpm) would therefore be conducted at a reasonably consistent rate over a two hour period, recognizing that a minimum amount of approximately 3000 gpm diversion is needed initially to charge the system and treatment facility. Avoid turning system back on after shutdown (down-ramping) during the *day* if feasible between November 1st and April 15th, as juvenile trout may seek concealment under the substrate along stream margins in the day during winter months.

(B) July 1 through October 31

- During this period newly emergent fry (<40 mm length) will be present. Due to poor swimming ability, this life stage is susceptible to stranding along stream margins during down-ramping.

- Attempt to increase diversion rates at the intake that result in a stage change in Bridge Creek of 1 inches or less/hour. Under a scenario of no diversion, then re-starting the system to maximum capacity of 18.2 cfs (8167 gpm) would therefore be conducted at a reasonably consistent rate over a four hour period, recognizing that a minimum amount of diversion of approximately 3000 gpm is needed initially to charge the system and treatment facility.

Up-Ramping Diversion Rate During Abnormal Conditions

Up-ramping occurs when the diversion at the intake is shutdown, resulting in an increase in discharge in Bridge Creek and Tumalo Creek below the intake.

(C) During High Stream Flow Events

- Avoid planned maintenance if feasible during high stream flow events to avoid potential adverse effects to channel conditions, or trout spawning and fry emergence from up-ramping when intake is shut down.

(D) All Year

- Although stranding is not an issue during up-ramping, strive to meet the same ramping rate as described in A above (shut down intake over two hour period) during up-ramping, unless an emergency requires immediate shutdown. This rate is likely within the natural rates of diurnal fluctuation that redband trout are adapted to.