

JAN 29 2021



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Application for
Surface Water

OWRD

Allocation of Conserved Water

Part 1 of 4 – Minimum Requirements Checklist

This application will be returned if Parts 1 through 4 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Allocation of Conserved Water Section.


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

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed Applicant Information and Signature.
- Part 3 – Completed Water Right Information and Conservation Measures. Please include a separate Part 3 for each water right. List all water right certificates involved in this application here: 1.
- Part 4 – Completed Mitigation, Proposed Use, Project Schedule, Funding, and Fee Calculation.

Attachments:

- Fees – Amount enclosed: \$ 1160 (From last page of application).
- Application Map. Must have sufficient detail to locate and describe the facilities and areas involved in the conservation measures. Must show the place of use where water is being used if the rate or duty are changing.
- Land Use Information Form with approval and signature. (Not required if 100% of Conserved Water is being transferred instream.) **or**
Land Use Notice - Notice of the intent to create an instream water right must be provided to each affected county, city, municipal corporation, or tribal government along the proposed instream reach.
- Completed Evidence of Use Affidavit and Supporting Documentation.
- N/A Affidavit(s) of Consent. See Attachment C – Sales Agreement
- N/A Letter of approval from Irrigation or Water Control District. For water rights served by or issued in the name of a District; this must be provided when the applicant is not the District.
- N/A Irrigation or Water Control District's adopted policy on allocation of conserved water.
- N/A If construction of the project has begun or been completed and if more than 25 percent of the project costs have been expended before applying for allocation of conserved water, evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organizations who have asked to be consulted regarding the allocation of conserved water.
- N/A Evidence for Fee Waiver.
- N/A Notice of Completion.
- N/A Request for Finalization. (The entire conservation project listed on the application must be complete. No partial finalization will be recognized.)

In your own words tell us what physical conservations measures you have made or propose to make and the reason for the change(s): The owner is moving the entire 25.6 acre Place of Use (POU) from S 31 to SE-SW of S32, then changed the irrigation system from overhead sprinklers and Big Guns to drip lines at the base of crops trees.

 To meet State Land Use Consistency Requirements, you must list all local governments (each county, city, municipal corporation, or tribal government) within whose jurisdiction the conservation project and/or proposed instream reach will be located.

ENTITY NAME Washington County Department of Land Use and Transportation	ADDRESS 155 N First Ave	
CITY Hillsboro	STATE OR	ZIP 97124

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

Received by OWRD

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Salem, OR

Part 3 of 4 – Water Right Information and Conservation Measures

Please use a separate Part 3 for each water right involved in the proposed allocation of conserved water.

WATER RIGHT INFORMATION:

Water Right Subject to Transfer (check and complete ONE of the following):

<input checked="" type="checkbox"/> Certificated Right	<u>16677</u> Certificate Number	<u>15038</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Un-certificated Right	Name of Decree	Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	Permit Number	Special Order Volume _____, Page _____
<input type="checkbox"/> Transferred Right for which Proper Proof of the change has been filed	Previous Certificate / Transfer Number	Date Claim of Beneficial Use Submitted

County: Washington

Describe the pre-project water delivery system. Include information on the diversion structure, pumps, and conveyance facilities (including canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use). Provide sufficient detail for the Department to determine the system capacity. The water was diverted using a 40 HP pump through 6 inch mainlines and 3 inch laterals. Water was applied to the place of use using a combination of nozzles that are 9/64 and 3/16".

Table 1: Pre-Project Description

List: A) the maximum rate and annual duty (volume) of water that may be diverted as stated on the water right of record; and B) the maximum amount of water that can be diverted using the pre-project facilities ("system capacity"). If there are multiple priority dates on the water right, list the rate and duty associated with each priority date. (If the water right is only limited by rate, do not list a duty. Conversely, if the water is only limited by duty, do not list a rate).

PRE-PROJECT DESCRIPTION								
			Column A Water Right of Record				Column B System Capacity	
			Rate		Duty		Rate	Duty
Originating Water Right #	Priority	Acres	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF
16677	1941	25.6	0.32	.0125	64	2.5	1.85	283
Totals		25.6	0.32	.0125	64	2.5	1.85	283

Note: 1 miner's inch = 1.40 cfs; 1 cfs = 448.8 gpm 1 cfs = 1.983471 ac-ft/day

CONSERVATION MEASURES:

Describe the type of conservation measures, check all that apply:

- On-Farm efficiency project
- Distribution project, such as a ditch piping or lining project.
- Other: _____

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Describe the proposed changes to the physical system, operations and application methods that will result in the conservation of water. If these proposed changes will change the point of diversion, you must meet the ODFW fish screen and bypass requirements pursuant to ORS 540.525. *Please include a description and details of how the estimate of water conserved was determined. Please provide sufficient detail for the Department to provide notice of the project.* Control of the water right was severed from the original certificate's place of use (see Attachment "C"). The water right has been applied to strip/drip per T-12204; and therefore, the water use is based on actual water use. The water system change was done because the applicant was following a Water Resourced Department (WRD) sanctioned project called a "strip/drip" transfer; which is now not being allowed. The original irrigation system is no longer overhead sprinklers and is strips of drip emitters placed at the base of rows of crop trees. The drip emitters allow much less water per acre for certain crops for many reasons. The point of diversion (POD) is changing and ODFW fish screen requirements do apply and have already been met as part of T-12204.

Existing Point(s) of Diversion:

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Measured Distances or Latitude and Longitude
1	S	4	W	31	SW	NE	300	58	NONE SPECIFIED

Place of Use Involved in Conservation Measures:

List only the part of the right that will be affected. If the entire right is being affected, just state "entire Certificate."

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Acres	Type of Use listed On Certificate	Priority Date
N/A											
Entire Certificate									Total	25.6	

Are there other water right certificates, water use permits, ground water registrations, or uncertificated decreed rights associated with the above lands? Yes No. If YES, list the certificates, water use permits, groundwater registrations, or uncertificated decree numbers: N/A

Is the project within the boundaries of an irrigation district or water control district? Yes No. If YES, and applicant is not a District, you must provide a letter of approval from the District.

Table 2: Conserved Water

In Column A, list the smaller of A or B from Table 1 (Pre-Project Description). In Column B, list the amount of water that will be needed for the existing, authorized use(s) after implementing the conservation measures. In Column C, subtract Column B from Column A and enter the results (e.g., A – B = C). (If the water right is only limited by rate, do not list a duty; and conversely, if the water is only limited by duty, do not list a rate.)

Conserved Water Description											
	Column A				Column B				Column C		
	Table 1 – Smaller of A or B				Needed				Conserved Water		
	Rate		Duty		Rate		Duty		Rate	Duty	
Priority	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	CFS/AC	Maximum AF	AF/AC	Maximum CFS	Maximum AF	AF/AC
1941	0.320	.0125	64.0	2.5	.054	.00211	10.75	0.42	0.266	53.25	2.08
Totals	0.320	.0125	64.0	2.5	.054	.00211	10.75	0.42	0.266	53.25	2.08

Table 3: Allocation of Conserved Water

List the portions of the conserved water that will be allocated to the state and applicant. Note: Column A plus Column B should total Column C (e.g., A + B = C).

Conserved Water Allocation								
Column A			Column B			Column C		
State's Portion			Applicant's Portion			Conserved Water		
Percentage*	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)	Percentage	Maximum Rate	Maximum Duty (Volume)
25%	0.066	13.31	75%	0.200	39.94	100%	.266	53.25

* must be at least 25%

The priority for the conserved water is requested to be:

- The same as the original right, or
- One minute junior to the original right.

**Part 4 of 4 – Mitigation, Proposed Use,
Project Schedule, Funding, and
Fee Calculation**

MITIGATION:

Describe any expected effects from the proposed allocation of conserved water on other water rights. Describe what currently happens to the water that is proposed to be conserved. The water that is proposed to be conserved is was applied via sprinkler that did not water the current crop as efficiently and water was lost to evaporation.

Describe any mitigation or other measures that are planned to avoid harm to other water rights. The drip systems are monitored to only use water when the soils are dry.

PROPOSED USE:

New Out-of Stream Uses:

N/A For new out-of-stream uses, describe the intended use and boundaries of the expected area within which the diversion structures and places of use of the applicants’ conserved water right will be located. This is land other than that to which this water right is appurtenant. Intended Use: Irrigation; Boundaries: The boundary will be inside the tax lots 401 & 500 in S32, T1S, R4W.

Will the new use require a change or additional point of diversion/appropriation?

Yes No Unknown at this time

New Point of Diversion:

Twp		Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Measured Distances or Latitude and Longitude
1	S	4	W	32	SW	SE	401	59	820’ N & 2200’ W of SE S32

New Instream Uses to be Created (State’s Portion):

Originating Surface Water Right (as identified in Part 3)	Priority Date	Source	Proposed Instream Period	Rate (cfs)*	Volume (ac-ft)**
16677	1941	Tualatin River	May 31-Sep 30 (153 days)	0.044*	13.31
TOTAL VOLUME					13.31

* To calculate rate (if other than the rate allowed by the right), divide the volume by the number of days in the period and then divide by 1.983471; or (THIS METHOD WAS USED)

** To calculate volume, multiply the rate by the number of days in the instream period and then multiply by 1.983471.

Note: The instream rate may not exceed the maximum rate conserved and the total volume may not exceed to maximum duty or volume conserved (Table 3, Column C).

Location of the proposed instream water right.

Water is requested to be protected within a reach. Location of the proposed reach (identify the extent of the reach): (e.g., from the upstream POD located at RM ___ to downstream location at the mouth at RM ___) N/A

OR

- Water is requested to be protected at a point at the following location (i.e. legal description of the point of diversion (POD)): SW of NW of S31, T1S, R4W

Public Use for which conserved water right should be managed under an instream right (check at least one box):

- Conservation, maintenance and enhancement of aquatic and fish life, wildlife, fish and wildlife habitat, and other ecological values.
- Recreation and scenic attraction.
- Water Quality (e.g. pollution abatement).

List any existing instream water rights at the same point or within the same requested reach(es):

- None.
- Instream Water Right Certificates: _____

N/A Is it your intent to have the proposed instream water right transfer be additive to any instream water right established under ORS 537.348 (instream transfer application process) and ORS 537.470 (allocation of conserved water) and replace a portion of any instream water right established under ORS 537.341 (state agency application process) and ORS 537.346 (conversion of minimum perennial streamflows) with an earlier priority date?

- Yes No. If no, please explain your intent below:

Is the requested instream flow intended to exceed the estimated average natural flow or natural lake level occurring from the drainage system?

- No; **OR**
- Yes (Provide supporting documentation that demonstrates why additional flows are significant for the public use requested.); **OR**
- Yes, and it is presumed that flows that exceed the estimated average natural flow or natural lake levels are significant because:
- The requested flow does not exceed the maximum amount of any instream water right applied for under ORS 537.338 (state agency instream water right application process); the requested public use is for the same public use; and the requested reach covers a portion or same reach as the state agency instream water right; **and**
 - The stream is in an ODFW flow restoration priority watershed during the requested instream period; **or**
 - The stream is listed as water quality limited by DEQ.

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PROJECT SCHEDULE:

N/A For a project that has **not** been completed, please provide the dates on which the applicant intends to do the following:

Begin Construction	Complete Construction and File Notice of Completion	Request that Entire Conserved Water Allocation be Finalized
Date: N/A	Date: N/A	*Date: N/A

* Must be within 5 years from the date of filing the Notice of Completion.

Note: If construction of the project has begun or has been completed, and if more than 25 percent of the project costs have been expended before submitting this application, you must submit evidence that you have attempted to identify and resolve the concerns of water right holders in the area, governmental entities or other organization who have asked to be consulted regarding the allocation of conserved water.

N/A For a project that has been completed, provide the dates when the conservation measures were implemented and the date by which the applicant intends to request the allocation be finalized. Complete and attach Notice of Completion form.

Conservation Measures Were Implemented	Request that Entire Conserved Water Allocation be Finalized
*Date: April 2017	**Date: Jan 2021

* Must be within 5 years prior to the date of filing this application.

** Must be within 5 years from the date of filing this Application and Notice of Completion.

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FUNDING

N/A. Federal or state public funds that are not subject to repayment are to be used for the project. Refer to OAR 690-018-0040(18)(a)-(d) for further information in completing this section.

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Source of Funding: Federal: _____ State: _____

Total cost for project engineering \$ _____
Total cost for construction \$ _____

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The present value of any incremental changes in the cost of operations and maintenance that are directly attributable to the project that would not be incurred or realized in the absence of the project is \$ _____.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental changes in the costs of operations and maintenance to be provided from federal or state public funds that are not subject to repayment is \$ _____.

The amount of funding and the value of any in-kind contributions for project engineering and construction and for any incremental change since costs of operations and maintenance to be provided from other funds is \$ _____.

N/A. Enter the percentage from Table 3, Column B (Applicant's Portion of Conserved Water) 75%. If this is more than 25%, what portion of project funds (expressed as a percentage) come from federal or state public sources? 0%

N/A. The Oregon Watershed Enhancement Board (OWEB) has a contractual interest in this project. The OWEB project number is _____.

FEE CALCULATION

Fee Schedule – ORS 536.050 https://www.oregon.gov/OWRD/Forms/Pages/default.aspx	
\$1,160.00 – Base (1 st Water Right)	Add \$410.00 for each additional right
$\$1,160 + (\text{ } \times \$350) = \text{Total Fee } \410	

Fee Waiver Worksheet	
To qualify for a waiver of up to 50%, you must provide evidence to establish your application meets the following criteria:	
<input type="checkbox"/>	(a) Will be converted to an instream right pursuant to ORS 537.348; or
<input type="checkbox"/>	(b) Is necessary to complete a project funded under ORS 541.375 (OWEB); or
<input type="checkbox"/>	(c) Is approved by the Oregon Department of Fish and Wildlife as a project that will result in a net benefit to fish and wildlife habitat. See OAR 690-018-0040(25).
If the project meets one of the above standards, use the following formula to calculate the fees:	
<input type="checkbox"/>	(d) Enter Percentage from Table 3, Column A = _____ %
<input type="checkbox"/>	(e) Deduct 25% from percentage in (d) above = _____ %
<input type="checkbox"/>	(f) Enter the lesser of (e) above or 50% _____
<input type="checkbox"/>	(g) Total Fee x % waived (f) = Fee Waiver \$ _____
Example: (d) = 100% - 25% (e) = 75% (max 50% waived) = Fee x 50% = Fee Waiver	
Total Fee \$ _____ – Fee Waiver (g) \$ _____ = Amount Due \$ <u>N/A</u>	



State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900

Surface Water Allocation of Conserved Water

Notice of Completion

For

CW _____

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Applicant Information

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APPLICANT/BUSINESS NAME WILLAMETTE VALLEY LAND, LLC C/O PAUL KUEHNE		PHONE NO. (503) 864-4422	ADDITIONAL CONTACT NO. (503) 437-4833	
ADDRESS PO: BOX 99			FAX NO.	
CITY LAFAYETTE	STATE OR	ZIP 97127	E-MAIL PAUL@CREEKSIDEVALLEYFARMS.COM	

(If submitting with an Application, complete only the Applicant name.)

Pursuant to OAR 690-018-0062(1), the above applicant hereby notifies the Director that the conservation measure(s) outlined in Allocation of Conserved Water Application CW _____ are complete.

The applicant(s) request(s) the Director to issue an order: *This applicant request is subject to the Water Resources Dept. not taking water for "mitigation for harm" from the conserved water, as any reduction would not allow the applicant's plan to work.*

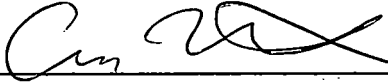
1. Canceling the water right(s) held by the applicant(s) that is/are modified by the allocation of conserved water;
2. Allowing the continued use of water for the purposes and at the locations described in the original water right certificate(s) at the rate and duty prescribed under OAR-690-018-0050(4)(e); and
3. Allowing the use and management of the conserved water as a dedication of water instream.

The applicant will file a request for finalization on or before Jan 2021.

(no more than 5 years).

Dated: 27 JAN 2021

Aspen Rural Land Consulting c/o Eric Urstadt
(Printed Representative Name)


(Representative's signature)



State of Oregon
 Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 (503) 986-0900

Surface Water Allocation of Conserved Water

Request for Finalization

For
 CW

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Applicant Information

APPLICANT/BUSINESS NAME WILLAMETTE VALLEY LAND, LLC C/O PAUL KUEHNE		PHONE NO. (503) 864-4422	ADDITIONAL CONTACT NO. (503) 437-4833
ADDRESS PO Box 99		FAX NO. N/A	
CITY LAFAYETTE	STATE OR	ZIP 97127	E-MAIL PAUL@CREEKSIDEVALLEYFARMS.COM

(If submitting with an Application, complete only the Applicant name).

The above applicant requests that the allocation of conserved water be finalized. The construction of the conservation measure(s) has been completed that resulted in conserved water.

List the portions of the conserved water allocated to the applicant as listed in the Order Approving Allocation of Conserved Water or an Order issued pursuant to OAR 690-018-0062(2).

Applicant's Portion of Conserved Water	
Maximum Rate (CFS)	Maximum Duty (Volume)/AF
0.200	46.3

- All or part of the Applicant's portion of the conserved water is to be:
- Leased (If water is to be temporarily leased instream, a separate Instream Lease Application must be submitted.); _____ CFS; _____ AF
 - Dedicated instream (permanent); _____ CFS; _____ AF
 - Temporarily reserved instream for future out-of-stream use; _____ CFS; _____ AF
 - Used out-of-stream as described below.
- N/A Out-of-Stream Use. Describe the Applicant's portion of the conserved water to be used for an out-of-stream use at the location below.

Applicant's Conserved Water					Applicant's Conserved Water Remaining	
Certificate	Priority	Type of Use	Rate (CFS)	Volume (AF)	CFS	Volume
16677	1941	Irrig	0.200	46.3	0	0
Totals						

Describe the point of diversion that will be used to deliver water to the new place of use:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1S	4W	WM	32	SW-SE	820' N & 2200' W of SE S32

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Name and address of the person using the water: Same as applicant

MAR 04 2021

Description of the type of beneficial use of the water: Irrigation

Salem, OR

Description of the place of use:

Applicant's Conserved Water Out-of-Stream Use Location										
Twp	Rng		Sec	¼	¼	Tax Lot	Gvt Lot or DLC	Acres	Priority Date	
1	S	4	W	32	SE	NW	401	59	2.2	1941
1	S	4	W	32	NE	SW	401	59	28.3	1941
1	S	4	W	32	NW	SW	401/500	59	5.3	1941
1	S	4	W	32	SW	SW	500	59	10.1	1941
1	S	4	W	32	SE	SW	401/500	59	10.4	1941
1	S	4	W	32	NE	SE	401	59	1.2	1941
1	S	4	W	32	NE	SE	401	4	2.1	1941
1	S	4	W	32	NW	SE	401	59	23.9	1941
1	S	4	W	32	SW	SE	401/500	59	7.4	1941
1	S	4	W	32	SE	SE	401	59	2.3	1941
1	S	4	W	32	SE	SE	401	5	1.7	1941
Totals									94.9	

N/A A map depicting the lands identified above that meets the standards in OAR 690-310-0050 (required if out-of-stream use table completed).

The above applicant requests that the allocation of conserved water be finalized. This applicant request is subject to the Water Resources Dept. not taking water for "mitigation for harm" from the conserved water, as any reduction would not allow the applicant's plan to work. The applicant further requests that the Director issue:

1. A superseding certificate as provided for in the order approving the allocation of conserved water;
2. A certificate for an instream water right for the state's portion of the conserved water; and
3. An order allowing:
 - a. The use of any portion of the conserved water allocated to the applicant, at the location and for the type of use identified in the tables above; and
 - b. The use and management as an instream water right of any conserved water being leased, dedicated, or temporarily reserved instream.

Dated: 3 MAR 2021

Aspen Rural Land Consulting c/o Eric Urstadt
(Printed Representative Name)


(Representative's signature)

ATTACH
C-1/9

EARNEST MONEY AGREEMENT

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SELLER: Willamette Valley Land, LLC
P.O. Box 99
Lafayette, Oregon 97127

JAN 29 2021

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BUYER: Mark S. Gaibler
P.O. Box 808
Carlton, Oregon 97111

RECITALS

WHEREAS, Seller desires to sell and Buyer desires to buy that certain real property located in Washington County, Oregon, having the following legal description:

SEE EXHIBIT A.

WHEREAS, Buyer acknowledges that Seller is only selling the real property and that Seller shall retain the water rights known as Certificates 16677 and 68069;

WHEREAS, Buyer shall assist in the transfer of 25 acres of the water right known as Certificate 20037; and

WHEREAS, Seller shall transfer the place of use and points of diversion of Certificates 16677, 68069, and 20037 to another property owned by Seller.

AGREEMENT

1. Recitals. The recitals are incorporated herein as if fully set forth.
2. Sale and Purchase. Buyer agrees to purchase the Property from Seller and Seller agrees to sell the Property to Buyer for the sum of \$600,000.00, along with other valuable consideration including the transfer of water right Certificates 16677, 68069, and a portion of Certificate 20037, as described herein.
3. Earnest Money. Receipt is hereby acknowledged by Seller of \$5,000.00 paid by Buyer as earnest money.
4. Payment of Purchase Price. The purchase price shall be paid as follows:
 - 4.1 At closing, the earnest money shall be credited to the purchase price.
 - 4.2 At closing, Buyer shall pay the remaining balance of \$595,000.00, in cash.

- 5. Closing. This Agreement shall be closed on or before May 11, 2018, at First American Title Company, McMinnville branch. Each party will pay one-half of the closing fee. RECEIVED
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- 6. Preliminary Title Report. Within fourteen (14) days after execution of this Agreement, Seller will furnish to Buyer a preliminary title report showing the condition of title to the Property. OWRD
- 7. Conditions of Sale. This sale is conditioned upon the following:
 - 7.1 Seller providing Buyer with a preliminary title report showing Seller will be able to convey marketable title to Buyer at closing.
 - 7.2 Buyer's approval of the preliminary title report within seven (7) days after the same has been furnished to Buyer. If Buyer does not object to the preliminary title report within such period, it shall be conclusively presumed Buyer has approved the title report.
- 8. Deed. Except as set forth below in Section 9, at closing, Seller shall execute and deliver to Buyer a Statutory Warranty Deed, conveying the Property to Buyer, subject to easements, conditions and restrictions of record.
- 9. Water Rights. At closing, the water rights associated with the Property known as ~~Certificates 16677 and 68069 shall not transfer with the Property. Seller shall retain all rights and control of the two water rights associated with the Property known as Certificates 16677 and 68069.~~
 - 9.1 Seller retains the right to irrigate the current Place of Use of the land in Certificate 68069 according to the terms within the certificate, if needed, to keep the right from being subject to forfeiture by the Oregon Water Resources Department.
 - 9.2 At closing, Buyer will transfer 25 acres of the Place of Use of the water right known as Certificate 20037 to a property currently owned by the Seller.
- 10. Equipment Lease. At closing, Buyer and Creekside Valley Farms will enter into a five (5) year equipment lease, to allow Creekside Valley Farms non-exclusive use of Buyer's GK machine to spray and fertilize property being farmed by Creekside Valley Farms at no charge to Creekside Valley Farms, but:
 - 10.1 Creekside Valley Farms will be responsible for labor and supplies when using the machine.

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- 10.2 Crecksidc Valley Farms and Buyer will share repair or regular maintenance costs, unless one party damages the machine, in which case that party shall pay for the repair costs.
- 10.3 Buyer shall be relieved from the obligation to maintain this equipment lease in the event that the equipment described above is sold or is broken beyond repair.
11. Taxes. Real property taxes for the current tax year shall be prorated as of closing. Buyer will indemnify and hold Seller harmless from any retroactive taxes, if Buyer takes an action or omission that disqualified the property from its agricultural designation for property tax purposes. This section shall survive closing.
12. Title Insurance. Within 15 days after closing, Seller shall furnish to Buyer, at Seller's expense, an owner's policy of title insurance, insuring Buyer against loss or damage sustained by them by reason of the unmarketability of their title, or encumbrances thereon, other than the exceptions described in paragraph 8 above and the usual printed exceptions contained in such policies.
13. Continuation of Water Right Obligations. After closing, Buyer shall continue to assist Seller with the transfer of the water rights, as explained herein, these obligations shall include transferring the water rights off of the Property. These obligations in Section 13 and its subsections shall survive closing.
- 13.1 After closing, Seller shall add a new Point of Diversion for Certificate 20037 on a property currently owned by the Seller. While the current Point of Diversion used by the Buyer for the portion of the right not being transferred will remain. Buyer will assist the Seller in the transfers as needed. Seller shall be responsible for preparation of the transfer application paperwork as required by the Oregon Water Resources Department, and Buyer agrees to sign any application or authorization to enable said transfer as needed.
- 13.2 After closing, Seller shall transfer the Place of Use and Points of Diversion of Certificates 16677 and 68069 to another property owned by the Seller.
14. Possession. Buyer shall be entitled to possession immediately upon closing
15. Buyer's Representations. Buyer makes the following representations:
- 15.1 Buyer is not a "foreign person" within the meaning of §1445(f)(3) of the Internal Revenue Code of 1986, as amended.

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- 15.2 That they have full power, authority and legal right to execute, deliver, and perform the obligations under this Agreement.
- 15.3 It is represented by Buyer that this Agreement is accepted and executed on the basis of Buyer's own examination and personal knowledge of the Property by Buyer; that no representations, warranties or agreements concerning matters relating to the Property have been made by Seller, except as stated in this agreement; that no agreements or promises to alter, repair, or improve the Property were made by Seller; and that the Property is taken by Buyer in the condition known or unknown, existing at the time of this Agreement. Buyer is purchasing the property "AS IS".
- 15.4 Buyer confirms that the water rights associated with Certificate 20037 are valid and current rights. Buyer warrants that the last year of use was no more than four (4) years ago.
16. Survival of Representations and Warranties. The representations and warranties contained herein shall survive the closing and shall not be merged in any future deed.
17. Binding Effect/Assignment Restricted. This Agreement is binding upon and shall inure to the benefit of the parties and their respective heirs, legal representatives and assigns. However, Buyer shall not assign their rights under this Agreement without the prior written consent of Seller.
18. Handling of Earnest Money. It is agreed that the earnest money set forth in paragraph 3 shall be deposited with the escrow agent identified in paragraph 5. If title to the premises is not marketable, or cannot be so made before the date of closing after Buyer has given Seller written notice of the defects, the earnest money herein receipted for shall be refunded. But if the title to the said premises is marketable, and the Buyer fails to comply with the terms of this agreement and pay the sums set forth in paragraph 4 when indicated, then the earnest money herein receipted for shall be forfeited to the Seller as liquidated damages, and this agreement shall thereupon be of no further binding effect.
19. Remedies. Time is of the essence of this Agreement. If this Agreement does not close, through no fault of Seller, prior to the close of business on the closing date specified above, Buyer shall forfeit the earnest money to Seller as liquidated damages as heretofore stated. If Seller cannot furnish marketable title at closing or otherwise fails to consummate this transaction, the earnest money shall be refunded to Buyer as heretofore stated.

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20. Attorney's Fees. In the event action is instituted to enforce any term of this Agreement, the prevailing party shall recover from the losing party reasonable attorney fees incurred in such action as set by the trial court and, in the event of an appeal, as set by the appellate courts.

21. Statutory Representations.

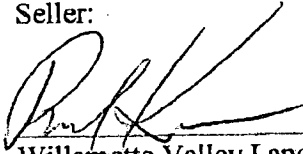
21.1 THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAW SUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

22. This earnest money agreement may be signed in one or more counterparts, and each such counterpart, whether an original or facsimile thereof, shall be construed an original document. When all counterparts have been signed, the agreement shall become binding.

C-6/9

IN WITNESS WHEREOF, the parties have executed this agreement in triplicate on the day and year first above written.

Seller:



Willamette Valley Land, LLC

By: Paul Kuehne

Its: Member

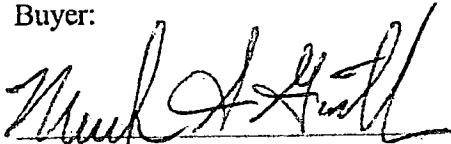
Date: 5/8/2018

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Buyer:



Mark S. Gaibler

Date: 5/8/2018

C-7/9
5423

MEADOW RIDGE FARMS INC.

503-852-9510
P.O. BOX 808
CARLTON, OR 97111


Date 5/8/2018

34-827/1251

Pay to the order of Willamette Valley Land LLC

\$ 5,000.00

Five Thousand and 00/100

Dollars  Security Features Included. Details on Back.

COLUMBIA BANK

(877) 272-3678
WWW.COLUMBIABANK.COM



For patton Valley

Mark Smith

⑈005423⑈

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CHEQUES DEPOSITED - SECURE DEPOSIT ALLIANCE (CASH) SERVICE

JAN 29 2021

EXHIBIT "A"
LEGAL DESCRIPTION

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PARCEL I:

BEGINNING at the Northeast Corner of the Thomas M. Hines Donation Land Claim No. 58, being a part of Section thirty-one, Township 1 South, Range 4 West of the Willamette Meridian; Running thence South along the line between Thomas M. Hines Donation Land Claim No. 58, and Alenson Hinman's Donation Land Claim No. 59, a distance of 1,350 feet to the North side, of the road; thence West along the road 25 feet; thence North and parallel to the said division line between the Hinman and Hines claims 865 feet; thence West 175 feet to a point and pipe about 40 feet distant from the bank of the river, thence, North 495 feet to the line between the Thomas M. Hines Donation Land Claim No. 58, and the J. J. Gerrish Donation Land Claim; thence East 200 feet to the place of beginning.

ALSO BEGINNING at the Southeast corner of the John J. Gerrish Donation Land Claim No. 58, in Section 31, Township 1 South, Range 4 West of the Willamette Meridian, in the Washington County, Oregon, running thence North on the East line of said Gerrish Claim No. 58, a distance of 1049.6 feet to the South line of that certain Tract deeded July 2, 1888, to Nancy E. McCloud; thence West on said South line of said McCloud tract 246.8 feet to the Southwest corner of said McCloud tract; thence North 88°29' West 862.2 feet to the Southeast corner of that certain tract conveyed February 28, 1905 to Charles S. and Sarah E. White; thence West 1259.7 feet on the South line of said White Tract; thence South 412.5 feet to an iron pipe, thence East 1165.0 feet to an iron pipe; thence South 693.0 feet to an iron pipe on the South line of said Gerrish Claim No. 58; thence South 89°52' East 1311.7 feet on the South line of said Gerrish Claim No. 58 to the place of beginning.

EXCEPTING THEREFROM the following described property: Commencing at a point on the North side of the Market Road in Patton Valley at its intersection with the East line of the John J. Gerrish Donation Land Claim No. 58, in Section 31, Township 1 South, Range 4 West of the Willamette Meridian, running thence North 397 feet to the South line of Old County Road; thence West along said road to its intersection with the North line of the Market Road in Patton Valley; thence Easterly along said Market Road to the place of beginning, EXCEPTING the county road through said tract.

ALSO EXCEPTING THE FOLLOWING DESCRIBED TRACT: Being a part of the John J. Gerrish Donation Land Claim No. 58, in Section 31, Township 1 South, Range 4 West of the Willamette Meridian, described as follows:

BEGINNING at a point on the division line between John J. Gerrish Donation Land Claim No. 58 and Thomas M. Hines Donation Land Claim No. 59, in Section 31, Township 1 South, Range 4 West of the Willamette Meridian 909 feet South 89°44' West from the Southeast corner of the John J. Gerrish Donation Land Claim No. 58; thence approximately North 33° West following the old line fence established many years ago and the brow of the bank along the swamp 780 feet, more or less, to an iron pipe, at the point of the South line of the old railroad right-of-way, which point is approximately 30 feet South of the point "N" County Survey No. 2617; thence South along the survey line 663 feet crossing river to South line of John J. Gerrish Donation Land Claim No. 58 to an iron pipe and the Southwest corner of the Reginald L. Clarke Place; thence East 359.4 feet crossing the river to the place of beginning.

ALSO EXCEPTING the following described tract: Being a part of Section 31, Township 1 South, Range 4 West of the Willamette Meridian, and beginning at a point on the South line of road 14 feet East of the Northwest corner of the Reginald L. Clarke Place (property purchased from Rosie Strachan); thence West 14 feet to the Northwest corner; thence South 401 feet to the Southwest corner of the Clarke Place; thence East 488 feet to the Northwest corner of Mary E. Snider Place; thence East 18 feet; thence North 14 feet; thence West 472 feet to a point 14 feet East of the West line and 14 feet of the South line of Clarke's land; thence North 387 feet to the point of beginning.

PARCEL II:

The following bounded and described real property situated in Section 31, Township 1 South, Range 4 West. BEGINNING at a point on the division line between the John J. Gerrish Donation Land Claim No.

C-9/9

55 6 and the Thomas M. Hines Donation Land Claim No. 56 in Section 31, Township 1 South, Range 4 West, Willamette Meridian, a distance of 200 feet West from the Northeast corner of the said Thomas M. Hines Donation Land Claim; thence West along said dividing line 708 feet; thence approximately North 33° West, following the old line fence established many years ago and the brow of the bank along the swamp, 780 feet, more or less, to an iron pipe on the old railroad right-of-way; thence West 688 feet to the dividing line between Pem Patton and Mary E. Snider; thence South along said dividing line a distance of 22 chains, more or less, crossing the river and the road to an iron pipe and a 30 inch oak post on the South line of the county road; thence East along the said South line of road to a point 25 feet West of the East line of the said Thomas M. Hines Donation Land Claim No. 56; thence North and parallel with the said East line 800 feet from the road; thence West 175 feet to a point and iron pipe about 40 feet from the river bank; thence North 480 feet to the point of beginning, all in section 31, Township 1 South, Range 4 West, Willamette Meridian.

ALSO, the following described property, to wit:

BEGINNING at a point on the South line of the county road on the North side of the river, distant 14 feet East of the Northwest corner of the Reginald F. Clarke place (property purchased from Rosie Strahan); thence West 14 feet to the said Northwest corner; thence South 401 feet to the Southwest corner of the said Clarke place; thence East 468 feet to the Northwest corner of Mary E. Snider's place; thence East 18 feet; thence North 14 feet; thence West 472 feet to a point 14 feet East of the West line and 14 feet North of the South line of Clarke land; thence North 387 feet to the point of beginning; this strip was conveyed by Clarke to Mary E. Snider as a cattle runway; in Section 31, Township 1 South, Range 4 West, Willamette Meridian, Washington County, Oregon.

And, further excepting therefrom that parcel as described in Bargain and Sale Deed to John Kotz, Recorded April 1, 1988, Instrument No.: 88-13493.

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Aspen

Rural Land Consulting

Water Resources, Water Rights, Land Surveying,
Engineering, Land Use Planning

ERICURSTADT@HOTMAIL.COM
971-250-1520 (MOBILE)

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JAN 29 2021

23 July 2018

Subject: Evidence of Use for Water Right Transfer

OWRD

This document is intended to go along with an Evidence of Use Affidavit pertaining to a 2018 water right transfer of certificate 16677. The image below is a Google earth aerial photo with 2017 imagery. The yellow line is the outline of the tax lots having the Place of Use for the temporary transfer, T-12204, of certificate 16677. The land has been irrigated in hazelnuts for at least 2017 and 2018.



Prepared by:
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS

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

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)
County of) ss

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I, PAUL KUEHNE, in my capacity as LANDOWNER,
mailing address PO Box 99, LAFAYETTE, OR 97127
telephone number (503)864-4422, 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 # 16677; **OR**

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

Certificate #	Township	Range	Mer	Sec	1/4 1/4	Gov't Lot or DLC	Acres (if applicable)

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.): CROPS

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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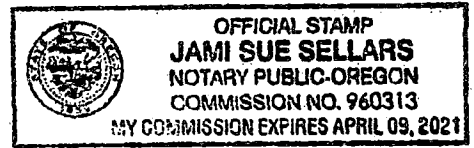
JAN 29 2021

[Signature]
Signature of Affiant

7-23-18
Date

OWRD

Signed and sworn to (or affirmed) before me this 23 day of July, 2018.



[Signature]
Notary Public for Oregon
My Commission Expires: April 9, 2021

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.terraserver.com</p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years.	Copy of instream lease or lease number

Land Use Information Form



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

ATTACH F-1/2

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JAN 29 2021

Applicant(s): Willamette Valley Land, LLC

Mailing Address: PO Box 99

City: Lafayette

State: OR

Zip Code: 97127

Daytime Phone: 503.864.4422 OWRD

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>1 S</u>	<u>4 W</u>	<u>32</u>	<u>N/A</u>	<u>401</u>	<u>Exclusive Farm Use, EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Farming</u>
<u>1 S</u>	<u>4 W</u>	<u>32</u>	<u>N/A</u>	<u>500</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Farming</u>

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

Washington County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

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

Estimated quantity of water needed: 0.32 cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other _____

Briefly describe:

The applicant is moving a water right to a different location downstream from the current location.

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

See bottom of Page 3. →

For Local Government Use Only

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

Please check the appropriate box below and provide the requested information

Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Section 201-2.4

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**


Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input checked="" type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input checked="" type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input checked="" type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input checked="" type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

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JAN 29 2021

Name: Genny Bond Title: Senior Planner OWRD

Signature:  Phone: 503-846-3846 Date: 1/20/21

Government Entity: Washington County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.



Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Aspen

Rural Land Consulting

Water Resources, Water Rights, Land
Surveying, Engineering, Land Use Planning

ERICURSTADT@HOTMAIL.COM

971-250-1520 (MOBILE)

Water Resources Department
Attn: Allocation of Conserved Water
725 Summer Street NE, Ste. A
Salem, OR, 97301

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JAN 29 2021

19 JAN 2021

OWRD

Subject: An application for Allocation of Conserved Water

To Whom It May Concern,

Enclosed is an application for Allocation of Conserved Water together with the following attachments:

- A. Notice of Completion
- B. Request for Finalization
- C. Sales Agreement severing rights from land
- D. Map
- E. Evidence of Use
- F. Land Use Compatibility Statement
- G. A check made out to "Oregon Water Resources Department" for \$1160.00

The applicant has authorized me to be the agent for all Willamette Valley Land, LLC water rights issues. Please let me know if there are any concerns or you need any more information.

Respectfully,
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS