

RESOLUTION NO. 2933

A RESOLUTION STATING COUNCIL'S POLICY AND COMMITMENT TO INCREASING FLOWS IN TUMALO CREEK AND LIMITING THE RATE OF DIVERSION FROM BRIDGE CREEK

FINDINGS

- A. The City has applied for Special Use Permits (SUPs) from the United States Forest Service for construction and operation of a water pipeline to replace the deteriorating water transmission pipes from its Bridge Creek surface water point of diversion to the City's Outback treatment and storage site.
- B. The City of Bend is committed to developing and cultivating a sustainable future water supply for its community and wisely managing the related resources upon which its environmental, social and economic health rely.
- C. The Bend City Council shares the citizens' values of a healthy environment and the preservation of our natural resources and therefore unanimously supports a dual water supply system to minimize impacts to any single water source and to enhance preservation of all water sources within the City's service area.
- D. The City Council recognizes that the City of Bend is the largest municipality within the Upper Deschutes Basin and is in a position to assist in regional and state water management coordination efforts. In particular, the City of Bend is taking steps to improve habitat and water quality in rivers and their tributaries flowing into the lower Deschutes for the benefit of fish and the regional environment and is working to identify additional conservation and enhancement measures in which it can participate.
- E. The City of Bend must find approaches that balance the use of natural resources with other goals of securing the livability of our city, and managing water resources in a fiscally responsible manner, with a vision and plan for stewardship of the resource into the future. Furthermore, while considering the residential, business, fireflow and economic needs of its customers, it is the City's responsibility, as a water utility, to protect the environment.
- F. The City also recognizes the importance of stream temperature and flow for Tumalo Creek. The Forest Service Environmental Assessment (EA) finds that the City's new water management system will allow the diversion rate to match demand, and eliminate return flows from the Outback site to Tumalo Creek, resulting in more in-stream flow for certain parts of the creek, particularly during winter months. The US Fish and Wildlife confirmed an earlier survey showing no bull trout in Tumalo Creek. The EA shows no changes to flows to Reach B (the reach below Tumalo Irrigation District's Diversion), and no downstream effects on fish habitat or channel processes on the Deschutes River from the project. When diversion rates are less than 18.2 cfs, the additional stream flow would benefit habitat for redband trout. The reduction in risk of pipe failure is an additional benefit.
- G. The City Council acknowledges the importance of the mission of the various non-profit groups working collaboratively in the basin such as Deschutes River Conservancy (DRC), Trout Unlimited (TU), the Upper Deschutes Watershed Council (UDWC) and

each provides a critical role in communicating that water is a shared resource and as such must be managed from a broad perspective.

H. The City of Bend shares these organization's goal of restoring healthy flows to Reach B of Tumalo Creek and is committed to taking a leadership role in discussions with Tumalo Irrigation District (TID), and achieving targeted in stream flows for Tumalo Creek as best represented by the 1990 certificated instream water rights held in trust by the Oregon Water Resource Department. Council believes this could be done through helping develop a match program for funding the restoration of Tumalo Creek.

I. After being issued an SUP in July of 2012, the City submitted a new application on December 12, 2012. The City Council expressly authorized and directed staff to submit the new application with a limitation on the conveyance of water through the new pipe to a maximum diversion rate of 18.2 cfs. The City Council is committed to this planned supply operation, and understands the cost/benefit of reducing the proposed diversion maximum rate from 21 cfs.

J. The Forest Service's EA and Decision Notice and Finding of No Significant Impact expressly state the SUP for operation of the Surface Water Project will be limited by an instantaneous rate of diversion up to municipal demand, up to a maximum of 18.2 cfs. The City accepts this condition.

K. The City has agreed to this limitation even though its water rights already limit its withdrawals from the Creek. The City has surface water rights from Bridge Creek and Tumalo Creek, which authorize a combined maximum rate of diversion for 36.113 cfs (21 cfs in non-irrigation and 36.113 during the irrigation season). However, these rights are complex, and are subject to availability based on the flow of the creek, seniority of existing water rights issued from the creek, annual volumetric limits within some of the rights, season of use limitations, and regulation by the State of Oregon. The 18.2 cfs limitation will act as an additional "cap" on municipal demand.

THE CITY COUNCIL OF THE CITY OF BEND RESOLVES AS FOLLOWS:

Section 1. The instantaneous flow rate diverted from Bridge Creek point of diversion shall be no greater than the demand for municipal use as provided for in the Forest Service EA for the project, up to a maximum of 18.2 cfs. US Forest Service EA, dated April 10, 2013, revised July 24, 2013. This is not a temporary limitation; it is an enforceable condition of the SUP. Staff is directed to take all actions necessary to implement, enforce and maintain this limitation consistent with the Forest Service decision.

Section 2. City Council acknowledges that this limitation is also being adopted by ordinance.

Section 3. The City will respond to the concerns about flows in Tumalo Creek by continuing its integrated, region-wide effort, consistent with the City's policy objective of protecting and maintaining the ecological integrity of the Tumalo Creek Watershed as a key sub-watershed of the larger Deschutes Basin. Actions under the City's control should carefully consider this policy direction in the City's role as a water utility, to include collaboratively working with TID and other appropriate partners on seeking

additional funding sources for restoring Tumalo Creek, including the match fund program.

Section 4. The City of Bend approves and supports using collaborative processes to forward the development and implementation of water allocation and management strategies for Tumalo Creek that restores and protects in-stream values while respecting existing water rights and strive to meet current and future water demands in a balanced, economically viable, and sustainable manner. Bend supports working cooperatively with irrigation districts, non-profit agencies, tribes and other stakeholders to promote a balanced approach.

Adopted by roll call vote of the Bend City Council on December 13, 2013.

YES:	Mayor Jim Clinton	NO: none
	Councilor Jodie Barram	
	Councilor Scott Ramsay	
	Councilor Mark Capell	
	Councilor Victor Chudowsky	
	Councilor Doug Knight	
	Councilor Sally Russell	



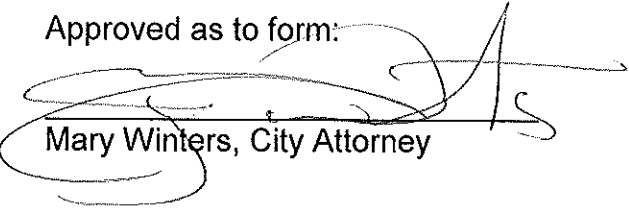
Jim Clinton, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney