



# R & E Grant Application 21-23 Biennium

Project #: 21-018  
Amendment #: 2

## *Little Butte Creek Streamflow Restoration Project*

### ***Project Information***

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**Requested Cycle:** 21-2  
**R&E Project Request:** \$152,500  
**Other Funding:** \$464,828  
**Total Project:** \$617,328  
**Spending Start Date:** 1/1/2022  
**Spending End Date:** 6/30/2023  
**Project Start Date:** 7/1/2019  
**Project End Date:** 6/30/2023  
**Organization:** Trout Unlimited (Tax ID #: 38-1612715)

### ***Fiscal Officer***

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**Name:** Dawn Elzy  
**Address:** 1777 N Kent Street, Suite 100  
Arlington, VA 22209  
**Telephone:** 541-450-4679  
**Telephone 2:**  
**Fax:**  
**Email:** dawn.elzy@tu.org

### ***Applicant Information***

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**Name:** Chrysten Rivard  
**Address:** 1777 N Kent St  
Arlington, VA 22209  
**Telephone:** 541-973-4431  
**Email:** chrysten.rivard@tu.org

### ***Past Recommended or Completed Projects***

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This applicant has no previous projects that match criteria.

## **Location Information**

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### **Where is it?**

The project will occur on private land owned or managed by another party

### **Landowner Information**

**Name:** Butte Creek Mill Foundation  
**Affiliation:** Cooperator  
**Address:** PO Box 957  
Eagle Point, OR, 97524  
**Phone:** 541 690 5356 (Jay O'neil; Board Chair)  
**Email:** jay@buttecreekmill.com

### **Site Description**

*Street Address, nearest intersection, or other descriptive location.*

402 North Royal Ave, Eagle Point, OR 97524

*Directions to the site from the nearest highway junction.*

From Medford, head north on Hwy 62 Medford to Eagle Point. Turn right on old Hwy 62 and continue for 0.5 miles to Royal Ave. Continue right and travel approximately 1 mile to the Butte Creek Mill on the right hand side.

*Following project completion, public anglers will be allowed the following level of access to the project site:*

No access

*Please describe what leases, easements, agreements are in place to ensure angler access to the project site, and what is the length of each agreement.*

This project is proposed to occur on the Little Butte Creek mainstem which is closed to fishing year round

*Dominant Land Use Type:*

Urban industrial/commercial

### **Project Location**

*General Project Location.*

**County:** JACKSON  
**ODFW Dist:** Rogue  
**Stream/Lake/Estuary Name:** Little Butte Creek  
**Sub-basin:** 17100307  
**Tributary of:** Rogue River

*Specific Project Location.*

Latitude	Longitude
42.47411	-122.79804

## **Project Summary**

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### **Project Summary**

*Please provide a couple sentence summary of the proposal.*

TU proposes to enhance streamflow for anadromous fish by purchasing an important water right to prevent its cancellation. This includes transferring a portion of that right instream and allowing the remainder for its historic use – a use critical for maintaining flow in 12 miles of Little Butte Creek.

### **Overall Project Goals**

*Describe the primary goals or outcomes of the entire project, including elements not requesting funding from R&E.*

Goal 1: provide improved upstream passage for Fall Chinook in an 1800 foot de-watered stream reach

Goal 2: improve rearing conditions for juvenile fishes in an 1800 dewatered stream reach

Goal 3: protect over 12 miles of Little Butte Creek from potential dewatering due to cancellation of an important water right

### **Primary objectives of R&E funding**

*Please describe the measurable objectives for the R&E portion of the funding request.*

Using OWRD's water right transfer process, create a new instream water right by transferring to instream uses a portion of water right C86767 (6.63-8.4 cfs; varies seasonally).

After instream transfer TU purchases remaining portion of C86767 (16 cfs).

TU allows continued historic use of C86767 (after instream transfer) at the Butte Creek Mill to protect water right from cancellation and per terms of Water Use Agreement

### **Current Situation/Justification**

*Please describe the current situation and explain why this funding is needed.*

Little Butte Creek is very important for spawning salmonids (largest producer of smolts in the upper Rogue) and this project will secure extremely valuable streamflows that are currently present at the site, but at high risk of cancellation or sale to consumptive users. Funding will support streamflow restoration and fish passage on Little Butte Creek and re-opening of the historic Butte Creek Mill, one of the last hydropower grist mills in the US, through purchase and management of the Mill's water right (C86767).

The Mill burned down in 2015 and the former owner sold the property to the Butte Creek Mill Foundation which has nearly completed rebuilding the Mill to historic standards. However, ownership of the Mill's water right was retained by its prior owner, who wants to sell the water right either to a conservation interest, or irrigation or municipal interests to expand their water supply. TU has consulted with OWRD and verified that Mr. Russell was able to sell the Mill and keep the water right. To protect C86767 from cancellation or sale to consumptive users and ensure sufficient water for native fish species, TU developed a solution emphasizing benefits to anadromous fish through streamflow restoration and protection.

### **Recreation and Commercial Benefit**

*This project will provide benefits to:*

Recreational fisheries

## Commercial fisheries

*Explain how this project will contribute to current (and/or potential) fishing opportunities, access, or fisheries management.*

This project will improve angler experience and success on the Rogue River by supporting and enhancing recruitment into Rogue fisheries and maintain the viability of Rogue salmon and steelhead fishing for generations to come. In particular, this project will increase Fall Chinook production, benefitting freshwater recreational, saltwater recreational and commercial fisheries. In the Rogue, Fall Chinook provide a thriving fishery from Gold Beach to Gold Hill and are almost all naturally produced fish. Furthermore, Steelhead produced in LBC contribute to catch and release angling as half- pounders on the lower and middle Rogue. Returning to the river to feed after only a few months in the ocean, these fish provide a very popular fishery in summer and fall. Also, adult Steelhead produced in LBC contribute to the river fishery both as a catch and release fishery for Summer Steelhead with opportunity to harvest wild Winter Steelhead seasonally.

Data prepared by Dean Runyan and Associates estimates 13,000 recreational saltwater salmon trips in 2008 in the South Coast travel region. It also estimates 45,000 combined recreational salmon and steelhead freshwater trips in the South Coast and Southern travel regions (2009. Dean Runyan and Associates. Fishing, Hunting, Wildlife Viewing, and Shellfishing in Oregon).

*Percent benefit split between Commercial and Recreational anglers:*

40 % Commercial

60 % Recreational

*Please explain, or justify, how the percentage split was determined:*

Steelhead, Coho and Chinook Salmon are the primary species that will benefit from this project's implementation. These provide very popular Rogue mainstem sport fisheries and, ultimately, this project leads to increased natural recruitment into fishable populations supporting these fisheries from Gold Beach to Little Butte Creek. These fisheries are described in the prior response. Additionally, Chinook commercial fisheries benefit. Per communication with Rogue District Biologist Dan VanDyke, this project most definitely benefits commercial ocean fisheries. Rogue Chinook rear of the coast of Oregon and California, unlike other Oregon Chinook stocks. Therefore, Rogue contributions to ocean fisheries help support and increase the southern component and extent of Chinook distribution off the Oregon Coast, thus supporting commercial fisheries in these areas. TU has estimated a 40/60 split (commercial/recreational) primarily due to the number of recreational fisheries that are supported in the freshwater mainstem Rogue (adult Coho, adult Summer and Winter Steelhead and half pounders Steelhead).

*This project has been identified as an ODFW priority for:*

Local/watershed

Basin/regional

*Does this project directly support implementation of the ODFW Strategic Plan and/or current Fish Division priorities?*

Yes

ODFW's Conservation Plan for Fall Chinook Salmon in the Rogue SMU (ODFW, January 2013).

The plan states:

"passage at small dams is hindered by low flows while passage is more successful at greater flows" (p.50)

"ODFW ... supports efforts to increase summer flow through ... transfer of water rights" (p.128)

*Please briefly explain when this was identified as a priority and what process or workgroup was used to identified this as an ODFW priority.*

ODFW's Rogue Fall Chinook Conservation Plan workgroup identified low flows as barriers to migrating adults. Furthermore, ODFW's Oregon Conservation Strategy identifies low stream flows as a limiting factor to fish population health.

*Identify any plan or other document that identifies this priority.*

SONCC Coho Recovery Plan (NOAA 2014; updated 2017)

<https://www.fisheries.noaa.gov/resource/document/final-recovery-plan-southern-oregon-northern-california-coast-evolutionarily>

Oregon Conservation Strategy. ODFW (2016)

<https://www.oregonconservationstrategy.org/>

Rogue Restoration Action Plan (Rogue Basin Partnership, 2015)

<https://roguebasinstorymap.org/our-plan/>

*Is this project part of an approved Salmon-Trout Enhancement Program (STEP) activity?*

No

*This project is intended to benefit the following species:*

Fall Chinook Salmon

Coho Salmon

Lamprey

Winter Steelhead

Summer Steelhead

*This project will benefit anglers or fishery by providing:*

Habitat Enhancements

Fish Passage

#### Habitat Enhancements

*The primary purpose of this project is to improve/increase:*

Flow and/or connectivity

Water quality

Fish passage

#### Fish Passage

*This fish passage project will:*

This project will help address a partial fish passage barrier caused by artificially low stream flows.

*We have contacted or have been working with:*

Local ODFW staff

The project has received approval

### ***Project Description***

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#### Schedule

Apply to OWRD for Instream Transfer of 6.63-8.4 CFS from C86767	Q1 2022	Yes
Develop appropriate legal documents to transfer ownership of the remaining 16 cfs of C86767 from Mr. Russell to TU	Q1/2 2022	No
Create legal contract between Butte Creek Mill and TU by formalizing signed Water Use Agreement	Q3 2022	No
Update Appraisal (required by other funders)	Q1 2023	Yes
Recording of appropriate documents with Jackson County and payment to seller upon issuance of the Final Order from OWRD approving the instream transfer	Q2 2023	Yes

### Permits

Permit	Secured?	Date Expected
The only required permit will be an instream transfer application to OWRD leading to a new instream water right.	No	Q1 2023

### Project Design and Description

*Please describe in detail the methods or approach that will be used to achieve the project objectives.*

Little Butte Creek and the Butte Creek Mill are in the upper Rogue Basin near Eagle Point, OR. This project complements a series of prior investments in fish passage, instream flow, and habitat conditions in Little Butte Creek (some of which were funded by R&E) and will help to provide resilience into the future as climate conditions change. Specifically, in 2019 TU completed a related instream transfer funded in part by ODFW's R&E Program (grant# 19-009) on the South Fork of Little Butte Creek; and in 2005, R&E funded a retrofit of the fish ladder at the Butte Creek Mill Diversion Dam, the location of this proposed instream transfer. Additional projects funded by R&E include fish ladder construction on Walcott Dam and fish screening on Lost Creek (LB tributary) in 2018 and investments in ODFW's 2011 Little Butte Creek Meander Restoration Project on Denman Wildlife Area. Many other projects funded by multiple other entities have been implemented in Little Butte Creek since the 1990s, demonstrating the importance of this watershed to Rogue River fisheries.

TU's current proposal involves streamflow restoration at the Butte Creek Mill. The Mill is owned by the Butte Creek Mill Foundation (BCMF) which purchased the Mill after it burned down in 2015. However, ownership of the water right used to operate the Mill (C86767) has been retained by its prior owner, Mr. Bob Russell. C86767 is a large and senior water right with an 1872 priority date that is located low in the LBC system. The 1872 priority date means this right is senior to most all other rights in the Little Butte system and that means it is always fulfilled – other water users, usually agricultural users, are regulated so that this right is met. In other words, enough water must flow all the way down through the Little Butte system, past two large industrial irrigation district diversions to meet this right. If the right were cancelled or sold to other users, flows in LBC could be reduced to levels too low for fish passage during much of the summer and LBC could be nearly dry for a 12 mile reach, including through the City of Eagle Point.

C86767 is a very large water right with an allowable water diversion rate that ranges from 22.63 - 24.4 cfs during the irrigation and non-irrigation seasons, respectively. Also, it is a non-consumptive water right which means water diverted for milling purposes returns to the creek after use, although there are reduced flow conditions in the 1800ft reach between the intake and outflow, which this project seeks to ameliorate.

Trout Unlimited seeks funding to: 1) transfer a portion of the water right (6.63 - 8.4 cfs; irrigation and non-irrigations seasons, respectively) permanently instream, and; 2) to buy the remainder of the water right (16 cfs) from Mr. Russell for use at the Mill per the terms of a Water Use Agreement between TU and BCMF. This agreement has been uploaded with this application.

Importantly, the agreement states that in the event that the Mill fails to use or to sustain beneficial use of the water right, the 16 cfs will be leased or permanently transferred instream to protect the fishery values of Little Butte Creek. At the end of the project, the State of Oregon will hold the newly created instream water right of 6.63 - 8.4 cfs and Trout Unlimited will hold the remainder of C86767 (16cfs) for use at the Mill until the Water Use Agreement dictates otherwise. We believe the proposed instream water is sufficient to meet minimum fish passage flows at the Mill's diversion dam and assure year round fish passage through this reach and into the headwaters of the LBC system.

Both the instream transfer of 6.63 - 8.4 cfs and the retention of 16 cfs for use at the Mill have great benefit to anadromous fish in Little Butte Creek - perhaps most importantly to Fall Chinook Salmon, though Summer and Winter Run Steelhead and ESA listed Coho Salmon also benefit. Without implementation of TU's proposal, the water right would be retained by Mr. Russell (who has no stake in the Mill) and potentially become subject to forfeiture and cancellation due to non-use (if a water right goes unused for 5 years, it can be cancelled). Therefore, it is important to act now to permanently secure this important water supply for the native fishes of Little Butte Creek and the fisheries they support. If C86767 were cancelled due to non-use, the Mill may never re-open and upstream water withdrawals (including two large irrigation districts) could severely de-water up to 12 miles of Little Butte Creek upstream of the Mill since there would be no senior downstream right holder to call for water as has been the case since Little Butte Creek water rights adjudicated. In fact, the Medford Water Commission (MWC) contracted an independent evaluation regarding acquisition of all or a portion of Certificate 86767, for instream transfer to Little Butte Creek. That independent evaluation, completed by GSI Water Solutions, Inc. is attached to this application. It finds that as little as 5 cfs could remain in the Little Butte mainstem if C86767 were to be cancelled compared to approximately 22-24 cfs that currently remains in the creek to serve the Mill. Thus, C86767 is a lynchpin in the Little Butte Creek water right system – one that simultaneously provides economic, social and environmental benefits. However, that longstanding lynchpin in this water system is currently in jeopardy. To protect it and ensure water for native fish species, TU initiated and developed discussions directly with stakeholders and arrived at a solution that satisfies all stakeholders and is proposed in this application.

Furthermore, it is important to understand how water is used at the Mill to understand the significance of the instream transfer portion of the project. Historically, the Mill diverted its full allowable rate (22-24 cfs; varies seasonally) to sustain milling operations. The Mill's water conveyance system is as follows: at the point of diversion for C86767 located approximately 1800 feet upstream of the Mill on Little Butte Creek, water is diverted into an earthen ditch that feeds the Mill. After use in milling operations all flow returns to Little Butte Creek. This results in an 1800 foot stream reach that is severely de-watered during critical summer and fall months is a barrier to fish passage – especially Fall Chinook. However, while tragic and catastrophic, the 2015 fire provides us an opportunity for improvement. After re-building, the BCMF has quantitatively determined, with assistance from hydropower engineers at Pacific Power, that the Mill needs only 16 cfs year round to operate at full capacity. The remaining 6.63-8.4 cfs of water allowed for diversion under C86767 can now be transferred instream and become a new water right of its own – one that maintains the 1872 priority date of the originating right, thus helping to address the passage barrier to Fall Chinook that has been present for decades.

The selling price of the water right of the water has been determined through years of negotiation and is well within the water right's currently appraised value (appraisal attached). The appraised range has been estimated at \$490,000 to \$676,000. The agreed upon selling price is \$591,990. The details of the transaction, including the instream transfer of a portion of C86767 and the transfer of ownership from Mr. Russell to TU are detailed in the attached Option Agreement signed by TU and Mr. Russell.

The instream transfer of 6.63-8.4 cfs will be accomplished through a transfer application to Oregon Water Resources Department (OWRD). This will be completed while Mr. Russell still owns the water right. The legal mechanism that will change the water right's type of use from "industrial" to "instream" is a water right transfer. TU will prepare and submit a water right transfer application to OWRD for transfer of 6.63 – 8.4 cfs of C86767 to instream uses. OWRD will review and rule on the application. Based on TU's extensive experience with instream water right transfers, TU believes that OWRD will rule to approve the application thus resulting in a new water right located immediately downstream of the Mill's point of diversion. This new water right will ensure at least 6.63-8.4 cfs remains in the 1800 foot dewatered reach since there are no other water withdrawals in that reach. Enforcement of this instream water right will be simple for the watermaster due to the existing real-time gages on the system which allow the flow of the Creek and diversion into the Mill's raceway to be checked via computer. Further, the Medford Water Commission, City of Eagle Point, and conservation interests all have a vested interest in assuring that these flows are properly protected instream in this reach. ODFW and OWRD are currently collaborating to improve monitoring and enforcement of instream water rights.

Next, upon completion of the instream transfer process and issuance of a new instream water right certificate, TU and Mr. Russell will execute the remainder of the Option Agreement where Mr. Russell sells the remainder of C86767, 16 cfs, to Trout Unlimited. Mr. Russell will be paid in lump sum for both actions – the instream transfer and the sale of the remainder C86767. The deed to the Butte Creek Mill will be amended and re-recorded with Jackson County to add language that the water right appurtenant to the Butte Creek Mill is now owned by TU per execution of the Option Agreement between Mr. Russell and TU. At that point, the water right becomes available for use by the BCMF per terms outlined in the attached Water Use Agreement between BCMF and TU. This agreement will be formalized and signed, and recorded with Jackson County – a process that TU and the BCMF intend to complete concurrent with issuance the new instream water right certificate and payment to Mr. Russell. A portion of funds requested in this application will cover costs for legal support to ensure desired outcomes are realized.

Finally, as previously described, preventing C86767 from being cancelled ensures flow in the mainstem of Little Butte Creek for over 12 miles. It is also important to note that upon completion of this transaction and in the event the Mill fails to use or sustain beneficial use of the water right, TU can lease or permanently transfer instream C86767 per the terms of the aforementioned Water Use Agreement to protect the fishery values of Little Butte Creek. As such, this water management lynchpin in Little Butte Creek is permanently protected. While the price of purchasing very senior water rights is high, it is critical to complete projects like these given the overallocation of water in our streams that are critical for both commercial and recreational fisheries.



### Engineering

*Does the project involve capital improvement, engineering, site grading or other construction?*

No

### Project Management and Maintenance

*What is the life expectancy of R&E funded construction, structures, equipment, supplies, data or fishery?*

The instream flow benefits of this project are permanent and require no maintenance.

*Who is responsible for long term management, maintenance, and oversight of the project beyond what is funded by R&E.*

Trout Unlimited will be responsible for ensuring that the instream water right is being realized as approved by OWRD.

Monitoring will be completed using OWRD operated remote, near real time gauges on Little Butte Creek and in the Mill's conveyance ditch. OWRD gauge station 14347798 measures the rate of flow diverted into the Mill's ditch. Using this gauge, we can track in near real time, how much water the Mill is diverting. OWRD gauge station 14347800 measures the rate of flow in Little Butte Creek just downstream of the Mill's POD in the 1800 foot dewatered reach. If the flow at this gauge meets or exceeds the instream right, then no additional measuring is necessary. If the flow at this gauge is less than the instream right, TU will coordinate with the watermaster to take appropriate action.

*Will the project require ongoing maintenance?*

No

*Is there a plan to collect baseline data and to conduct monitoring efforts to measure the effectiveness of the project?*

No

### Project Funding

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#### Funding

*Have you applied for OWEB funding for this project?*

No

*Has this proposal, or similar proposal for this project location, previously been denied by OWEB or other funding source?*

No

Other Funding Source	Type	Secured	Dollar Value	Comments
Oregon Water Resources Department	Cash	Pending	459828	Trout Unlimited has applied to OWRD's Water Project Grants and Loans Program. Decisions are expected in Fall 2021
Medford Water Commission	Cash	Secured	5000	
		Total	464828	

## Budget

Item	Unit Number	Unit Cost	In-kind or non-cash contributions	Funding from other sources	R&E Funds	Total Costs
PROJECT MANAGEMENT						
Chrysten Lambert - TU Oregon Director	0	74.75	0	4335	5000	9335
		SUBTOTAL	0	4335	5000	9335
IN-HOUSE PERSONNEL						
Chrysten Lambert - TU Oregon Director	0	74.75	0	4335	0	4335
		SUBTOTAL	0	4335	0	4335
CONTRACTED SERVICES						
Westwater Research - Update Appraisal	0	0.00	0	1000	0	1000
Legal Counsel - Water Right Ownership Transfer Documents Development	0	0.00	0	5000	0	5000
OWRD Transfer Application Fees	0	0.00	0	0	0	0
CWRE fees (mapping required for OWRD app)	0	0.00	0	2000	0	2000
Payment to Seller	0	0.00	0	446990	145000	591990
		SUBTOTAL	0	454990	145000	599990
TRAVEL						
			0	0	0	0
		SUBTOTAL	0	0	0	0
SUPPLIES/MATERIALS						
			0	0	0	0
		SUBTOTAL	0	0	0	0
EDUCATION/OUTREACH						
			0	0	0	0
		SUBTOTAL	0	0	0	0
EQUIPMENT						
			0	0	0	0
		SUBTOTAL	0	0	0	0
FISCAL ADMINISTRATION						
Admin charged to OWRD application	0	0.00	0	1168	2500	3668
		SUBTOTAL	0	1168	2500	3668
		BUDGET TOTAL	0	464828	152500	617328

## ***Internal Review Results***

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**Review Score:** 2.5 out of 3

(0 = Do Not Fund, 1 = Strengthen Proposal, 2 = Recommend, 3 = Strongly Recommend)

### ***Summary of Review Team Comments***

The review team was supportive since this priority project in the Rogue Basin will provide a direct benefit to runs that support popular fisheries. It is good project to secure flows in the top smolt producing tributary of the Rogue. While the team did have some questions for the applicant, the overall project was worthy of a higher score including four 3s and four 2s.

### ***Specific Review Team Comments***

Please make sure to clearly identify and explain the following. Little Butte Creek is very important for spawning salmonids (largest producer of smolts in the upper Rogue) and this project would secure extremely valuable flows that are currently present at the site. Securing this mid 1800s senior right will prevent it from being sold to a consumptive use which would reduce flows and directly harm runs in the Rogue. This priority project complements work already undertaken to improve fish passage, flow, and habitat conditions in Little Butte Creek (some funded by R&E) and will help provide resilience into the future as climate conditions change.

There was concern that even though this is a senior water right, it will not matter if the right is purchased and there is minimal enforcement or monitoring of the flows. Please make sure to explain that multiple entities (2 large irrigators, MWC, City of Eagle Point have vested interest in flows being maintained through this reach. In addition, ODFW water program is currently working with OWRD to improve monitoring and enforcement of in-stream rights.

Seems to be a discrepancy between what the schedule says R&E funds would be used for and what the budget shows.

Does the proposed flow being converted to instream water right meet the minimum fish passage flow for this location? Meaning, is this enough water to maintain flows in the river so the minimum flow required for fish passage is met or exceeded? This acquisition is valuable even if it is not enough to maintain fish passage, however if it is, this is an extremely important opportunity for fish in this stream.

Please provide on-the-ground photos along the reach of this project to show the diversion structure, fish passage parameters, stream flow, use, and other relevant information.

This is a high dollar proposal but that is common for water rights. Purchasing water rights, especially this old of right, for conservation benefits is important because of overallocation of water.

### ***Specific Review Team Questions***

*Is there opportunity to move the POD to reduce the reach that is flow limited?*

The Butte Creek Mill is one of the last grist mills in the US that operates its grinding stones using solely hydropower and its marketing depends on this unique characteristic. The Mill's hydropower is dependent on gravity. The Mill's water diversion is approximately 1600 feet upstream of the Mill itself, creating enough head to turn the grinding stones. If the Mill were to move the diversion downstream, there would not be enough head to turn the stones. If water were to be pressurized by pumping into the ditch, then the Mill would no longer be a hydropower only facility and would also incur additional operation costs from pumping. This is an unacceptable option to Mill managers, making it impossible to move the POD.

*What assurance exists that WRD will follow up with and approve the instream water right request?*

Trout Unlimited believes that WRD will approve the instream transfer as proposed. While there are no guarantees and WRD will not provide assurances for any transfer until they've complete a thorough review of a transfer application, we believe the nature of this transfer will make the administrative review much simpler than other transfers we have completed. Specifically, this water right is a non-consumptive right, therefore WRD will not need to scrutinize the transfer for things like return flows, evapotranspiration rates, and related injury to downstream users - common hang-ups when transferring consumptive water rights, like irrigation rights for example. Furthermore, the 1600 foot reach between the diversion and the Mill has no other water users to consider. Lastly, the 2017 instream lease of the full water right demonstrates its full and beneficial use within the last five years - something required by WRD to complete an instream transfer.

*Do you have any information on the status of the WRD funding, or the likelihood of receiving it?*

To date, we do not have any information on the WRD funding and do not expect to receive any notice until fall of this year. In the event we are not awarded WRD funding, we plan to apply to OWEB's Water Acquisition Program in fall of this year, a grant program we have worked successfully with in past projects.

*Is there a water diversion structure associated with this water right and does this diversion obstruct fish passage? If so, and this water right is abandoned, how will passage be addressed, if at all and associated with this grant application?*

There is a diversion structure associated with C86767. It is a channel spanning concrete dam with a fish ladder. Sponsored by the (former) Rogue Basin Fish Access Team, the dam and fish ladder were retrofitted in 2005 to provide fish passage at the dam. The design was completed by BOR fish passage engineers. ODFW and other agency fish passage engineers provided input and approval for the project. A few years later, the project was damaged by flooding and required repair work. The R&E Program awarded funding to help implement this repair which occurred in 2008. Today, the fish passage project is functioning as designed.

With implementation of the currently proposed project, TU becomes the owner of the remainder of C86767 after the instream transfer of approximately 6.63 - 8.4 cfs (varies seasonally). In other words, TU will own a 16 cfs water right and will allow the Mill to use it. If, at any point in the future and per the terms of the water use agreement (attached), the Mill is unable to operate and TU is allowed to transfer that 16 cfs instream, then that water diversion structure will no longer be necessary. In that event, TU will develop a project to permanently remove the dam.

*It seems counterintuitive for the Medford Water Commission to support a grant that may diminish future water allocation. If you know, could you clarify why Medford Water Commission is partially funding this project.*

MWC is supportive of this project because it helps protect a portion of their water supply in the Rogue River. MWC withdraws from the Rogue downstream of its confluence with Little Butte Creek. When Little Butte Creek flow joins the Rogue, it is no longer protected by any instream rights on Little Butte Creek - it has become Rogue River flow. This project ensures that 22 - 24 cfs remains in the creek for use at the Mill and for the proposed instream water right. Since this is a non-consumptive right, and there are few users downstream of the Mill, the majority of that flow will reach the Rogue. If C86767 were cancelled due to non-use, as little as 5 cfs could remain in the Little Butte mainstem (see "project Design and Description" section for more information) compared to approximately 22-24 cfs that this projects proposes to protect and maintain. To summarize, protecting and maintaining flow in Little Butte contributes to flow in the Rogue and therefore contributes to MWC's municipal water source. Although this contribution is relatively small, MWC is preparing for an uncertain future including municipal growth and

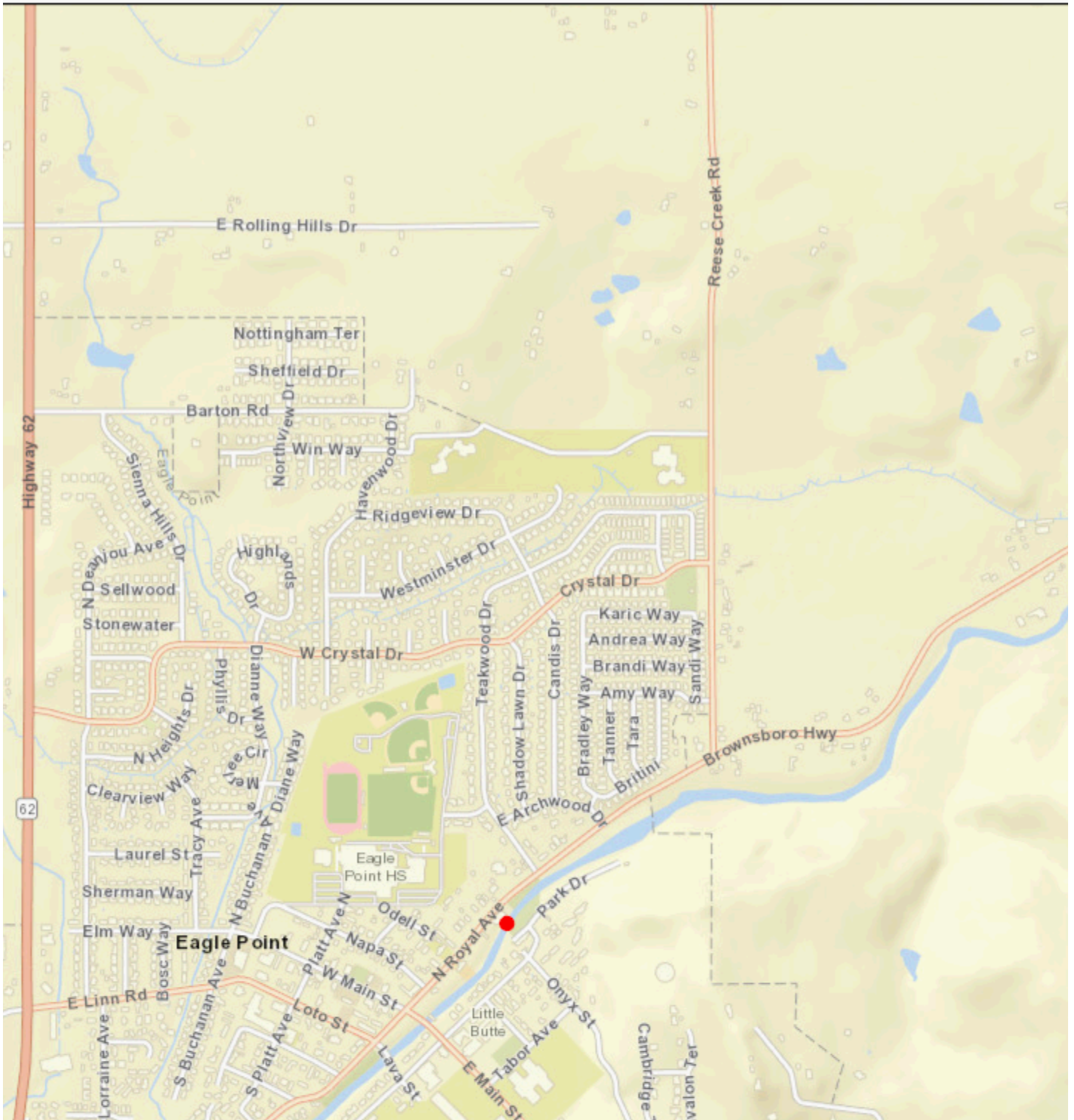
drought.

*If R&E makes this investment, would there be an opportunity to have some information included in the visitor portion of the mill? This could include information on fish, the importance of water, and how angler dollars through R&E were used to help secure the water for the mill and fish? This is a great partnership of NGO, government, and industry to support our fisheries.*

Trout Unlimited and the Butte Creek Mill Foundation (BCMF) are supportive of this idea and plan to pursue it. BCMF has already expressed their interest in including visitor education displays on water, native fish of the Rogue Basin, and the partnership of the Mill with funders and conservation interests to protect Little Butte Creek. The BCMF believes that this information will enhance the visitor experience and they are proud of their commitment to being good stewards of the Creek and fishery.

In addition, the City of Eagle Point is also supportive of this project and owns a facility approximately 1 mile downstream from the Mill called Harnish Wayside. This wayside is an interpretive center with indoor and outdoor displays including the "Little Butte Creek Room" which provides nature and natural history information. TU is also willing to discuss with the City the possibility of adding to this display information about the project - its fish, its partnerships, its funders, and more.

## Project Map



## ***Additional Files***

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### **Budget Information**

[Butte Mill Market Consultation Memo 4.15.21](#)

*Water Right Appraisal*

### **Maps**

[Butte Creek Mill Map](#)

*Water Infrastructure Map*

[ButteCrMill\\_PrjLoc\\_Map2.1](#)

*Vicinity Map*

[Project Map](#)

*Map image of project location*

### **Photos**

[Fish ladder and dam](#)

[Fish screen](#)

[Photo of Headgate](#)

[Real-time gage](#)

[Water Master Checking Inflow to Mill](#)

### **Design Information**

### **Management Plans and Supporting Documents**

[Mill Water Right Technical Memorandum](#)

*Technical Memo on potential C86767 instream transfer*

[Option to Purchase Agreement](#)

*Contract with Seller*

[Plan Excerpts](#)

*Relevant Portions of Conservation Plans*

### **Permits and Reviews**

[C86767](#)

*Water Right Certificate*

### **Partnerships**

[Landowner and Water Use Agreement](#)

*Landowner and Water Use Agreement*

[Landowner Agreement](#)

*Landowner agreement for WRD match funds grant app*

### **Public Comment**

[LOS\\_RepMarsh\\_RE\\_062221](#)

*State Representative Pam Marsh Letter of Support*

[MRS Letter of Support](#)

*MRS Letter of Support*

[MWC\\_LOS\\_RE-2021-06-14](#)

*Medford Water Commission Letter of Support*

[ODFW\\_DistrictBio\\_LOS](#)

*Rogue DB\_Vandyke\_LOS*

[PCFFA Letter of Support](#)

*PCFFA Letter of Support*

[WW\\_LOS\\_Little Butte Mill Transfer\\_06.16.21\\_ODFWRE](#)

*Water Watch Letter of Support*

### **Administrative Documents**

[Signature Page](#)

## ***Completion Report***

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### ***Objectives and Accomplishments***

Using OWRD's water right transfer process, create a new instream water right by transferring to instream uses a portion of water right C86767 (6.63-8.4 cfs; varies seasonally).

Did you meet the objective? Yes

We successfully secured a new instream right for the rates of 6.63-8.4 cfs (variable seasonally).

The new water right certificate as well as the instream transfer order are attached to this report.

After instream transfer TU purchases remaining portion of C86767 (16 cfs).

Did you meet the objective? Yes

TU has successfully taken title of the remaining water right to assure it remains secure and is managed to benefit the fish and aquatic resources of Little Butte Creek.

TU allows continued historic use of C86767 (after instream transfer) at the Butte Creek Mill to protect water right from cancellation and per terms of Water Use Agreement

Did you meet the objective? Yes

TU has signed a water lease agreement with the Butte Creek Mill Foundation to allow for their continued use of 16cfs for power generation, and for the protection of this water instream when not used for the Mill's operations.

### ***Comments***

Additional photos and videos are available for use by the R&E Board by request to TU.

***Grantee agreed to forfeit all remaining funds.***