

**Application for Water Right
Temporary or Drought Temporary Transfer
Part 1 of 5 – Minimum Requirements Checklist**



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

This temporary transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.
For questions, please call (503) 986-0900, and ask for Transfer Section.

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FOR ALL TEMPORARY TRANSFER APPLICATIONS

Check all items included with this application. (N/A = Not Applicable)

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Temporary Transfer Application Map Checklist.
- Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Information about Transferred Water Rights: **How many water rights are to be transferred? 1 List them here: 66831**
Please include a separate Part 5 for each water right. (See instructions on page 6)
- N/A For standard Temporary Transfer (one to five years) **Begin Year: 2020 End Year: 2025.**
- N/A Temporary Drought Transfer (Only in counties where the Governor has declared drought)

Attachments:

- Completed Temporary Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- Current recorded deed for the land **from** which the authorized place of use is temporarily being moved. *
- N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land upon which the water right is located.)
- N/A Supplemental Form D – For water rights served by or issued in the name of a district. Complete when the temporary transfer applicant is not the district.
- N/A Oregon Water Resources Department’s Land Use Information Form with approval and signature (or signed land use form receipt stub) from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if **all** of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation (if necessary to convey water to the proposed place of use).

(For Staff Use Only)

WE ARE RETURNING YOUR APPLICATION FOR THE FOLLOWING REASON(S):

| | |
|---|--|
| <input type="checkbox"/> Application fee not enclosed/or is insufficient <input type="checkbox"/> Land Use Form not enclosed or incomplete <input type="checkbox"/> Additional signature(s) required Other/Explanation _____ | <input type="checkbox"/> Map not included or incomplete <input type="checkbox"/> Part _____ is incomplete |
|---|--|

Staff: _____ 503-986-0_____ Date: ____/____/____

Part 2 of 5 – Temporary Transfer Application Map Checklist

Your temporary transfer application **will be returned** if any of the map requirements listed below are not met.

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Please be sure that the temporary transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- Permanent quality printed with dark ink on good quality paper.
- The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- A north arrow, a legend, and scale.
- The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet; the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated); the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet; or a scale that has been pre-approved by the Department.
- Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- Existing place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- N/A Proposed temporary place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- N/A If you are proposing a change in point(s) of diversion or well(s) to convey water to the new temporary place of use, show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).

Applicant Information


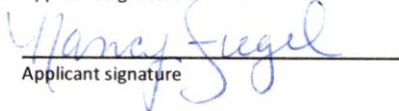
| | | | |
|--|--------------------|----------------------------------|--|
| APPLICANT/BUSINESS NAME Kriby and Nancy Fiegel | | PHONE NO. 551-263-0070 | ADDITIONAL CONTACT NO. |
| ADDRESS PO Box 173 | | | FAX NO. |
| CITY Lostine | STATE OR | ZIP 97857 | E-MAIL nancyfiegel60@gmail.com |
| BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED. | | | |

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

| | | | |
|--|-------|-----------|------------------------|
| AGENT/BUSINESS NAME | | PHONE NO. | ADDITIONAL CONTACT NO. |
| ADDRESS | | | FAX NO. |
| CITY | STATE | ZIP | E-MAIL |
| BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED. | | | |

Explain in your own words what you propose to accomplish with this transfer application and why:
Temporary transfer of water to Mandi Post to irrigate pasture/hay.
 If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

I (we) affirm that the information contained in this application is true and accurate.

| | | |
|--|---|-------------------------------|
|  Applicant signature | <i>Kirby Fiegel</i> Print Name (and Title if applicable) | <i>April 21 2020</i> Date |
|  Applicant signature | <i>Nancy Fiegel</i> Print Name (and Title if applicable) | <i>April 21, 2020</i> Date |

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? Yes No

If NO, include signatures of all landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent from all landowners or individuals/entities (and mailing and/or e-mail addresses) to which the water right(s) has been conveyed.

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Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (NOTE: If this box is checked, you must complete and attach Supplemental Form D.)

| | | |
|---|---|---------------------|
| DISTRICT NAME West Side Ditch | ADDRESS 301 E 6th street | |
| CITY Enterprise | STATE OR | ZIP 97828 |

Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

| | | |
|-------------|---------|-----|
| ENTITY NAME | ADDRESS | |
| CITY | STATE | ZIP |



To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction water will be diverted, conveyed and/or used.

| | | |
|--|--------------------------------------|---------------------|
| ENTITY NAME Wallowa County Planning Department | ADDRESS 101 S River Street | |
| CITY Enterprise | STATE OR | ZIP 97828 |

| | | |
|-------------|---------|-----|
| ENTITY NAME | ADDRESS | |
| CITY | STATE | ZIP |

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Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add rows to tables within the form.

Water Right Certificate # 66831

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Description of Water Delivery System

System capacity: ~40 cubic feet per second (cfs) OR
 _____ gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. **West Side Ditch to pump and 3" handlines**

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

| POD/POA Name or Number | Is this POD/POA Authorized on the Certificate or is it Proposed? | If POA, OWRD Well Log ID# (or Well ID Tag # L-____) | Twp | | Rng | | Sec | ¼ ¼ | | Tax Lot, DLC or Gov't Lot | Measured Distances (from a recognized survey corner) |
|------------------------|---|---|-----|---|-----|---|-----|--------|----|---------------------------|---|
| | | | | | | | | | | | |
| 1 | <input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed | | 1 | S | 43 | E | 27 | N W | SE | | 2870' SOUTH & 220' EAST FROM THE N1/4 CORNER SECTION 27 |
| | <input type="checkbox"/> Authorized <input type="checkbox"/> Proposed | | | | | | | | | | |
| | <input type="checkbox"/> Authorized <input type="checkbox"/> Proposed | | | | | | | | | | |
| | <input type="checkbox"/> Authorized <input type="checkbox"/> Proposed | | | | | | | | | | |

Check all type(s) of temporary change(s) proposed below (change "CODES" are provided in parentheses):

- Place of Use (POU)
- Point of Diversion (POD)
- Additional Point of Diversion (APOD)
- Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)

Check all type(s) of temporary change(s) due to drought proposed below (change "CODES" are provided in parentheses):

- Place of Use (POU)
- Character of Use (USE)
- Point of Diversion (POD)
- Point of Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)
- Additional Point of Diversion (APOD)

Will all of the proposed changes affect the entire water right?

- Yes Complete only the Proposed ("to" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- No Complete all of Table 2 to describe the portion of the water right to be changed.

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Please use and attach additional pages of Table 2 as needed.
 See page 6 for instructions.

Do you have questions about how to fill-out the tables?
 Contact the Department at 503-986-0900 and ask for Transfer Staff.

Table 2. Description of Temporary Changes to Water Right Certificate # 66831

List only the part of the right that will be changed. For the acreage in each ¼ ¼, list the change proposed. If more than one change, specify the acreage associated with each change. If more than one POD/POA, specify the acreage associated with each POD/POA.

| AUTHORIZED (the "from" or "off" lands) The listing that appears on the Certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed. | | | | | | | | | | | | | Proposed Changes (see "CODES" from previous page) | PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made. | | | | | | | | | | | | |
|--|-----|-----|-----|------------|----------------------|-------|---|---|------------------|------------|------------------|------|---|---|------------|----------------------|-------|--------------------|--|------------------|------|---|------|--|--------|------|
| Twp | Rng | Sec | ¼ ¼ | Tax Lot | Gvt Lot or DLC | Acres | Type of USE listed on Certificate | POD(s) or POA(s) (name or number from Table 1) | Priority Date | Twp | Rng | Sec | | ¼ ¼ | Tax Lot | Gvt Lot or DLC | Acres | New Type of USE | POD(s)/ POA(s) to be used (from Table 1) | Priority Date | | | | | | |
| EXAMPLE | | | | | | | | | | | | | | | | | | | | | | | | | | |
| 2 | S | 9 | E | 15 | NE | NW | 100 | | 15.0 | Irrigation | POD #1 POD #2 | 1901 | POU/POD | 2 | S | 9 | E | 1 | NW | NW | 500 | 1 | 10.0 | | POD #5 | 1901 |
| " | " | " | " | " | " | " | " | " | " | EXAMPLE | " | " | " | 2 | S | 9 | E | 2 | SW | NW | 500 | | 5.0 | | POD #6 | 1901 |
| 1 | S | 43 | E | 16 | NE | SW | 2305 | | 39.3 | IRR | 1 | 1979 | POU | 1 | N | 43 | E | 31 | NW | SW | 8400 | | 36.8 | | 1 | 1979 |
| " | " | " | " | " | NW | SE | " | | 12.4 | " | " | " | " | " | " | " | " | " | SW | SW | " | | 14.9 | | " | " |
| TOTAL ACRES | | | | | | | | | | 51.7 | TOTAL ACRES | | | | | | | | | | 51.7 | | | | | |

Additional remarks: _____

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For Place of Use Changes

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? Yes No

If YES, list the certificate, water use permit, or ground water registration numbers: _____



Pursuant to ORS 540.525, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for temporary transfer can be included in the transfer or remain unused on the authorized place of use. If the primary water right does not revert soon enough to allow use of the supplemental right within five years, the supplemental right shall become subject to cancellation for nonuse under ORS 540.610.

If a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation is necessary to convey the water to the new temporary place of use you must provide:

- Well log(s) for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map. (Tip: You may search for well logs on the Department's web page at: http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

AND/OR

- Describe the construction of the authorized and proposed well(s) in Table 3 below for any well that does not have a well log. For a *proposed well(s) not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

Table 3. Construction of Point(s) of Appropriation

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the Department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

| Proposed or Authorized POA Name or Number | Is well already built? (Yes or No) | If an existing well, OWRD Well ID Tag No. L-____ | Total well depth | Casing Diameter | Casing Intervals (feet) | Seal depth(s) (intervals) | Perforated or screened intervals (in feet) | Static water level of completed well (in feet) | Source aquifer (sand, gravel, basalt, etc.) | Well - specific rate (cfs or gpm). If less than full rate of water right |
|---|------------------------------------|--|------------------|-----------------|-------------------------|---------------------------|--|--|---|--|
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

Supplemental Form D

Water Right Transfers Within the Boundaries of or Served by an Irrigation District or other Water Supplier (Association, Ditch Co., etc.)

[For transfers submitted under OAR Chapter 690 Division 380]



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

The Department requires non-district applicants to communicate with districts/water suppliers during the planning and preparation of transfer applications involving water rights having a point of diversion or appropriation (POD/POA) or place of use (POU) served by or located within the boundaries of an irrigation district, or other type of water supplier to which assessments are paid. In some cases consent will be required from the district or water supplier.

This form must be included with any transfer application that involves rights served by or located within the boundaries of a district or other type of water supplier.

1. APPLICANT INFORMATION

| | | | |
|--------------------------------|-------------|----------------------------|-------------------------------------|
| NAME Kirby and Nancy Fiegel | | PHONE (HM) 541 263 0070 | |
| PHONE (WK) | CELL | FAX | |
| ADDRESS P.O. Box 173 | | | |
| CITY Lostine | STATE OR | ZIP 97857 | E-MAIL** nancyFiegel60@gmail.com |

2. DISTRICT or WATER SUPPLIER INFORMATION

| | | | |
|---|-------------|--------------|------------------------------|
| DISTRICT/WATER SUPPLIER NAME West Side Ditch Co. | | PHONE (HM) | |
| PHONE (WK) 541 569 2352 | CELL | FAX | |
| ADDRESS 301 SE 6th | | | |
| CITY Enterprise | STATE OR | ZIP 97828 | E-MAIL** spsore@gmail.com |

** By providing an e-mail address, the applicant and/or the district/water supplier consents to receive all correspondence from the Department electronically. Copies of final order documents will also be mailed.

3. WATER RIGHTS ISSUED IN THE NAME OF, or LOCATED WITHIN, or SERVED BY AN IRRIGATION DISTRICT, OTHER DISTRICT, OR WATER SUPPLIER

a. List the water right(s) involved in this transfer:

| | Application / Decree | Permit / Previous Transfer | Certificate | Is the water right in the name of a district, water supplier, or BOR*? |
|----|----------------------|----------------------------|-------------|--|
| 1. | | T-12353 | 66831 | YES <input type="checkbox"/> |
| 2. | | - | | YES <input type="checkbox"/> |
| 3. | | - | | YES <input type="checkbox"/> |

Attach additional pages for additional water rights if necessary.

*Bureau of Reclamation

- b. Determine a district's/water supplier's connection to your points of diversion (POD) or appropriation (POA) and places of use (POU). [You may need to consult with your district/water supplier.]

CURRENT ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES NO One or more of the current POD(s) / POA(s) involved in the transfer are served by a district/water supplier or rely on BOR water.
- YES NO All or a portion of the current POU involved in this proposed transfer receives water for either primary or supplemental irrigation from the district/water supplier; i.e., the POU is currently layered with a district or BOR water supplied water right(s).

PROPOSED ASSOCIATIONS Please answer the following "yes" or "no" questions:

- YES NO One or more of the proposed POD(s) / POA(s) involved in the transfer are currently served or will be served by a district/water supplier if the transfer is approved, or rely on BOR water.
- YES NO All or a portion of the proposed POU involved in this proposed transfer currently receives or will receive either primary or supplemental irrigation from the district/water supplier; i.e., the POU will be layered with a district/water supplier or BOR water supplied water right(s).

COMMENTS OR ADDITIONAL INFORMATION

4. APPLICANT'S SIGNATURE

- (1) I certify that I have notified the district/water supplier about the proposed water right transfer application by [check one]:
 email, phone, postal mail, in person, or other (please specify) _____
- (2) I certify that to the best of my knowledge the information contained in this Supplemental Form D is true and accurate.

Nancy Fiegel
 Applicant Signature

Nancy Fiegel
 Name (print)

4-22-2020
 Date

5. (WHEN REQUIRED) DISTRICT or WATER SUPPLIER CONSENT TO THE PROPOSED WATER RIGHT TRANSFER

District Manager or Water Supplier consent is required if any box on this form is marked "YES."

The district/water supplier certifies the following: N/A For temporary transfer

- (1) The district/water supplier has reviewed the applicant's proposed water right transfer application and maps; and
- (2) The district/water supplier consents to the proposed water right transfer application.
- YES NO After proof of completion, the confirming water right certificate is to remain in the name of the U.S. Bureau of Reclamation or the district/water supplier.
- YES NO The district/water supplier will be responsible for submitting the claim of beneficial use prepared by a Certified Water Rights Examiner (CWRE).

L Post
 Signature of District Manager /Water Supplier

Leonard Post, Pres.
 Name (print), Title

4-21-20
 Date

Application for Water Right Transfer

Evidence of Use Affidavit



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

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Please print legibly or type. Be as specific as possible. Attach additional pages if you need more spacing. Supporting documentation must be attached.

State of Oregon)
) ss

County of WALLOWA

I, Nancy Fiegel, in my capacity as applicant/owner

mailing address PO BOX 173 LOSTINE OR 97857

telephone number (541) 763 7107 being first duly sworn depose and say:

1. My knowledge of the exercise or status of the water right is based on (check one):

- Personal observation Professional expertise

2. I attest that:

Water was used during the previous five years on the **entire** place of use for Certificate # ____; **OR**

My knowledge is specific to the use of water at the following locations within the last five years:

| Certificate # | Township | Range | Mer | Sec | ¼ ¼ | Gov't Lot or DLC | Acres (if applicable) |
|---------------|----------|-------|-----|-----|-------|------------------|-----------------------|
| 66831 | 1N 43E | | | 31 | SW SW | | 36.8 |
| | | | | | SE SW | | 14.9 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

OR

- Confirming Certificate # ____ has been issued within the past five years; **OR**
- Part or all of the water right was leased instream at some time within the last five years. The instream lease number is: ____ (Note: If the entire right proposed for transfer was not leased, additional evidence of use is needed for the portion not leased instream.); **OR**
- The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.
- Water has been used at the actual current point of diversion or appropriation for more than 10 years for Certificate # ____ (For Historic POD/POA Transfers)

(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): pasture

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

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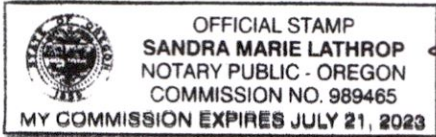
OWRD

Nancy Fyde
Signature of Affiant

4-21-2020
Date

Signed and sworn to (or affirmed) before me this 21st day of April, 2020

Sandra Marie Lathrop
Notary Public for Oregon



My Commission Expires: 07/21/2023

| Supporting Documents | Examples |
|--|--|
| <input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate) | Copy of confirming water right certificate that shows issue date |
| <input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water | <ul style="list-style-type: none"> • Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt |
| <input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers | <ul style="list-style-type: none"> • District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report |
| <input checked="" type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph | <p>Multiple photos can be submitted to resolve different areas of a water right. If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos: OSU – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terra-server.com</p> |
| <input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years | Copy of instream lease or lease number |

STATE OF OREGON }
COUNTY OF WALLOWA }

I certify that this instrument was received and recorded in the book of records of said county.

CHARLOTTE McIVER
Wallowa County Clerk

by: Dana Roberts
County Clerk / Deputy.

Doc#: 2004-50168
Rcpt: 50722 30.00
02/17/2004 2:39 pm

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AFTER RECORDING RETURN TO:
Kirby J. Fiegel
P.O. Box 173
Lostine, OR 97857

UNTIL CHANGE IS REQUESTED ALL THE TAX STATEMENTS SHALL BE SENT TO THE FOLLOWING ADDRESS:
Kirby J. Fiegel
7705 Harley Road
Lostine, OR 97857

TRUSTEE'S DEED

THIS INDENTURE, made this 11 day of February, 2004, between MICHAEL W. HORTON, hereinafter called Trustee, and KIRBY J. FIEGEL, 7705 Harley Road, Lostine, OR 97857, hereinafter called the second party; WITNESSETH:

RECITALS: ARNILDO J. UPPIANO AND BARBARA UPPIANO, husband and wife, as Grantor, executed and delivered to CITIZENS TITLE & ESCROW SERVICES, INC., as Trustee, for the benefit of Hopkins Growth Fund, LLC, as Beneficiary, a certain Trust Deed dated December 16, 1999, recorded December 17, 1999, in the Records of Wallowa County, Oregon, as Instrument No. 99-40228. In that Trust Deed, the real property therein and hereinafter described was conveyed by the Grantor to the Trustee to secure, among other things, the performance of certain obligations of the Grantor to the Beneficiary. The Grantor thereafter defaulted in performance of the obligations secured by the Trust Deed as stated in the Notice of Default hereinafter mentioned, and such default still existed at the time of the sale hereinafter described.

By reason of the default, the owner and holder of the obligations secured by the Trust Deed, being the Beneficiary therein named, or the Beneficiary's successor in interest, declared all sums so secured immediately due and owing. A Notice of Default containing an election to sell the real property and to foreclose the Trust Deed by advertisement and sale to satisfy the asserting Grantor's obligations was recorded on July 24, 2002, in the Records of Wallowa County, as Instrument No. 02-46143, to which reference now is made.

After recording the Notice of Default, the undersigned Trustee gave notice of the time for and place of sale of the real property, as fixed by the Trustee and as required by law. Copies of the Notice of Sale were served pursuant to ORCP 7 D. (2) and 7 D. (3), or mailed by both first class and certified mail with return receipt requested, to the last known addresses of the persons or their legal representatives, if any, named in ORS 86.740 (1) and 86.740 (2)(a), at least 120 days before the date the property was sold. A copy of the Notice of Sale was mailed by first class and certified mail with return receipt requested to the last known address of the fiduciary or personal representative of any person named in ORS 86.740(1), promptly after the Trustee received knowledge of the disability, insanity, or death of any such person. Copies of the Notice of Sale were served upon occupants of the property described in the Trust Deed in the manner in which a summons is served pursuant to ORCP 7 D.(2) and 7 D.(3) at least 120 days before the date the property was sold, pursuant to ORS 86.750(1). If the foreclosure proceedings were stayed and released from the stay, copies of an amended notice of sale in the form required by ORS 86.755(6) were mailed by registered or certified mail to the last known addresses of those persons listed in ORS 86.740 and 86.750(1) and to the address provided by each person who was present at the time and place set for the sale which was stayed within 30 days after the release from the stay. The trustee published a copy of the Notice of Sale in a newspaper of general circulation in each county in which the real property is situated once a week for four successive weeks. The last publication of the Notice occurred more than twenty days prior to the date of sale. The mailing, service, and publication of the Notice of Sale are shown by Affidavits and/or proofs of service duly recorded prior to the date of the sale in the county records, those affidavits and proofs, together with the Notice of Default and Election to Sell and the Notice of Sale, being now referred to and incorporated in and made a part of this Deed as if fully set forth herein. The undersigned Trustee has no actual notice of any person, other than the persons named in those

affidavits and proofs as having or claiming a lien on or interest in the real property, entitled to notice pursuant to ORS 86.740(1)(b) or (1)(c).

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The true and actual consideration for this conveyance is \$275,891.00.

The undersigned Trustee, on February 3, 2004, at the hour of 9:00 o'clock, a.m., in accordance with the standard time established by ORS 187.110, and at the place so fixed for sale, in full accordance with the laws of the State of Oregon and pursuant to the powers conferred upon the Trustee by the Trust Deed, sold the real property in one parcel at public auction to the second party for the sum of \$275,891.00, the second party being the highest and best bidder at the sale, and that sum being the highest and best bid for the property.

NOW, THEREFORE, in consideration of that sum so paid by the second party in cash, the receipt whereof is acknowledged, and by the authority vested in the Trustee by the laws of the State of Oregon and by the Trust Deed, the Trustee does hereby convey unto the second party all interest which the Grantor had or had the power to convey at the time of Grantor's execution of the Trust Deed, together with any interest the Grantor or Grantor's successors in interest acquired after the execution of the Trust Deed in and to the following described real property to wit:

"SEE EXHIBIT "1" ATTACHED HERETO"

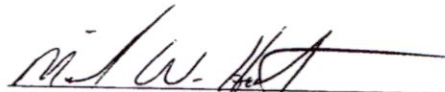
TO HAVE AND TO HOLD the same unto the second party and the second party's heirs, successors in interest and assigns forever.

In construing this instrument, and whenever the context so requires, the singular includes the plural; "Grantor" includes any successor in interest to the Grantor, as well as each and every other person owing an obligation, the performance of which is secured by the Trust Deed; "Trustee" includes any successor trustee; "Beneficiary" includes any successor in interest of the Beneficiary first named above; and "person" includes a corporation and any other legal or commercial entity.

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

IN WITNESS WHEREOF, the undersigned Trustee has hereunto executed this document. If the undersigned is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

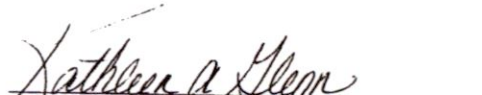
Dated: February 11, 2004.


Michael W. Horton, Trustee

State of Oregon)
) ss.
County of Malheur)

This instrument was acknowledged before me on the 11th day of February, 2004, by Michael W. Horton.




Notary Public of Oregon
My commission expires: 6/13/07

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EXHIBIT "1" TO TRUSTEE'S DEED

Township 1 South, Range 43 East, of the Willamette Meridian, Wallowa County, Oregon

Section 16: N1/2S1/2, and all that part of the NW1/4 which lies South and West of the West Side Ditch

TOGETHER WITH an easement as reserved in Book H of contracts, page 416 over and across the East half of Lot 15 of Section 8, and the East half of Section 17, Township 1 South, Range 43 East, of the Willamette Meridian, as the same connects with the county road, as the same is located over and across Lots 9 and 10 of said Section 8 as the same is described in commissioners Journal Book A, page 213.

SUBJECT TO all rights of way for ditches, public utilities and public roads as the same may now exist over and across the herein described property.

ALSO SUBJECT TO an easement, including the terms and provisions thereof, created by instrument recorded in Book 74 of Deeds, Page 708, in favor of Pacific Power & Light Company for utilities.

ALSO SUBJECT TO right of Harley Caudle, et ux, and subsequent land owner of land in N1/2, Section 16, T1S, R43 EWM, as means of ingress and egress to County Road.

ALSO SUBJECT TO an easement, including the terms and provisions thereof, created by instrument recorded in Book H of Contracts, Page 416 for perpetual easement over existing roadways for ingress and egress over and across the SW1/4NW1/4 and NW1/4SW1/4, Section 16, T1S, R43 EWM.

ALSO SUBJECT TO an easement, including the terms and provisions thereof, created by instrument recorded in Book 56 of Deeds, Page 16 in favor of Harley Caudle for right of way for roadway.

Assessor's Account No.: Map 1S43; Tax Lot 2301; Reference Nos. 8716 and 75.