

RA

Name Bridge Creek Ranch LLC

Address 355 Goodpasture Island Rd  
Eugene, OR 97401  
mpati@pape.com

Change in POD

Date Filed 2-9-2023

Initial notice date 2-14-2023

DPD issued date 7-31-2023

PD issued date 9/25/2023

PD notice date 9/26/2023

Date of FO \_\_\_\_\_ Vol \_\_\_\_\_ Page \_\_\_\_\_

C-Date \_\_\_\_\_

COBU due date \_\_\_\_\_

COBU Received date \_\_\_\_\_

Certificate issued \_\_\_\_\_

DESCRIPTION OF WATER RIGHT(S)

Name of Stream BRIDGE CREEK

Trib. of JOHN DAY RIVER

Use STORAGE County WHEELER

Quantity of water (CFS) 330.0 AF No. of Acres \_\_\_\_\_

Name of ditch \_\_\_\_\_

App# R67960 Per # R9896 Cert # 68553 PR Date \_\_\_\_\_

App# \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App# \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App# \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App# \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

FEES PAID		
Date	Amount	Receipt #
<u>2/9/23</u>	<u>125.00</u>	<u>140088</u>
<u>2/9/23</u>	<u>1,360.00</u>	<u>140089</u>
<u>2/21/23</u>	<u>1,488.63</u>	<u>140154</u>
<u>10-23-23</u>	<u>950.00</u>	<u>141797</u>

FEES REFUNDED		
Date	Amount	Receipt #

Assignments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Irrigation District \_\_\_\_\_

Agent Schwabe, Williamson & Wyatt attn: Elizabeth Howard - ehoward@schwabe.com; L-thane@schwabe.com  
+ Lindsay Thane

CWRE Wheeler County

CC's list \_\_\_\_\_

- Oversized map - Location \_\_\_\_\_



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A

SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **141797**

INVOICE # \_\_\_\_\_

RECEIVED FROM: Waterwatch of Oregon, Inc.  
BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	T-14170

CASH:  CHECK: # 15502 OTHER: (IDENTIFY)

TOTAL REC'D \$ 950.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	\$
OTHER: (IDENTIFY)	\$
0243 I/S Lease	
0244 Muni Water Mgmt. Plan	
0245 Cons. Water	

**4270 WRD OPERATING ACCT**

<b>MISCELLANEOUS</b>			
0407 COPY & TAPE FEES	\$		
0410 RESEARCH FEES	\$		
0408 MISC REVENUE: (IDENTIFY)	\$		
TC162 DEPOSIT LIAB. (IDENTIFY)	\$		
0240 EXTENSION OF TIME	\$		
<b>WATER RIGHTS:</b>			
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		
<b>WELL CONSTRUCTION</b>			
0218 WELL DRILL CONSTRUCTOR	\$	0219	\$
LANDOWNER'S PERMIT		0220	\$
<u>0223</u> OTHER (IDENTIFY) <u>Protest</u>			\$ <u>950.00</u>

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE	\$	CARD#	
0210 MONITORING WELLS	\$	CARD#	
OTHER (IDENTIFY)			

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FW/WRD)	\$
0231 HYDRO LICENSE FEE (FW/WRD)	\$
HYDRO APPLICATION	\$

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE **RECEIVED**  
OBJ. CODE \_\_\_\_\_ VENDOR **OVER THE COUNTER**  
DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **141797** DATED: 10/23/2023 BY: [Signature]



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172  
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **141797**

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RECEIVED FROM: Water Watch of Oregon, Inc.  
BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	T-14170

CASH:  CHECK: # 15502 OTHER: (IDENTIFY)

TOTAL REC'D \$ 950.00

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0407 COPIES \$ \_\_\_\_\_  
OTHER: (IDENTIFY) \$ \_\_\_\_\_

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

0407 COPY & TAPE FEES \$ \_\_\_\_\_ *47235*  
0410 RESEARCH FEES \$ \_\_\_\_\_  
0408 MISC REVENUE: (IDENTIFY) \$ \_\_\_\_\_  
TC162 DEPOSIT LIAB. (IDENTIFY) \$ \_\_\_\_\_  
0240 EXTENSION OF TIME \$ \_\_\_\_\_

**WATER RIGHTS:**

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
\$ _____	\$ _____	\$ _____	\$ _____
0203 GROUND WATER	EXAM FEE	0204	RECORD FEE
\$ _____	\$ _____	\$ _____	\$ _____

0205 TRANSFER \$ \_\_\_\_\_

**WELL CONSTRUCTION**

0218 WELL DRILL CONSTRUCTOR	EXAM FEE	0219	LICENSE FEE
\$ _____	\$ _____	\$ _____	\$ _____
LANDOWNER'S PERMIT		0220	LICENSE FEE
		\$ _____	\$ _____

*0223* OTHER (IDENTIFY) Protect \$ 950.00

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE	\$ _____	CARD#	_____
0210 MONITORING WELLS	\$ _____	CARD#	_____

OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

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HYDRO APPLICATION	\$ _____

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_  
OBJ. CODE \_\_\_\_\_ VENDOR# \_\_\_\_\_  
DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

**RECEIVED  
OVER THE COUNTER**

RECEIPT # **141797**

DATED: 10/23/2023 BY: [Signature]





RECEIVED  
OCT 23 2023  
OWRD

Date Received (Date Stamp Here)

### OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Water Watch Oregon 213 SW Ash Suite 208  
Portland OR 97204

Transaction Type: Protest

Fees Received: \$ 950.00

Cash  Check; Check No. 15507

Name(s) on Check: Water Watch Oregon

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

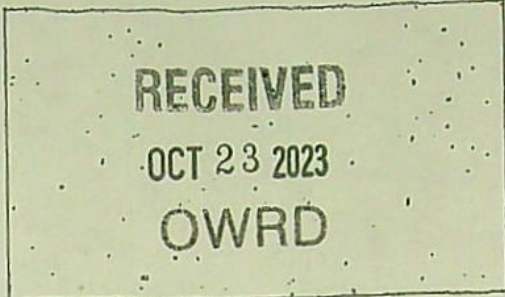
Sincerely,  
OWRD Customer Service Staff

Submission received by: Nide Neece  
(Name of OWRD staff)

**Instructions for OWRD staff:**

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt Information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.





Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Water Watch Oregon 213 SW Ash Suite 208

Portland OR 97204

Transaction Type: Protest

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Check No. 15507

Name(s) on Check: Water Watch Oregon

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If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,

OWRD Customer Service Staff

Submission received by: Wade Neece  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash, and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
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- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.







4. The bypass flow requirement at the current point of diversion on Bridge Creek has limited diversions under storage right C68553 at times when water would otherwise be available for diversion under the right.

5. Diversions of water by Bridge Creek Ranch at the proposed new point of diversion may not be subject to the same bypass flow requirement as diversions at the current point of diversion from Bridge Creek. Thus, the Preliminary Determination would allow Bridge Creek Ranch to divert more water from Bridge Creek than it could diverted at the current point of diversion, which would constitute an enlargement of diversion under the water right.

6. The Bureau of Land Management (BLM) has rights to divert water from Bridge Creek at the same point of diversion currently used by Bridge Creek Ranch. The BLM sometimes chooses not to divert water under its water rights and to instead leave the water instream for the benefit of fish, wildlife, and other aquatic resources. Presently, the water the BLM chooses not to divert is not subject to diversion by Bridge Creek Ranch under C68553. However, the water could potentially be diverted by Bridge Creek Ranch at the proposed new point of diversion, which would constitute a further enlargement of the diversion.

7. C59780 is an instream water right protecting flows in Bridge Creek, in varying amounts depending on the time of year, from the mouth of Bear Creek to the mouth of Bridge Creek, which is downstream from both the existing and the proposed points of diversion from Bridge Creek. C59780 has a priority date of November 3, 1983, which is junior to C68553 (Bridge Creek Ranch's right to divert water from Bridge Creek for storage).

8. By allowing Bridge Creek Ranch to divert more water from Bridge Creek for storage, the Preliminary Determination result in other existing water rights, including but not

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limited to the instream water right reflected in C59780, not receiving previously available water to which the holder of the right is legally entitled.

9. According to the Preliminary Determination, “[o]n May 5, 2023, the applicant amended the application from a change in point of diversion to an additional point of diversion.” There is no record in the Water Rights Information System of any amended application. No notice or comment period was provided for the alleged amended application before the Preliminary Determination.

10. The water storage right reflected in C68553 is a right to store water only, not a right use water. Thus, it is not a “water use subject to transfer” within the meaning of ORS chapter 540.520.

11. A reasonable opportunity for discovery and further investigation may show that the water right reflected in C68553 has been forfeited by non-use.

12. A reasonable opportunity for discovery and further investigation may show that Bridge Creek Ranch is not ready, willing, and able to use the full amount of water allowed under the right.

B. How the Preliminary Determination Is in Error and Deficient (Not Required but Set Forth for Further Identification of Issues).

The facts set forth above show that the Preliminary Determination is in error and deficient for reasons including but not limited to the following:

1. The Preliminary Determination would enlarge the diversion under C68553.
2. The Preliminary Determination would injure other existing water rights.
3. The Preliminary Determination would allow changes to a storage right, which is not authorized by statute.



4. The Preliminary Determination would allow an additional point of diversion, not a change in the point of diversion. Thus, the Preliminary Determination would allow a change not authorized by statute.

5. The Preliminary Determination would approve an application, as the Preliminary Determination claims it was amended, that has not been subject to the required notice and comment period and/or other process as provided by statute and/or rule.

6. A reasonable opportunity for discovery and further investigation may show that the Preliminary Determination would allow transfer of a water right that has been forfeited by non-use.

7. A reasonable opportunity for discovery and further investigation may show that the Preliminary Determination would allow a transfer of the storage right even though the application is not ready, willing, and able to use the full amount of water allowed under the right.

C. Specific Relief or Action Requested.

Protestants request a final order denying the application.

D. Name, Address and Telephone Number of Protestants.

The names and addresses of the Protestants are as follows:

WaterWatch of Oregon  
213 SW Ash Street, Suite 208  
Portland, OR 97204

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E. Name and address of other person or persons necessary to, or having a direct interest in, the proceeding.

The following other persons are necessary to, or have a direct interest in, the proceeding:



Bridge Creek Ranch LLC  
255 Goodpasture Island Road  
Eugene, OR 97401

Elizabeth Howard and Lindsay Thane  
Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Suite 1900  
Portland, OR 97204

F. Citation of Legal Authority.

Protestants rely on legal authorities including the following:

1. ORS 540.505 through ORS 540.580, including: ORS 540.510; ORS 540.520 and ORS 540.530.
2. ORS 540.610 and ORS 540.631.
3. OAR Chapter 690 Division 380, including: OAR 690-380-0100(2), (3); OAR 690-380-2110; OAR 690-380-4010; OAR 690-380-4030; OAR 690-380-5000; OAR 690-380-5140; OAR 690-380-6010.

G. Protest Fee.

Pursuant to ORS 536.050, the required fee of \$950 is included with this protest.

H. Request for Hearing.

Protestant requests a contested case hearing.

Dated: October 23, 2023

Respectfully submitted,

Brian Posewitz

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Brian Posewitz  
Staff Attorney  
WaterWatch of Oregon  
8508 SE 11th Ave.  
Portland, OR 97202  
brian@waterwatch.org

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**PROOF OF SERVICE**

The undersigned hereby certifies that the foregoing protest was served by regular first-class mail, on the date indicated below, as follows:

Bridge Creek Ranch LLC  
255 Goodpasture Island Road  
Eugene, OR 97401

Elizabeth Howard and Lindsay Thane  
Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Suite 1900  
Portland, OR 97204

Dated: October 23, 2023

Brian Posewitz

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Brian Posewitz

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Domestic Mail Only

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Extra Services & Fees (check box, add fee as appropriate)

- |  |          |
|--|----------|
| <input type="checkbox"/> Return Receipt (hardcopy)           | \$ _____ |
| <input type="checkbox"/> Return Receipt (electronic)         | \$ _____ |
| <input type="checkbox"/> Certified Mail Restricted Delivery  | \$ _____ |
| <input type="checkbox"/> Adult Signature Required            | \$ _____ |
| <input type="checkbox"/> Adult Signature Restricted Delivery | \$ _____ |

Postmark  
Here

Postage

BRIDGE CREEK RANCH LLC  
355 GOODPASTURE ISLAND RD  
EUGENE, OR 97401

707.A NLA0 0002 004J 8917





# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

[www.oregon.gov/owrd](http://www.oregon.gov/owrd)

September 25, 2023

VIA CERTIFIED MAIL AND E-MAIL

### **Applicant**

BRIDGE CREEK RANCH LLC

355 GOODPASTURE ISLAND RD

EUGENE, OR 97401

SUBJECT: Water Right Transfer Application T-14170

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14170. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

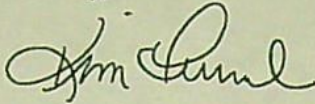
If no protest is filed, the Department will issue a Final Order consistent with the Preliminary Determination. You should receive a copy of the Final Order about 30 days after the close of the protest period.

If a protest is filed, the application may be referred to a contested case proceeding. A contested case provides an opportunity for the proponents and opponents of the decision proposed in the Preliminary Determination to present information and arguments supporting their position in a quasi-judicial proceeding.

Please don't hesitate to contact me at 503 979-9607 or [Kim.R.French@water.oregon.gov](mailto:Kim.R.French@water.oregon.gov), if I may be of assistance.



Sincerely,

A handwritten signature in cursive script, appearing to read "Kim French".

Kim French  
Transfer Specialist  
Transfer and Conservation Section

cc: T-14170  
Kenneth C. Thiemann, District 21 Watermaster (*via e-mail*)  
Elizabeth Howard, Lindsay Thane, Agent for the applicant (*via e-mail*)

encs







4. On February 7, 2023, the Department filed an appeal of the Court's findings.
5. On February 1, 2023, the Marion County Circuit Court issued a Peremptory Writ of Mandamus citing facts and legal conclusions made in the Court's letter opinion entered on January 1, 2023, and ordering OWRD to begin processing Bridge Creek Ranch, LLC's application in accordance with the Petition for Writ of Mandamus within seven (7) days after OWRD's receipt of a new and complete application for transfer involving water right Certificate 68553.
6. On February 9, 2023, Bridge Creek Ranch LLC filed an application for a change in point of diversion under Certificate 68553. The Department deemed the application complete and assigned the application number T-14170.
7. Notice of the application for transfer was published on February 14, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On May 5, 2023, the applicant amended the application from a change in point of diversion to an additional point of diversion.
9. On July 31, 2023, the Department sent a copy of the draft Preliminary Determination to the applicant proposing to approve Transfer Application T-14170. The draft Preliminary Determination cover letter gave an August 31, 2023 deadline for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer. The applicant requested until October 1, 2027 to complete the changes proposed under this transfer.
10. The portion of the right to be transferred is as follows:

**Certificate:** 68553 in the name of WILLIAM SMITH PROPERTIES INC. (perfected under Permit R-9896)  
**Use:** STORAGE for IRRIGATION  
**Priority Date:** OCTOBER 17, 1983  
**Rate:** 330.0 ACRE-FEET (AF)  
**Source:** BRIDGE CREEK, tributary of THE JOHN DAY RIVER

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
10 S	20 E	WM	25	NE SW
10 S	20 E	WM	25	NW SW
10 S	20 E	WM	25	SW SW
10 S	20 E	WM	25	SE SW
10 S	20 E	WM	26	SE SE
10 S	20 E	WM	36	NW NW



11. Certificate 68553 does not describe the location of authorized Bridge Creek POD 2; however, information is available describing the location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	21 E	WM	6	NE NE	BRIDGE CREEK POD 2 - 590 FEET SOUTH AND 2160 FEET EAST FROM THE N1/4 CORNER OF SECTION 6

12. Transfer Application T-14170 proposes an additional point of diversion on Bridge Creek located approximately 1,110 feet downstream from the existing authorized Bridge Creek POD 2, as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	21 E	WM	31	SE SE	POD 3 - 160 FEET NORTH AND 1850 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

***Transfer Review Criteria [OAR 690-380-4000(14), 690-380-4010(2) and 690-380-2110(2)]***

14. Water has been stored within the five-year period prior to submittal of Transfer Application T-14170 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
15. A water delivery system sufficient to store the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-14170.
16. The proposed point of diversion diverts water from the same source of surface water (Bridge Creek) as the authorized point of diversion (Bridge Creek POD 2), as required by OAR 690-380-2110(2).
17. The proposed change, as conditioned, would not result in enlargement of the right.
18. The proposed change, as conditioned, would not result in injury to other existing water rights.
19. All other application requirements are met.

**Determination and Proposed Action**

The additional point of diversion proposed in Transfer Application T-14170 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.



*If Transfer Application T-14170 is approved, the final order will include the following:*

- 1. The additional point of diversion proposed in Transfer Application T-14170 is approved.*
- 2. The right to store the water is restricted to the place of storage described and is subject to all other conditions and limitations contained in Certificate 68553 and any related decree.*
- 3. Water right Certificate 68553 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The quantity of water diverted for storage at the new point of diversion (POD 3) shall not exceed the quantity of water lawfully available at the original point of diversion (Bridge Creek POD 2).*
- 5. Water shall be acquired from the same source of surface water (Bridge Creek) as the original point of diversion (Bridge Creek POD 2).*
- 6. Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department*
- 7. Water Use Measurement Conditions:*
  - a. Before diversion of water may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.*
  - b. The water user shall maintain the meters or measuring devices in good working order.*
  - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 8. Reservoir Water Use Measurement Conditions:*
  - a. Before diversion of water may begin under this order, the water user shall install staff gages, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir.*
  - b. Before diversion of water may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other*

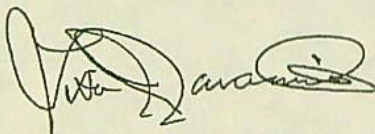


*suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.*

- c. The water user shall allow the Watermaster access to the devices; provided however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
  
- 9. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a "Claim of Beneficial Use" report, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*
  
- 10. Completion of the change shall be made, consistent with the terms of this order, on or before **October 1, 2027**. A "Claim of Beneficial Use" report prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change.*
  
- 11. After satisfactory proof of the change is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

**SEP 25 2023**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by Kim French. If you have questions about the information in this document, you may reach me at 503 979-9607 or [Kim.R.French@water.oregon.gov](mailto:Kim.R.French@water.oregon.gov).

### **Protests**

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition of approval of the transfer application and disagreement with



this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

Protests must be in writing and received in hard copy form with the appropriate statutory protest filing fee; protests cannot be filed by electronic mail. [OAR 690-002-0025(3) and 690-380-0100(9)]. The protest must include the following:

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

#### **Requests for Standing**

Under the provisions of OAR 690-380-4030(5), the Department shall provide to persons who have filed standing statements as defined under OAR 690-380-0100(11) notice of any differences between the Department's Preliminary Determination and the Final Order, notice of a hearing on the application under OAR 137-003-0535, and an opportunity to request limited party status or party status in the hearing.

Requests for standing must be received in the Water Resources Department no later than 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the preliminary determination as issued.



After the protest period has ended, the Director will either issue a Final Order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been filed under OAR 690-380-4030. In accordance with OAR 690-380-4200, notice and conduct of the hearing shall:

- Be under the applicable provisions of ORS 183.310 to 183.550, pertaining to contested cases, and the hearing shall be held in the area where the rights are located unless all parties stipulate otherwise; and
- If a protest has asserted that a water right to be transferred has been forfeited through non-use, include the notice and procedures described in OAR 690-017-0500 to 690-017-0900.

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

If you do not request a hearing within 30 days after the close of the protest period, or if you withdraw a request for a hearing, notify the Department or the administrative law judge that you will not appear, or fail to appear at a scheduled hearing, the Director may issue a final order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials that you have submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

You may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions, or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 690-137-0555, an agency representative may represent partnerships, corporations, associations, governmental subdivisions or public, or private organizations if the Department determines that appearance of a person by an authorized representative will not hinder the orderly and timely development of the record in this case.

**Notice Regarding Servicemembers:** Active-duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act. 50 U.S.C. App. §§501-597b. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-355-4127, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.



If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Will Davidson at 503-507-2749.

If you have questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0900.

Address any correspondence to: Oregon Water Resources Department, Transfer and Conservation Section, 725 Summer Street NE, Suite A, Salem OR 97301-1266.



# Schwabe

August 31, 2023

**Lindsay Thane**  
Admitted in Oregon,  
Washington and Montana  
D: 503-796-2059  
C: 406-214-1918  
lthane@schwabe.com

VIA EMAIL (KIM.R.FRENCH@WATER.OREGON.GOV)  
AND FIRST CLASS MAIL

Oregon Water Resources Department  
Attn: Kim French  
725 Summer St NE, Ste. A  
Salem, OR 97301

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OWRD

RE: Response to Draft Preliminary Determination for Transfer Application T-14170  
Our File No.: 129629-213607

Dear Kim:

This letter is sent on behalf of Bridge Creek Ranch, LLC ("Bridge Creek Ranch"), the applicant under Transfer Application T-14170. This letter is being sent to confirm that Bridge Creek Ranch agrees to the proposed action and conditions set forth in the Draft Preliminary Determination for T-14170, with one exception. Bridge Creek Ranch requests that the completion date be revised from October 1, 2024 to October 1, 2028, which will be approximately five years after the date T-14170 is approved, if it is approved.

Bridge Creek Ranch requests additional time to complete T-14170 to allow it adequate time to complete beneficial use. A Final Order for T-14170 likely will not be issued until near the end of the 2023. If there are any protests of T-14170, issuance of a Final Order will be delayed even longer, likely by years. Bridge Creek Ranch wants to ensure it has adequate time to implement the changes proposed under T-14170. The additional time is necessary to allow Bridge Creek Ranch to ensure it has the resources to complete beneficial use and develop the additional point of appropriation. The additional time is also necessary in case Bridge Creek Ranch encounters any unexpected delays in completing beneficial use.

In addition, enclosed please find a report of ownership for the "FROM" lands under T-14170. Pursuant to the report, all of the FROM lands other than tax lot 1800 are owned by Bridge Creek Ranch. Tax lot 1800 is owned by Thomas and Mary Norton. As evidenced by the attached landowner consent form,<sup>1</sup> Mr. and Mrs. Norton consent to the transfer proposed by application T-14170.

Please utilize Schwabe's account with the Oregon Water Resources Department to pay the fees associated with the newspaper publication for T-14170. For our records, please note on

---

<sup>1</sup> Attached to this letter is a copy of Mr. and Mrs. Norton's executed landowner consent form. The original will follow under cover.



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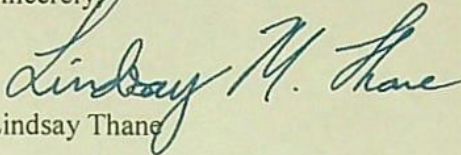
OWRD

Oregon Water Resources Department  
August 31, 2023  
Page 2

Schwabe's account and invoice that such payment is made for the newspaper publication associated with T-14170 (Bridge Creek Ranch).

Please do not hesitate to contact me if you have any questions.

Sincerely



Lindsay Thane

LTH:lm

Enclosures

cc: Mike Pati (*via email only*)  
Elizabeth Howard (*via email only*)  
Shonee Langford (*via email only*)  
Gabe Williams (*via email only*)

PDX\129629\213607\LTH\37302860.1





150 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

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To: Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Ste. 1900  
Portland, OR 97204  
Attn: Nikos Klingenberg

Date: August 30, 2023  
Order No. 603886AM  
Reference: 37882 Burnt Ranch Road  
Mitchell, OR 97750

We have enclosed our Report pertaining to order number 603886AM.

***Thank you for the opportunity to serve you. Your business is appreciated!***

If you have any questions or need further assistance, please do not hesitate to contact your Title Officer listed below.

Sincerely,

***Elsie Ray***

elsie.ray@amerititle.com  
Title Officer

**NOTICE:** Please be aware that, due to the conflict between federal and state laws concerning the legality of the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving land that is associated with these activities.



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**AMERITITLE, LLC**  
**PRIVACY POLICY NOTICE**  
As of March 13, 2019

**PURPOSE OF THIS NOTICE**

AmeriTitle, LLC, (the "Company") shares your concerns about privacy. The Company is committed to respecting the privacy of our customers. Therefore, in accordance with Federal and State laws and regulations, we are providing you with this notice of how we might use the information about you which we gather in the process of issuing a policy of title insurance and closing your real estate transaction.

Title V of the Gramm-Leach-Bliley Act (GLBA) and the laws of the State in which you reside generally prohibit us from sharing non-public personal information about you with a third party unless we provide you with this notice of our privacy policies and practices, such as the type of information that we collect about you and the categories of persons or entities to whom that information might be disclosed. In compliance with GLBA and the laws of this State, we are providing you with this document, which notifies you of the privacy policies and practices of the Company.

**Our Privacy Policies and Practices**

**Information we collect and sources from which we collect it:**

We do not collect any nonpublic information about you other than the following:

- Information we receive from you or from your attorney or other representatives on applications or other forms, such as your name, address, telephone number, or social security number
- Information about your transactions with us, such as description, price, or term
- In addition, we may collect other nonpublic personal information about you from affiliated/nonaffiliated third parties, such as individuals and companies other than those proposed for coverage, which may include information in documents received from your lender

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional information will be collected about you.

**Information we disclose to third parties**

In the course of our general business practices, we may disclose the information that we collect (as described above) about you or others without your permission to the following types of institutions for the reasons described:

- Financial Service Providers:
  - To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction;
  - To an insurance institution, agent, or credit reporting agency for either this Company or the entity to which we disclose the information to perform a function in connection with an insurance transaction involving you.
- Others:
  - To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities;
  - To a third party such as a surveying, real estate tax research or municipal data firm if the disclosure will enable that party to perform a business, professional or insurance function for us;
  - To an actuarial or research organization for the purpose of conducting actuarial or research studies.

The disclosures described above are permitted by law. We require any third party who receives information from us to agree to not disclose or use the information provided other than to carry out the purpose(s) for which it was disclosed.



**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH AFFILIATES OR NON-AFFILIATED THIRD PARTIES FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.**

**Your right to access and amend your personal information:**

You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within 2 years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information from AmeriTitle, LLC you should submit a request in writing to:

Compliance Officer  
AmeriTitle, LLC  
15 NW Oregon Avenue  
Bend, OR 97703

The request should include your name, address, policy number, telephone number and the information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct amend or delete any of your information: You should submit a request in writing to the address referenced directly above. The request should include your name, address, policy number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal which you will have an opportunity to challenge.

**Our practices regarding information confidentiality and security:**

We restrict access to nonpublic information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**Our policy regarding dispute resolution:**

In the event you believe the Company has not complied with the Privacy Policies and Practices as set forth in this Notice, you must give the Company notice in writing addressed to the Compliance Officer at the above address setting forth the reasons for such non-compliance. The Company shall not be deemed to be in breach of the Privacy Policies and Practices unless it has not resolved or explained the issues set forth in such notice within thirty (30) days to your reasonable satisfaction. All claims arising under this Notice shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

**Reservation of the right to disclose information in unforeseen circumstances:**

In connection with the potential sale or transfer of its interests, the Company reserves the right to sell or transfer your information (including but not limited to your address, name, age, sex, zip code, state and country of residency and other information that you provide through other communications) to a third party entity that (1) concentrates its business in a similar practice or service; (2) agrees to be a successor in interest of the Company with regard to the maintenance and protection of the information collected; and (3) agrees to the obligations of this privacy statement.

**Other Important Information:**

The Company's website may contain links to other websites or Internet resources. The Company does not endorse or otherwise accept responsibility for the content or privacy policies of those websites or Internet resources.

The Company reserves the right to modify this Privacy Policy at any time. We will promptly reflect any such modifications in this document and, when we do, we will revise the "effective as of" date noted above. Any updated version of this Privacy Policy will be effective as of that date.

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150 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

**STATUS OF RECORD TITLE**

Nikos Klingenberg  
Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Ste. 1900  
Portland, OR 97204  
Your Reference No.

August 30, 2023  
Title Number: 603886AM  
Title Officer: Elsie Ray  
Fee: \$600.00

**We have searched the status of record title as to the following described property:**

See attached Exhibit 'A'

**Vestee:**

**BRIDGE CREEK RANCH LLC, an Oregon Limited Liability Company (TRACT I)  
Thomas E. Norton and Mary T. Norton, as Tenants by the Entirety (TRACT II)**

and dated as of **July 31, 2023** at 7:30 a.m.

**Said property is subject to the following on record matters:**

**Tax Information:**

Taxes assessed under Code No. 06 Account No. 1475 Map No. 1020000001700

NOTE: The 2022-2023 Taxes: \$5,050.39, are Paid

Taxes assessed under Code No. 06 Account No. 60423 Map No. 1020000001700

NOTE: The 2022-2023 Taxes: No Amount Shown

Taxes assessed under Code No. 06 Account No. 1478 Map No. 1020000001704

NOTE: The 2022-2023 Taxes: \$3.93, are Paid

Taxes assessed under Code No. 06 Account No. 1480 Map No. 1020000001800

NOTE: The 2022-2023 Taxes: \$1,494.31, are Paid

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**SPECIAL EXCEPTIONS FOR ALL TRACTS:**

1. The 2023-2024 Taxes: A lien not yet due or payable.
2. Taxes deferred, as disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said Land is disqualified for such use the property will be subject to additional taxes or penalties and interest.
3. Ditch, road and public utility easements as the same may exist over said Land.
4. Right, title and interest of the public in and to those portions of the Land lying within roads, streets or highways.



5. Rights of the public and governmental bodies in and to that portion of said premises now or at any time lying below the high water line of Bridge Creek or Bear Creek, including any ownership rights which may be claimed by the State of Oregon as to any portion now or at any time lying below the ordinary high water line.

Such rights and easements for navigation and fishing as may exist over that portion of the property now or at any time lying beneath the waters of Bridge Creek or Bear Creek.

All matters arising from any shifting in the course of Bridge Creek or Bear Creek including but not limited to accretion, reliction and avulsion.

6. Reservations, as may be contained in Patents from the United States of America and in Deeds from the State of Oregon, if any.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B.  
The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.

SPECIAL EXCEPTIONS FOR TRACT I:

8. The Land, as defined in the policy to be issued, does not include any improvement(s) located on the Land which is described or defined as a mobile home (manufactured housing unit) under the provisions of State Law and is subject to registration.
9. Right of the public to enter, view, examine, and study the subject property, including the terms and provisions thereof,  
Recorded: August 25, 1947  
Book/Page: 25-596
10. Easement, including the terms and provisions thereof,  
Recorded: December 11, 1963  
Instrument No.: 30-566  
Between: John Hudspeth, Floreine Hudspeth, Fred Hudspeth and Margaret Hudspeth, co-partners, doing business as Hudspeth Sawmill Company and Hudspeth Land & Livestock Company; Roger Hudspeth, doing business as Paulina Cattle Company, and Jamie Hudspeth, his wife; Ron Hudspeth and Jane Hudspeth, husband and wife  
And: Hudspeth Pine, Inc., an Oregon Corporation
11. Easements, Conditions and Restrictions created by final judgment:  
Filed: February 24, 1971  
Case No.: 2250  
Court: Wheeler County Circuit Court  
Between: State of Oregon, by and through its State Highway commission, composed of Glenn L. Jackson, Fred W. Hill and Thaddeus B. Bruno, and CBC Company, an Oregon corporation; The Connecticut Mutual Life Insurance Company, a Connecticut corporation; Eastern Oregon Land Company, a California corporation; and First National Bank of Oregon, a national banking association.
12. Restrictions, Covenants and Conditions, including the terms and provisions, as contained in deed from United States of America ,  
Recorded: May 9, 1980  
Instrument No.: 35-736

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13. Scenic Easement, Restrictions and Covenants created by instrument, including the terms and provisions thereof,  
Recorded: May 9, 1980  
Instrument No.: 35-737
14. An easement including the terms and provisions thereof, affecting the portion of said Land and for the purposes stated therein as set forth in instrument:  
Granted To: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation  
Recorded: April 5, 1985  
Book/Page: 37-221
15. Easement, including the terms and provisions thereof,  
Recorded: November 27, 2000  
Instrument No.: 000393  
  
Re-recorded: December 15, 2000  
Instrument No.: 000405
16. A Deed of Trust, including the terms and provisions thereof, to secure the amount noted below and other amounts secured thereunder, if any:  
Amount: \$395,000,000.00  
Trustor/Grantor: Bridge Creek Ranch LLC, an Oregon limited liability company  
Trustee: Ameri-title, Inc.  
Beneficiary: Bank of America, N.A., a national banking association as Administrative Agent for the Lenders, Sing Line Lender and L/C Issuer  
Dated: March 18, 2009  
Recorded: March 24, 2009  
Instrument No.: 20090062  
(Includes Additional Property)

**This Deed of Trust secures an equity line of credit and/or revolving loan. The Company requires satisfactory written statement from the existing lender confirming; (a) the payoff amount, (b) that the line of credit has been closed, and no further draws/advances will be permitted and/or the right to future advances has been terminated, and (c) agreeing to deliver a full satisfaction/release upon payment of the outstanding balance, (d) satisfactory documentation from the borrower to close the account.**

An agreement to modify the terms and provisions of said Deed of Trust as therein provided:  
Recorded: June 1, 2012  
Instrument No.: 2012-0131

An agreement to modify the terms and provisions of said Deed of Trust as therein provided:  
Recorded: September 24, 2014  
Instrument No.: 2014-0266

SPECIAL EXCEPTIONS FOR TRACT II:

17. Reservation of Coal, oil, gas and other minerals, including the terms and provisions contained therein, in deed from State of Oregon.  
Recorded: April 24, 1963  
Book/Page: 30-444  
The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.

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18. An easement including the terms and provisions thereof, affecting the portion of said Land and for the purposes stated therein as set forth in instrument:  
Granted To: Brooks Resources Corporation, an Oregon corporation  
Recorded: May 6, 1985  
Book/Page: 37-286
19. Easement, including the terms and provisions thereof,  
Recorded: November 6, 2000  
Instrument No.: 000370
20. Notwithstanding Paragraph 4 of the Covered Risks of this policy, this policy does not insure against loss arising by reason of any lack of a right of access to and from the Land.

NOTE: Any map or sketch enclosed as an attachment herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the company assumes no liability for any loss occurring by reason of reliance thereon.

NOTE: We find no activity in the past 24 months regarding transfer of title to subject property.

THIS IS NOT A TITLE REPORT, A COMMITMENT TO ISSUE TITLE INSURANCE OR A GUARANTEE OF ANY KIND. No liability is assumed with this report. The fee charged for this service does not include supplemental reports or other services. Further dissemination of the information in this report in a form purporting to insure title to the herein described land is prohibited by law.

*"Superior Service with Commitment and Respect for Customers and Employees"*

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**EXHIBIT 'A'**

File No. 603886AM

TRACT I:

Located in Wheeler County, Oregon:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 24: That portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14.

Section 36: Two tracts of land being more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736.

TRACT II:

Located in Wheeler County Oregon:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 26: The West half (1/2) and the West half (1/2) of the East half (1/2) and the Northeast quarter (1/4) of the

Northeast quarter (1/4) and the Southeast quarter (1/4) of the Southeast quarter (1/4)

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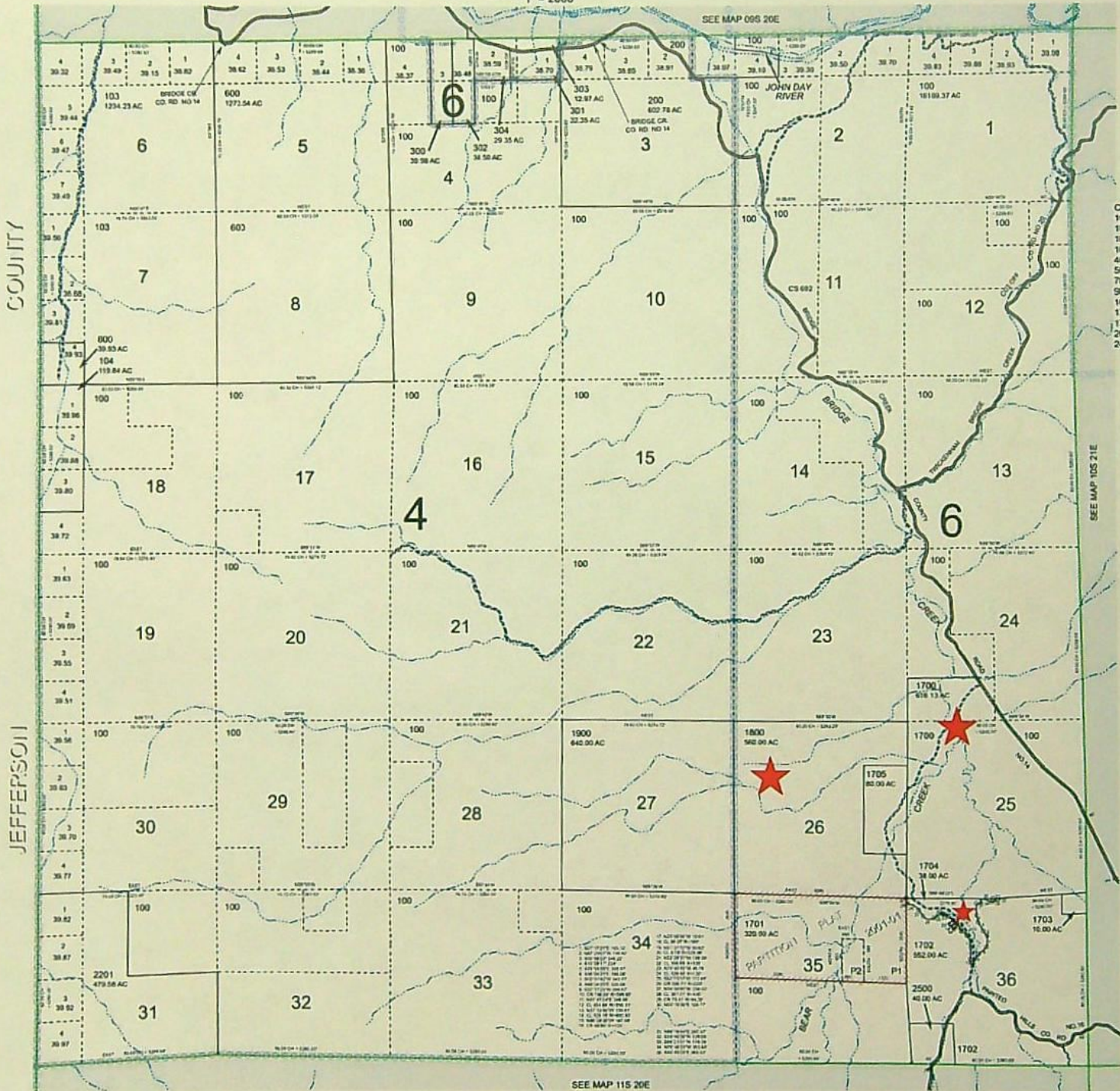
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

0 480 960 1,920 Feet

T.10S. R.20E. W.M.  
Wheeler County  
1" = 2000'

10S20E

2/6/2020



CANCELLED  
 101  
 102  
 105 THRU  
 108  
 400  
 500  
 700  
 900 THRU  
 1600  
 1706 THRU  
 1709  
 2000 THRU  
 2400

**N**  
  
**COMPLIMENTS OF  
 AmeriTitle**

This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason or reliance thereon.

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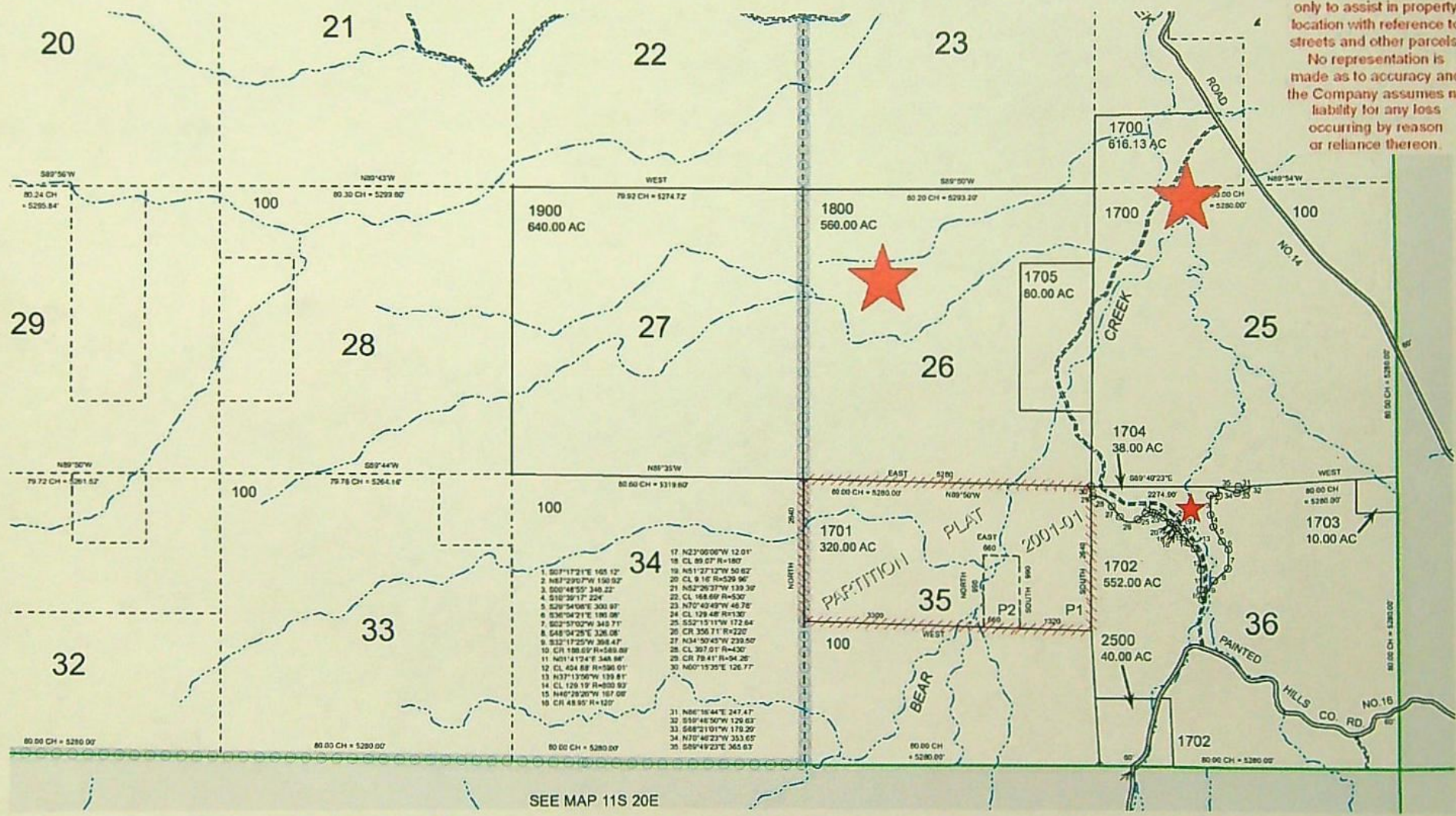
10S20E





COMPLIMENTS OF  
AmeriTitle

This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason or reliance thereon.



SEE MAP 11S 20E

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STATE OF OREGON

County of Wheeler

SS

AFTER RECORDING RETURN TO:

Myles Conway  
Schwabe Williamson & Wyatt  
549 SW Mill View Way, Suite 100  
Bend, Oregon 97702

UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO:

Robert J. Riecke  
Bridge Creek Ranch LLC  
355 Goodpasture Island Road  
Eugene, OR 97440

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

Barbara S. Sitton  
Wheeler County Clerk

**DEED**

by: J. Greenfield Deputy.

DOC#: 20080444 PAGES: 5  
RCPT: 951 46.00  
12/22/2008 2:06 PM  
REFUND: .00

**SPECIAL WARRANTY DEED**

DERBY SMITH PARTNERS LLC ("Grantor") conveys and specially warrants to BRIDGE CREEK RANCH LLC, an Oregon limited liability company ("Grantee"), the real property described on Exhibit A attached hereto, free of encumbrances created or suffered by Grantor except as set forth on Exhibit B attached hereto.

The true consideration for this conveyance is \$1,750,000.00.

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. THIS INSTRUMENT DOES 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 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, 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.

[Signature appears on the following page]

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Dated this 27 day of December, 2008.

GRANTOR:

DERBY SMITH PARTNERS LLC

William L. Smith  
By WILLIAM L. SMITH  
Its Managing member

ACKNOWLEDGMENT

STATE OF OREGON        )  
                                  ) ss.  
County of Deschutes    )

This instrument was acknowledged before me on the 27<sup>th</sup> day of December, 2008, by WILLIAM L. SMITH as MANAGING member of DERBY SMITH PARTNERS LLC.



Sharon A. Mitchell  
Notary in and for the State of Oregon  
My Commission Expires: AUG. 24/2010

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**EXHIBIT A  
LEGAL DESCRIPTION**

Located in WHEELER COUNTY, OREGON:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 24: That portion of the S $\frac{1}{2}$ S $\frac{1}{2}$ W $\frac{1}{2}$  lying Westerly of Bridge Creek County Road No. 14.

Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14.

Section 36: NE $\frac{1}{4}$ N $\frac{1}{4}$ E $\frac{1}{4}$ NE $\frac{1}{4}$ ; Also, two tracts of land more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736.

In Township 10 South, Range 21 East of the Willamette Meridian, Wheeler County, Oregon:

Section 30: That portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 31: All that portion lying Easterly of Bridge Creek and Westerly of Bridge Creek County Road No. 14.

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EXHIBIT A

PIX/120068/166587/MCO/3223050.1

20080444 pg. 3 of 5



EXHIBIT B  
TITLE EXCEPTIONS

7. As disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
8. As disclosed by the tax roll, the premises herein described are classified as forest lands. In the event of declassification, said premises will be subject to additional taxes and interest pursuant to the provisions of ORS Chapter 321.
9. Existing rights of way for roads, highways, irrigation ditches, canals and pole lines.
10. Reservations contained in Patents from the United States of America and in Deeds from the State of Oregon, if any.
11. Any adverse claim based upon the assertion that Rights of the public and governmental bodies in and to any portion of the premises herein described lying below the high water mark of the Bridge Creek or Bear Creek, including any ownership rights which may be claimed by the State of Oregon below the high water line.
12. Right of the public to enter, view, examine and study the subject property, including the terms and provisions thereof:  
Recorded: August 25, 1947  
Book/Page: 25/596 (Records of Wheeler County, Oregon)
13. An Easement created by instrument, subject to the terms and provisions thereof:  
Dated: December 3, 1963  
Recorded: December 11, 1963  
Book/Page: 30/566 (Records of Wheeler County, Oregon)  
Grantor: John Hudspeth, Florine Hudspeth, Fred Hudspeth and Margaret Hudspeth, co-partners, doing business as Hudspeth Sawmill Company and Hudspeth Lumber & Livestock Company, Roger Hudspeth, doing business as Paulina Cattle Company, and Jamie Hudspeth, his wife; Ron Hudspeth and Jane Hudspeth, husband and wife  
In Favor of: Hudspeth Pine, Inc.  
Purpose: Road access
14. Easements, Conditions and Restrictions created by final judgment:  
Filed: February 24, 1971  
Case No. 2250  
Court: Wheeler County Circuit Court  
Between: State of Oregon, by and through its State Highway Commission, composed of Glenn L. Jackson, Fred W. Hill and Thaddeus B. Bruno, and CBC Company, an Oregon corporation; The Connecticut Mutual Life Insurance Company, a Connecticut corporation; Eastern Oregon Land Company, a California corporation; and First National Bank of Oregon, a national banking association.
15. Restrictions, Covenants and Conditions, including the terms and provisions thereof, as contained in deed:  
From: United States of America  
To: Brooks Resources Corporation, an Oregon corporation  
Recorded: May 9, 1980  
Book/Page: 35/736 (Records of Wheeler County, Oregon)

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16. **Scenic Easement, Restrictions and Covenants** created by instrument, subject to the terms and provisions thereof:  
Dated: February 6, 1980  
Recorded: May 9, 1980  
Microfilm No.: M-35-737 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Corporation, an Oregon corporation  
In Favor of: United States of America
17. **A Telephone Line Right-of-way Easement** created by instrument, subject to the terms and provisions thereof:  
Dated: March 21, 1985  
Recorded: April 5, 1985  
Microfilm No.: M-37-221 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Investment Corporation, an Oregon corporation  
In Favor of: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation  
Purpose: Telephone line access
18. **An Easement** created by instrument, subject to the terms and provisions thereof:  
Dated: November 15, 2000  
Recorded: November 27, 2000  
Microfilm No.: 000393 (Records of Wheeler County, Oregon)  
Grantor: Derby Smith Partners, LLC, an Oregon limited liability company  
In Favor of: Thomas R. Norton and Mary T. Norton, husband and wife  
Purpose: Road purposes
- Re-Recorded: December 15, 2000  
Microfilm No.: 000405 (Records of Wheeler County, Oregon)

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EXHIBIT B  
IDX/120068/166587/MCO/3223050.1

20080444 pg. 5 of 5



STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor, convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 32% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26 B.j.7.

The true and actual consideration for the conveyance is \$0.

Send tax statements to: No Change

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.

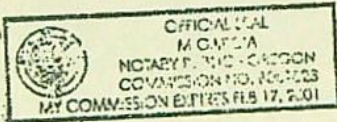
Dated this 29<sup>th</sup> day of December, 2000.

Edmund Carlyle Norton, Jr.

Betty Jo Norton

STATE OF OREGON )
County of Wheeler ) ss.

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 29<sup>th</sup> day of December, 2000.



M. Garcia
Notary Public for Oregon
My Commission Expires: 2-17-01



DEED

000429

2000 DEC 29 P 1:56

Fee 31.00

RECORDED & INDEXED

RECEIVED

SEP 05 2023

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STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor, convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 22 2/3% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26

The true and actual consideration for the conveyance is \$0.

As a result of this deed and a previous deed, Grantees now own an undivided 54 2/3% of the above-described property

Send tax statements to: No Change

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.

Dated this 30 day of January, 2001.

*Edmund Carlyle Norton, Jr.*  
Edmund Carlyle Norton, Jr.

*Betty Jo Norton*  
Betty Jo Norton

STATE OF OREGON )  
County of Crook ) ss.

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 30 day of January, 2001.



*Christine McMurrian*  
Notary Public for Oregon  
My Commission Expires: Oct. 22, 2002



DEED

010043  
BARBARA S. SITTON  
WHEELER COUNTY CLERK

2001 FEB -2 P 3:14

BY *B. Sitton* DEPUTY

Fee 26<sup>00</sup>

G:\WP\NANCY\REAL ESTATE\NORTON ED & B 2

1 - Statutory Bargain & Sale Deed

After Recording Return To:  
DUTLI & WILSON, LLP  
545 NE 7th Street Prineville, Oregon 97754  
541-447-3910 Fax 541-447-7827

RECEIVED

SEP 05 2023

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STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor. convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 22 2/3% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26

The true and actual consideration for the conveyance is \$0.

As a result of this deed and previous deeds, Grantees now own an undivided 77 1/3% of the above-described property

Send tax statements to: No Change

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 LAWSUIT'S AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Dated this 3 day of April, 2002.

*Edmund Carlyle Norton, Jr.*  
Edmund Carlyle Norton, Jr.

*Betty Jo Norton*  
Betty Jo Norton

STATE OF OREGON )  
County of Crook ) ss.

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 3 day of April, 2002.



*Christine McMurrian*  
Notary Public for Oregon  
My Commission Expires: Oct. 22, 2002



DEED  
020119  
BARBARA S. SITTON  
WHEELER COUNTY CLERK

2002 APR -8 A 10: 22  
BY *Barbara S. Sitton* DEPUTY

Fee 7.26<sup>00</sup>

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SEP 05 2023  
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1 - Statutory Bargain & Sale Deed

After Recording Return To:  
DUTLI & BORNEMAN, LLP  
545 NE 7th Street • Prineville, Oregon 97754 • 541-447-3910 • Fax 541-447-7827

P 61



STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor, convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 22 2/3% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26

The true and actual consideration for the conveyance is \$0.

As a result of this deed and previous deeds, Grantees now own an undivided 100% of the above- described property

Send tax statements to: No Change

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.

Dated this 28<sup>th</sup> day of January, 2003.

*Edmund Carlyle Norton, Jr.*  
Edmund Carlyle Norton, Jr.

*Betty Jo Norton*  
Betty Jo Norton

STATE OF OREGON )  
County of Crook ) ss.

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 28<sup>th</sup> day of January, 2003.



*Christine McMurrain*  
Notary Public for Oregon  
My Commission Expires: Oct. 22, 2006



DEED  
030062

BARBARA S. SITTON  
WHEELER COUNTY CLERK

2003 FEB -5 A 10: 53

BY *Roberta Cole* DEPUTY

Fee 20.00

G:\W761\NANCY\REAL ESTATE\NORTON.ED&B.S.4

1 - Statutory Bargain & Sale Deed

After Recording Return To:  
DUTLI & BORNEMAN, LLP  
545 NE 7th Street • Prineville, Oregon 97754 • 541-447-3910 • Fax 541-447-7827

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SEP 05 2023  
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#2898  
STATE OF OREGON }  
County of Wheeler } ss.

I hereby certify that the within instrument was received for record.

MAY 9 1980 8:37 am

and assigned NOV-35-73

(Reeds)  
in the Microfilm Records of said county

Witness My Hand and Seal of County  
Attest

ARLENE STEGNER  
County Clerk

*Arlene Stegner*

GENERAL TITLE & ESCROW

BARGAIN AND SALE DEED

The Grantor, UNITED STATES OF AMERICA, for and in consideration of the exchange of lands, does hereby grant, bargain, sell and convey to BROOKS RESOURCES CORPORATION, AN OREGON CORPORATION, the following described property located in the County of Wheeler, State of Oregon, to wit:

A tract of land located in Section 36, Township 10 South, Range 20 East, Willamette Meridian, Wheeler County, Oregon, being more particularly described as follows:

Beginning at a National Park Service aluminum monument marking the Northwest corner of said Section 36; thence South 89° 49' 23" East (South 89° 57' 19" East Grid) a distance of 2274.90 feet to a point from which the North ¼ corner of said Section 36 bears South 89° 49' 23" East (South 89° 57' 19" East Grid) a distance of 365.63 feet; thence South 07° 17' 21" East a distance of 165.12 feet; thence North 87° 29' 07" West a distance of 150.92 feet; thence South 00° 46' 55" East a distance of 348.22 feet; thence South 10° 39' 17" East a distance of 224.00 feet; thence South 29° 54' 08" East a distance of 300.97 feet; thence South 36° 04' 21" East a distance of 186.08 feet; thence South 02° 57' 02" West a distance of 340.71 feet; thence South 48° 04' 25" West a distance of 326.08 feet; thence South 32° 17' 25" West a distance of 398.47 feet; thence following the arc of a 589.89 foot radius curve right a distance of 188.69 feet (chord bears North 07° 28' 27" West 187.89 feet); thence North 01° 41' 24" East a distance of 348.98 feet; thence following the arc of a 596.01 foot radius curve left a distance of 404.88 feet (chord bears North 17° 46' 16" West 397.14 feet); thence North 37° 13' 56" West a distance of 139.81 feet; thence following the arc of a 800.93 foot radius curve left a distance of 129.19 feet (chord bears North 41° 51' 11" West 129.05 feet); thence North 46° 28' 26" West a distance of 167.08 feet; thence following the arc of a 120.00 foot radius curve right a distance of 48.95 feet (chord bears North 34° 47' 16" West 48.61 feet); thence North 23° 06' 06" West a distance of 12.01 feet; thence following the arc of a 180.00 foot radius curve left a distance of 89.07 feet (chord bears North 37° 16' 39" West 88.16 feet); thence North 51° 27' 12" West a distance of 50.62 feet; thence following the arc of a 529.96 foot radius curve left a distance of 9.16 feet (chord bears North 51° 56' 55" West 9.16 feet); thence North 52° 26' 37" West a distance of 139.39 feet; thence following the arc of a 530.00 foot radius curve left a distance of 168.69 feet (chord bears North 61° 33' 43" West 167.98 feet); thence North 70° 40' 49" West a distance of 46.76 feet; thence following the arc of a 130.00 foot radius curve left a distance of 129.48 feet (chord bears South 80° 47' 11" West 124.19 feet); thence South 52° 15' 11" West a distance of 172.64 feet; thence following the arc of a 220.00 foot radius curve right a distance of 356.71 feet (chord bears North 81° 17' 47" West 318.90 feet); thence North 34° 50' 45" West a distance of 239.50 feet; thence following along the arc of a 430.00 foot radius curve left a distance of 397.01 feet (chord bears North 61° 17' 45" West 383.06 feet); thence following the arc of a 94.26 foot radius curve right a distance of 79.41 feet (chord bears North 63° 36' 38" West 77.09 feet) to a point on the west line of said Section 36; thence North 00° 15' 35" East (North 00° 07' 39" East Grid) following the west line of said Section 36 a distance of 126.77 feet to the Point of Beginning and terminus of this description.

WH-50295 R/10

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SEP 05 2023

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And a tract of land containing 0.95 acres, more or less, located in the North One-Half (N½) of Section 36, Township 10 South, Range 20 East, Willamette Meridian, Wheeler County, Oregon, being more particularly described as follows:

Beginning at a National Park Service aluminum monument marking the North ¼ corner of said Section 36, thence North 86° 16' 44" East (North 86° 08' 48" East Grid) following the north line of said Section 36 a distance of 247.47 feet; thence South 59° 46' 50" West a distance of 129.63 feet; thence South 68° 21' 01" West a distance of 179.29 feet; thence North 70° 46' 23" West a distance of 353.65 feet to the north line of said Section 36; thence South 89° 49' 23" East (South 89° 57' 19" East Grid) following the north line of said Section 36 a distance of 365.63 feet to the Point of Beginning.

SUBJECT TO: All easements, restrictions and rights-of-way of record.

All bearings for the above description are Geodetic, all distances are ground distances.

The above mentioned grid bearings are based upon a boundary survey of the Painted Hills Unit of the John Day Fossil Beds National Monument performed by Robert D. Baggett in August of 1977 for the National Park Service. Theata angle is +00° 07' 56".

The land hereinabove described contains 38 acres, more or less.

The land is conveyed subject to the restrictions, covenants and conditions imposed upon the above described lands and the acts which the Grantee and its successors and assigns covenant to do and refrain from doing on the above described lands are as follows:

1. The land may be used for the impoundment of water and for purposes incidental thereto and for the grazing of livestock. Except for fences and roadway improvements, no structures or improvements of any kind may be built. The provisions contained herein are intended to and should be construed to provide the Grantee with sufficient lands for the impoundment of water to enable the construction of dams, including purposes incidental thereto on its adjoining property and to impound water and graze livestock, but in doing so, and insofar as economically feasible, retain the appearance of the land that exists as of the date of this deed.
2. Farming or grazing use shall not include feeder pig operations, hog finishing operations, cattle feedlot operations, the raising of poultry in confined spaces, or other similar operations whereby livestock, poultry, or other animals are raised in a confined or controlled environment.
3. Mobile homes, travel trailers, tent trailers, tents, self-propelled recreational vehicles, and like structures or vehicles shall not be located or used on the land for residential, camping, storage, or other purposes.
4. The erection or display of advertising signs and/or billboards on the land is expressly prohibited.
5. The dumping of trash or other unsightly materials on the land or the keeping thereon of junked or wrecked vehicles, junked farming equipment or similar items is prohibited.
6. The land shall be maintained in its present acreage and shall not be subdivided into any smaller parcels.

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7. Grantee and successors and assigns in impounding water will prevent wave action from impacting in any way adjoining lands within the park. In the event erosion through wave action is to be prevented through the placement of riprap or other imported materials, the appearance and placement of such material shall be mutually agreed to.
8. Grantee will endeavor to establish vegetation to minimize the visual appearance of mudflats during periods of low water.
9. The Grantee will prohibit any water related recreational use on waters impounded on the property.
10. Grantee will fence the new common boundary created by this deed within 18 months of the date of this deed. The fencing, with respect to color and materials, shall be the same as that used within the park unless otherwise directed by the Superintendent of John Day Fossil Beds National Monument, or his authorized representative.
11. The land being conveyed is subject to existing rights in third parties for ingress and egress over an existing access road. The Grantee assumes any and all responsibility for the construction of an alternative access road, if required, except that the Grantee has the Grantor's specific permission to construct said relocated access road across park land. The centerline of said relocated access road may be located 30 feet west of the westerly boundary of the property being conveyed and the southerly extension thereof to its intersection with the existing access road. The exact location of the relocated access road is more specifically shown on Century West Engineering Corporation drawing No. 0001.272.C17 entitled "Road Relocation, Painted Cove Area, John Day Fossil Beds National Monument, Painted Hills Unit."
12. These covenants and restrictions shall not be construed to grant the public any right to enter or use the land for any purpose.
13. The National Park Service, its agents, employees, and assigns, shall have the right to enter upon, cross the land, for the purpose of enforcing the provisions of this deed, and together with such right, may cause to be removed from such land any unauthorized signs or other devices or structures, accumulation of trash or debris, or other dead, dying or diseased vegetation or animals. Existing field roads or other normally traveled routes should be utilized for such ingress or egress where practical and shall be done at reasonable hours and after prior arrangement with the Grantee wherever possible.

TO HAVE AND TO HOLD the above granted and described premises, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, unto said BROOKS RESOURCES CORPORATION, AN OREGON CORPORATION and its assigns forever.

The land is being acquired by Brooks Resources Corporation, an Oregon Corporation.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand this 4th day of April, 19 80.

NATIONAL PARK SERVICE  
DEPARTMENT OF THE INTERIOR

By: Keith M. Watkins  
KEITH M. WATKINS  
Chief, Land Acquisition Officer

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SEP 05 2023

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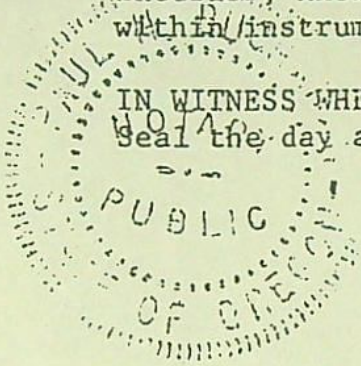


ACKNOWLEDGMENT

County of Deschutes )  
 ) SS  
State of Oregon )

On this 4th day of April, 1980,  
before me, Paul H. Buchanan, a Notary  
Public in and for said County and State, residing therein, duly  
commissioned and sworn, personally appeared KEITH M. WATKINS, Chief,  
Land Acquisition Officer, National Park Service, Department of the  
Interior, known to me to be the person whose name is subscribed to the  
within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my Official  
Seal the day and year in this certificate first above written.



Paul H. Buchanan  
Notary Public in and for said

My commission expires:  
1-22-83

County of Deschutes  
State of Oregon

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SEP 05 2023  
OWRD



# Application for Water Right Transfer



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

## Consent by Deeded Landowner

State of Oregon )  
County of Baker )ss  
)

I Thomas E. and Mary T. Norton in our capacity as landowners,  
mailing address 44943 Whitetail Lane, Baker City, OR 97814,  
telephone number 541-408-4535, duly sworn depose and say that I  
consent to the proposed change(s) to Water Right Certificate Number 68553  
described in a Water Right Transfer Application (T-14170),  
(transfer number, if known)  
submitted by Bridge Creek Ranch LLC  
on the property in tax lot number(s) 1800,

Section 26 Township 10 South Range 20 East, W.M.,

located at 37020 Bear Creek Rd., Mitchell, OR 97750  
(site address)

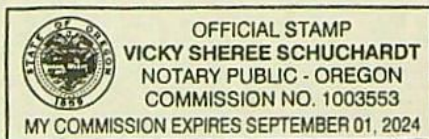
Thomas E. Norton  
Signature of Affiant

8-15-23  
Date

Mary T. Norton  
Signature of Affiant

8.15.2023  
Date

Subscribed and Sworn to before me this 25<sup>th</sup> day of August, 2023.



Vicky S. Schuchardt  
Notary Public for Oregon

My commission expires 09/01/2024



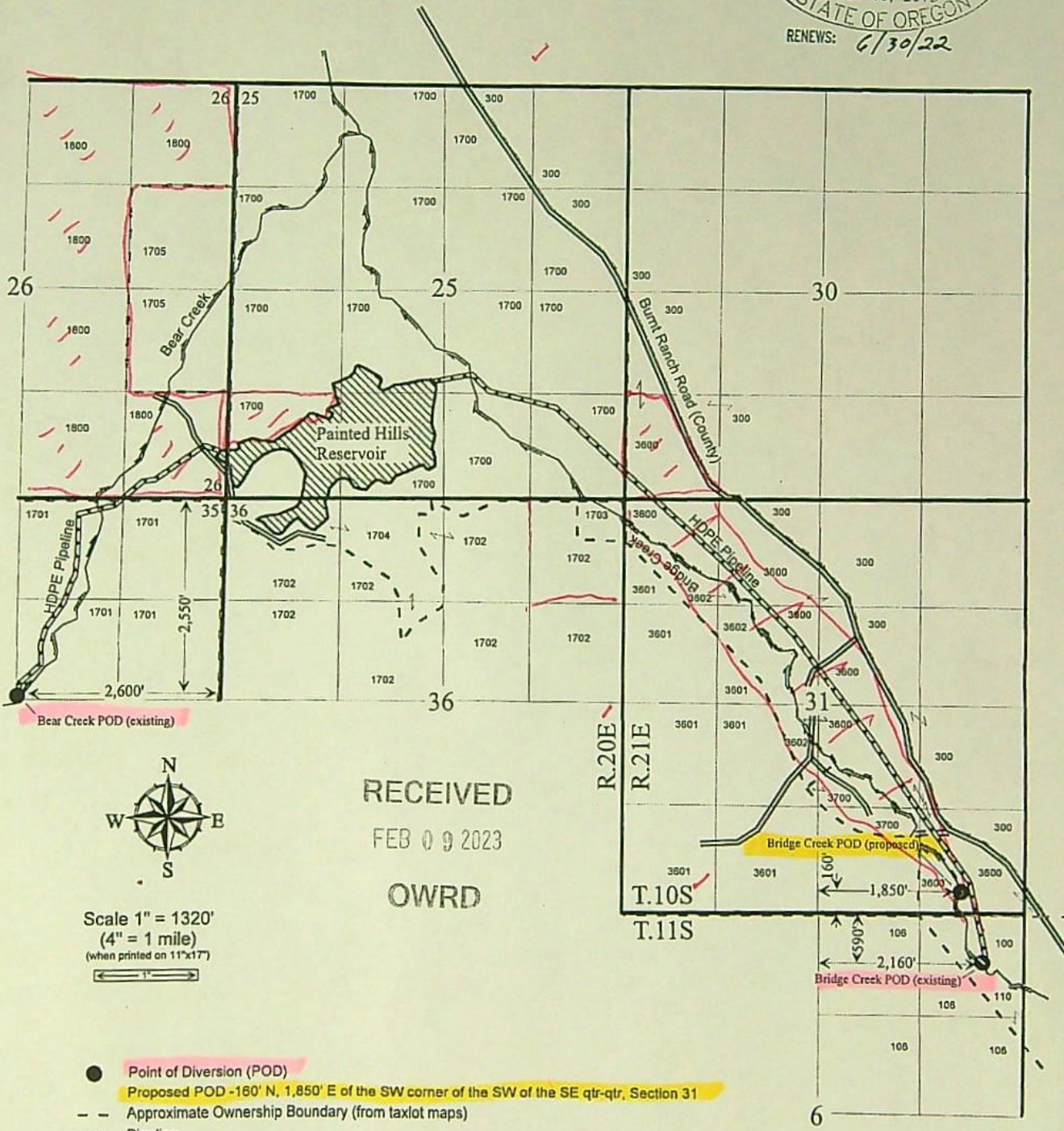
WORKING FILE



COPY

# POD Transfer (C68553)

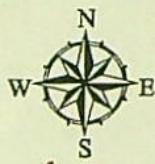
CERTIFIED WATER RIGHT EXAMINER  
 72665  
*Gabriel M. Williams*  
 GABRIEL M. WILLIAMS  
 JULY 10, 2018  
 STATE OF OREGON  
 RENEWS: 6/30/22



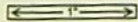
RECEIVED

FEB 09 2023

OWRD



Scale 1" = 1320'  
 (4" = 1 mile)  
 (when printed on 11"x17")



- Point of Diversion (POD)
- Proposed POD -160' N, 1,850' E of the SW corner of the SW of the SE qtr-qtr, Section 31
- - - Approximate Ownership Boundary (from taxlot maps)
- == Pipeline
- == Road
- ~ Creek

This map is for the purpose of locating a water right only and is not intended to provide legal dimensions or locations of property ownership lines.

RECEIVED  
 OWRD





August 31, 2023

**Lindsay Thane**  
Admitted in Oregon,  
Washington and Montana  
D: 503-796-2059  
C: 406-214-1918  
lthane@schwabe.com

VIA EMAIL (KIM.R.FRENCH@WATER.OREGON.GOV)  
AND FIRST CLASS MAIL

Oregon Water Resources Department  
Attn: Kim French  
725 Summer St NE, Ste. A  
Salem, OR 97301

RE: Response to Draft Preliminary Determination for Transfer Application T-14170  
Our File No.: 129629-213607

Dear Kim:

This letter is sent on behalf of Bridge Creek Ranch, LLC (“Bridge Creek Ranch”), the applicant under Transfer Application T-14170. This letter is being sent to confirm that Bridge Creek Ranch agrees to the proposed action and conditions set forth in the Draft Preliminary Determination for T-14170, with one exception. Bridge Creek Ranch requests that the completion date be revised from October 1, 2024 to October 1, 2028, which will be approximately five years after the date T-14170 is approved, if it is approved.

Bridge Creek Ranch requests additional time to complete T-14170 to allow it adequate time to complete beneficial use. A Final Order for T-14170 likely will not be issued until near the end of the 2023. If there are any protests of T-14170, issuance of a Final Order will be delayed even longer, likely by years. Bridge Creek Ranch wants to ensure it has adequate time to implement the changes proposed under T-14170. The additional time is necessary to allow Bridge Creek Ranch to ensure it has the resources to complete beneficial use and develop the additional point of appropriation. The additional time is also necessary in case Bridge Creek Ranch encounters any unexpected delays in completing beneficial use.

In addition, enclosed please find a report of ownership for the “FROM” lands under T-14170. Pursuant to the report, all of the FROM lands other than tax lot 1800 are owned by Bridge Creek Ranch. Tax lot 1800 is owned by Thomas and Mary Norton. As evidenced by the attached landowner consent form,<sup>1</sup> Mr. and Mrs. Norton consent to the transfer proposed by application T-14170.

Please utilize Schwabe’s account with the Oregon Water Resources Department to pay the fees associated with the newspaper publication for T-14170. For our records, please note on

---

<sup>1</sup> Attached to this letter is a copy of Mr. and Mrs. Norton’s executed landowner consent form. The original will follow under cover.

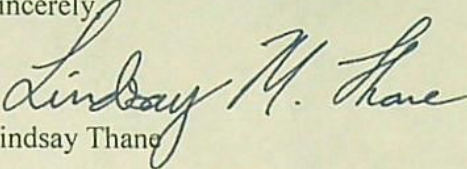


Oregon Water Resources Department  
August 31, 2023  
Page 2

Schwabe's account and invoice that such payment is made for the newspaper publication associated with T-14170 (Bridge Creek Ranch).

Please do not hesitate to contact me if you have any questions.

Sincerely

  
Lindsay Thane

LTH:imt  
Enclosures

cc: Mike Pati (*via email only*)  
Elizabeth Howard (*via email only*)  
Shonee Langford (*via email only*)  
Gabe Williams (*via email only*)

PDX\129629\213607\LTH\37302860.1





150 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

---

To: Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Ste. 1900  
Portland, OR 97204  
Attn: Nikos Klingenberg

Date: August 30, 2023 ✓  
Order No. 603886AM  
Reference: 37882 Burnt Ranch Road  
Mitchell, OR 97750

We have enclosed our Report pertaining to order number 603886AM.

***Thank you for the opportunity to serve you. Your business is appreciated!***

If you have any questions or need further assistance, please do not hesitate to contact your Title Officer listed below.

Sincerely,

***Elsie Ray***

elsie.ray@amerititle.com  
Title Officer

**NOTICE:** Please be aware that, due to the conflict between federal and state laws concerning the legality of the cultivation, distribution, manufacture or sale of marijuana, the Company is not able to close or insure any transaction involving land that is associated with these activities.



**AMERITITLE, LLC**  
**PRIVACY POLICY NOTICE**  
As of March 13, 2019

**PURPOSE OF THIS NOTICE**

AmeriTitle, LLC, (the "Company") shares your concerns about privacy. The Company is committed to respecting the privacy of our customers. Therefore, in accordance with Federal and State laws and regulations, we are providing you with this notice of how we might use the information about you which we gather in the process of issuing a policy of title insurance and closing your real estate transaction.

Title V of the Gramm-Leach-Bliley Act (GLBA) and the laws of the State in which you reside generally prohibit us from sharing non-public personal information about you with a third party unless we provide you with this notice of our privacy policies and practices, such as the type of information that we collect about you and the categories of persons or entities to whom that information might be disclosed. In compliance with GLBA and the laws of this State, we are providing you with this document, which notifies you of the privacy policies and practices of the Company.

**Our Privacy Policies and Practices**

**Information we collect and sources from which we collect it:**

We do not collect any nonpublic information about you other than the following:

- Information we receive from you or from your attorney or other representatives on applications or other forms, such as your name, address, telephone number, or social security number
- Information about your transactions with us, such as description, price, or term
- In addition, we may collect other nonpublic personal information about you from affiliated/nonaffiliated third parties, such as individuals and companies other than those proposed for coverage, which may include information in documents received from your lender

Unless it is specifically stated otherwise in an amended Privacy Policy Notice, no additional information will be collected about you.

**Information we disclose to third parties**

In the course of our general business practices, we may disclose the information that we collect (as described above) about you or others without your permission to the following types of institutions for the reasons described:

- Financial Service Providers:
  - To an insurance institution, agent, or credit reporting agency in order to detect or prevent criminal activity, fraud or misrepresentation in connection with an insurance transaction;
  - To an insurance institution, agent, or credit reporting agency for either this Company or the entity to which we disclose the information to perform a function in connection with an insurance transaction involving you.
- Others:
  - To an insurance regulatory authority, law enforcement, or other governmental authority in order to protect our interests in preventing or prosecuting fraud, or if we believe that you have conducted illegal activities;
  - To a third party such as a surveying, real estate tax research or municipal data firm if the disclosure will enable that party to perform a business, professional or insurance function for us;
  - To an actuarial or research organization for the purpose of conducting actuarial or research studies.

The disclosures described above are permitted by law. We require any third party who receives information from us to agree to not disclose or use the information provided other than to carry out the purpose(s) for which it was disclosed.



**WE DO NOT DISCLOSE ANY NONPUBLIC PERSONAL INFORMATION ABOUT YOU WITH AFFILIATES OR NON-AFFILIATED THIRD PARTIES FOR ANY PURPOSE THAT IS NOT SPECIFICALLY PERMITTED BY LAW.**

**Your right to access and amend your personal information:**

You have the right to request access to the personal information that we record about you. Your right includes the right to know the source of the information and the identity of the persons, institutions or types of institutions to whom we have disclosed such information within 2 years prior to your request. Your right includes the right to view such information and copy it in person, or request that a copy of it be sent to you by mail (for which we may charge you a reasonable fee to cover our costs). Your right also includes the right to request corrections, amendments or deletions of any information in our possession. The procedures that you must follow to request access to or an amendment of your information are as follows:

To obtain access to your information from AmeriTitle, LLC you should submit a request in writing to:

Compliance Officer  
AmeriTitle, LLC  
15 NW Oregon Avenue  
Bend, OR 97703

The request should include your name, address, policy number, telephone number and the information to which you would like access. The request should state whether you would like access in person or a copy of the information sent to you by mail. Upon receipt of your request, we will contact you within 30 business days to arrange providing you with access in person or the copies that you have requested.

To correct amend or delete any of your information: You should submit a request in writing to the address referenced directly above. The request should include your name, address, policy number, telephone number, the specific information in dispute, and the identity of the document or record that contains the disputed information. Upon receipt of your request, we will contact you within 30 business days to notify you either that we have made the correction, amendment or deletion, or that we refuse to do so and the reasons for the refusal which you will have an opportunity to challenge.

**Our practices regarding information confidentiality and security:**

We restrict access to nonpublic information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

**Our policy regarding dispute resolution:**

In the event you believe the Company has not complied with the Privacy Policies and Practices as set forth in this Notice, you must give the Company notice in writing addressed to the Compliance Officer at the above address setting forth the reasons for such non-compliance. The Company shall not be deemed to be in breach of the Privacy Policies and Practices unless it has not resolved or explained the issues set forth in such notice within thirty (30) days to your reasonable satisfaction. All claims arising under this Notice shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

**Reservation of the right to disclose information in unforeseen circumstances:**

In connection with the potential sale or transfer of its interests, the Company reserves the right to sell or transfer your information (including but not limited to your address, name, age, sex, zip code, state and country of residency and other information that you provide through other communications) to a third party entity that (1) concentrates its business in a similar practice or service; (2) agrees to be a successor in interest of the Company with regard to the maintenance and protection of the information collected; and (3) agrees to the obligations of this privacy statement.

**Other Important Information:**

The Company's website may contain links to other websites or Internet resources. The Company does not endorse or otherwise accept responsibility for the content or privacy policies of those websites or Internet resources.

The Company reserves the right to modify this Privacy Policy at any time. We will promptly reflect any such modifications in this document and, when we do, we will revise the "effective as of" date noted above. Any updated version of this Privacy Policy will be effective as of that date.





150 NE Court St., Prineville, OR 97754  
PHONE (541)447-5181 FAX (541)447-3371

---

## STATUS OF RECORD TITLE

Nikos Klingenberg  
Schwabe, Williamson & Wyatt  
1211 SW 5th Ave., Ste. 1900  
Portland, OR 97204  
Your Reference No.

August 30, 2023  
Title Number: 603886AM  
Title Officer: Elsie Ray  
Fee: \$600.00

We have searched the status of record title as to the following described property:

See attached Exhibit 'A'

### Vestee:

**BRIDGE CREEK RANCH LLC, an Oregon Limited Liability Company (TRACT I)  
Thomas E. Norton and Mary T. Norton, as Tenants by the Entirety (TRACT II)**

and dated as of **July 31, 2023** at 7:30 a.m.

Said property is subject to the following on record matters:

### Tax Information:

Taxes assessed under Code No. 06 Account No. 1475 Map No. 1020000001700

NOTE: The 2022-2023 Taxes: \$5,050.39, are Paid

Taxes assessed under Code No. 06 Account No. 60423 Map No. 1020000001700

NOTE: The 2022-2023 Taxes: No Amount Shown

Taxes assessed under Code No. 06 Account No. 1478 Map No. 1020000001704

NOTE: The 2022-2023 Taxes: \$3.93, are Paid

Taxes assessed under Code No. 06 Account No. 1480 Map No. 1020000001800

NOTE: The 2022-2023 Taxes: \$1,494.31, are Paid

### SPECIAL EXCEPTIONS FOR ALL TRACTS:

1. The 2023-2024 Taxes: A lien not yet due or payable.
2. Taxes deferred, as disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said Land is disqualified for such use the property will be subject to additional taxes or penalties and interest.
3. Ditch, road and public utility easements as the same may exist over said Land.
4. Right, title and interest of the public in and to those portions of the Land lying within roads, streets or highways.



5. Rights of the public and governmental bodies in and to that portion of said premises now or at any time lying below the high water line of Bridge Creek or Bear Creek, including any ownership rights which may be claimed by the State of Oregon as to any portion now or at any time lying below the ordinary high water line.

Such rights and easements for navigation and fishing as may exist over that portion of the property now or at any time lying beneath the waters of Bridge Creek or Bear Creek.

All matters arising from any shifting in the course of Bridge Creek or Bear Creek including but not limited to accretion, reliction and avulsion.

6. Reservations, as may be contained in Patents from the United States of America and in Deeds from the State of Oregon, if any.
7. Minerals of whatsoever kind, subsurface and surface substances, including but not limited to coal, lignite, oil, gas, uranium, clay, rock, sand and gravel in, on, under and that may be produced from the Land, together with all rights, privileges, and immunities relating thereto, whether or not appearing in the Public Records or listed in Schedule B.  
The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.

#### SPECIAL EXCEPTIONS FOR TRACT 1:

8. The Land, as defined in the policy to be issued, does not include any improvement(s) located on the Land which is described or defined as a mobile home (manufactured housing unit) under the provisions of State Law and is subject to registration.
9. Right of the public to enter, view, examine, and study the subject property, including the terms and provisions thereof,  
Recorded: August 25, 1947  
Book/Page: 25-596
10. Easement, including the terms and provisions thereof,  
Recorded: December 11, 1963  
Instrument No.: 30-566  
Between: John Hudspeth, Floreine Hudspeth, Fred Hudspeth and Margaret Hudspeth, co-partners, doing business as Hudspeth Sawmill Company and Hudspeth Land & Livestock Company; Roger Hudspeth, doing business as Paulina Cattle Company, and Jamie Hudspeth, his wife; Ron Hudspeth and Jane Hudspeth, husband and wife  
And: Hudspeth Pine, Inc., an Oregon Corporation
11. Easements, Conditions and Restrictions created by final judgment:  
Filed: February 24, 1971  
Case No.: 2250  
Court: Wheeler County Circuit Court  
Between: State of Oregon, by and through its State Highway commission, composed of Glenn L. Jackson, Fred W. Hill and Thaddeus B. Bruno, and CBC Company, an Oregon corporation; The Connecticut Mutual Life Insurance Company, a Connecticut corporation; Eastern Oregon Land Company, a California corporation; and First National Bank of Oregon, a national banking association.
12. Restrictions, Covenants and Conditions, including the terms and provisions, as contained in deed from United States of America,  
Recorded: May 9, 1980  
Instrument No.: 35-736



13. Scenic Easement, Restrictions and Covenants created by instrument, including the terms and provisions thereof,  
Recorded: May 9, 1980  
Instrument No.: 35-737
14. An easement including the terms and provisions thereof, affecting the portion of said Land and for the purposes stated therein as set forth in instrument:  
Granted To: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation  
Recorded: April 5, 1985  
Book/Page: 37-221
15. Easement, including the terms and provisions thereof,  
Recorded: November 27, 2000  
Instrument No.: 000393

Re-recorded: December 15, 2000  
Instrument No.: 000405

16. A Deed of Trust, including the terms and provisions thereof, to secure the amount noted below and other amounts secured thereunder, if any:  
Amount: \$395,000,000.00  
Trustor/Grantor: Bridge Creek Ranch LLC, an Oregon limited liability company  
Trustee: Ameri-title, Inc.  
Beneficiary: Bank of America, N.A., a national banking association as Administrative Agent for the Lenders, Sing Line Lender and L/C Issuer  
Dated: March 18, 2009  
Recorded: March 24, 2009  
Instrument No.: 20090062  
(Includes Additional Property)

**This Deed of Trust secures an equity line of credit and/or revolving loan. The Company requires satisfactory written statement from the existing lender confirming; (a) the payoff amount, (b) that the line of credit has been closed, and no further draws/advances will be permitted and/or the right to future advances has been terminated, and (c) agreeing to deliver a full satisfaction/release upon payment of the outstanding balance, (d) satisfactory documentation from the borrower to close the account.**

An agreement to modify the terms and provisions of said Deed of Trust as therein provided:  
Recorded: June 1, 2012  
Instrument No.: 2012-0131

An agreement to modify the terms and provisions of said Deed of Trust as therein provided:  
Recorded: September 24, 2014  
Instrument No.: 2014-0266

SPECIAL EXCEPTIONS FOR TRACT II:

17. Reservation of Coal, oil, gas and other minerals, including the terms and provisions contained therein, in deed from State of Oregon.  
Recorded: April 24, 1963  
Book/Page: 30-444  
The Company makes no representation as to the present ownership of any such interests. There may be leases, grants, exceptions or reservations of interests that are not listed.



**EXHIBIT 'A'**

File No. 603886AM

TRACT I:

Located in Wheeler County, Oregon:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 24: That portion of the S $\frac{1}{2}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14.

Section 36: Two tracts of land being more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736.

TRACT II:

Located in Wheeler County Oregon:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 26: The West half (1/2) and the West half (1/2) of the East half (1/2) and the Northeast quarter (1/4) of the

Northeast quarter (1/4) and the Southeast quarter (1/4) of the Southeast quarter (1/4)



18. An easement including the terms and provisions thereof, affecting the portion of said Land and for the purposes stated therein as set forth in instrument:  
Granted To: Brooks Resources Corporation, an Oregon corporation  
Recorded: May 6, 1985  
Book/Page: 37-286
19. Easement, including the terms and provisions thereof,  
Recorded: November 6, 2000  
Instrument No.: 000370
20. Notwithstanding Paragraph 4 of the Covered Risks of this policy, this policy does not insure against loss arising by reason of any lack of a right of access to and from the Land.

NOTE: Any map or sketch enclosed as an attachment herewith is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the company assumes no liability for any loss occurring by reason of reliance thereon.

NOTE: We find no activity in the past 24 months regarding transfer of title to subject property.

THIS IS NOT A TITLE REPORT, A COMMITMENT TO ISSUE TITLE INSURANCE OR A GUARANTEE OF ANY KIND. No liability is assumed with this report. The fee charged for this service does not include supplemental reports or other services. Further dissemination of the information in this report in a form purporting to insure title to the herein described land is prohibited by law.

*"Superior Service with Commitment and Respect for Customers and Employees"*



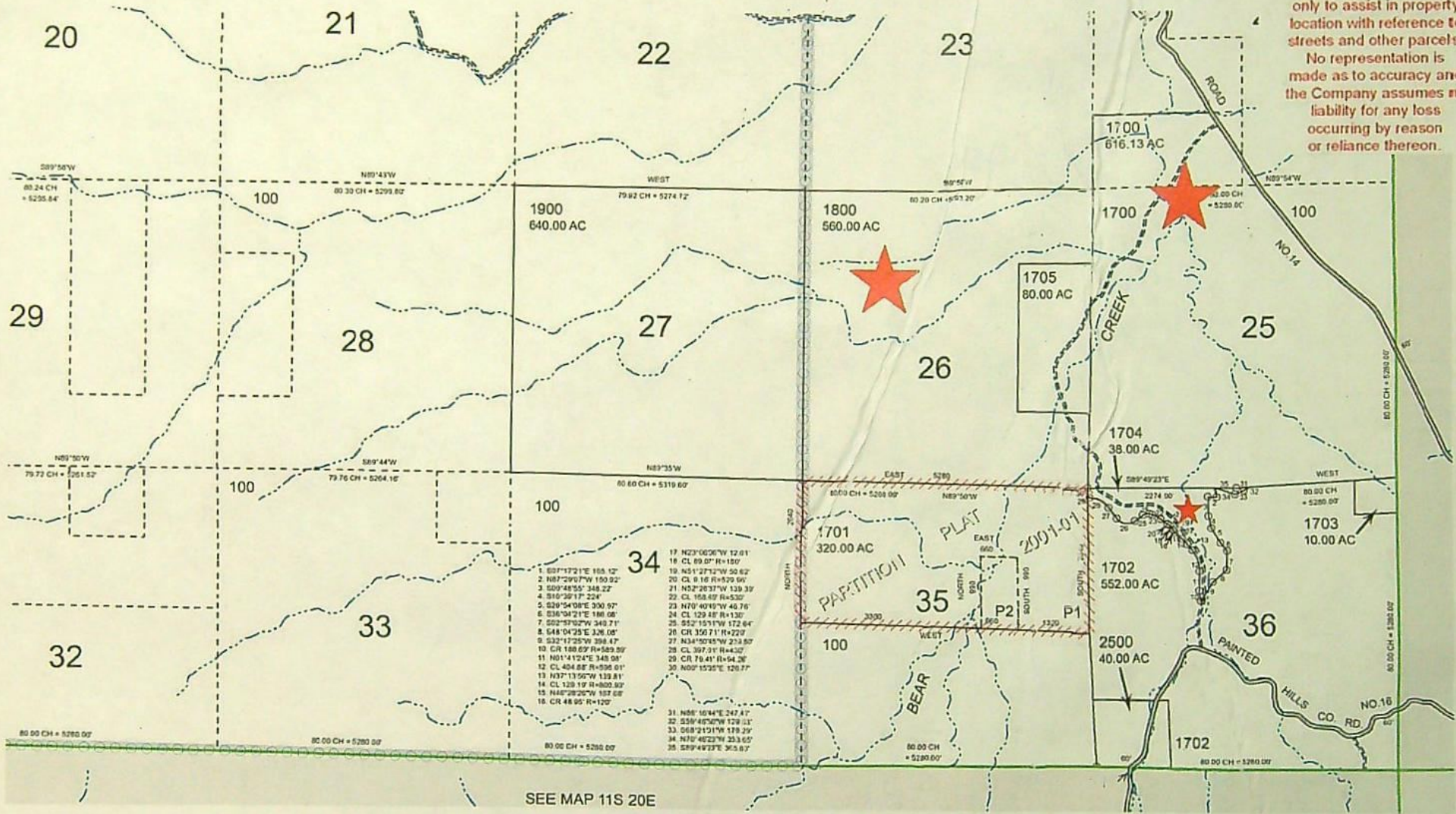






**COMPLIMENTS OF  
AmeriTitle**

This sketch is furnished for information purposes only to assist in property location with reference to streets and other parcels. No representation is made as to accuracy and the Company assumes no liability for any loss occurring by reason or reliance thereon.



SEE MAP 11S 20E



STATE OF OREGON

County of Wheeler

SS

AFTER RECORDING RETURN TO:

Myles Conway  
Schwabe Williamson & Wyatt  
549 SW Mill View Way, Suite 100  
Bend, Oregon 97702

UNTIL A CHANGE IS REQUESTED,  
ALL TAX STATEMENTS SHALL BE  
SENT TO:

Robert J. Riecke  
Bridge Creek Ranch LLC  
355 Goodpasture Island Road  
Eugene, OR 97440

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

Barbara S. Sitton  
Wheeler County Clerk

**DEED**

by: J. Greenfield Deputy.

DOC#: 20080444 PAGES: 5  
RCPT: 951 46.00  
12/22/2008 2:06 PM  
REFUND: .00

**SPECIAL WARRANTY DEED**

DERBY SMITH PARTNERS LLC ("Grantor") conveys and specially warrants to BRIDGE CREEK RANCH LLC, an Oregon limited liability company ("Grantee"), the real property described on Exhibit A attached hereto, free of encumbrances created or suffered by Grantor except as set forth on Exhibit B attached hereto.

The true consideration for this conveyance is \$1,750,000.00.

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. THIS INSTRUMENT DOES 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 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 DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, 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.

[Signature appears on the following page]



Dated this 27 day of December, 2008.

GRANTOR:

DERBY SMITH PARTNERS LLC

William L. Smith  
By William L. Smith  
Its Managing member

ACKNOWLEDGMENT

STATE OF OREGON     )  
                                  ) ss.  
County of Deschutes    )

This instrument was acknowledged before me on the 27<sup>th</sup> day of December, 2008, by William L. Smith as managing member of DERBY SMITH PARTNERS LLC.



Sharon A. Mitchell  
Notary in and for the State of Oregon  
My Commission Expires: Aug. 24/2010



EXHIBIT A  
LEGAL DESCRIPTION

Located in WHEELER COUNTY, OREGON:

In Township 10 South, Range 20 East of the Willamette Meridian, Wheeler County, Oregon:

Section 24: That portion of the S $\frac{1}{4}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 25: All that portion lying Westerly of Bridge Creek County Road No. 14.

Section 36: NE $\frac{1}{4}$ NI $\frac{1}{4}$ NH $\frac{1}{4}$ ; Also, two tracts of land more particularly described in that certain Bargain and Sale Deed Recorded May 9, 1980, in Wheeler County Deed Records as Microfilm No. M-35-736.

In Township 10 South, Range 21 East of the Willamette Meridian, Wheeler County, Oregon:

Section 30: That portion of the SW $\frac{1}{4}$ SW $\frac{1}{4}$  lying Westerly of Bridge Creek County Road No. 14.

Section 31: All that portion lying Easterly of Bridge Creek and Westerly of Bridge Creek County Road No. 14.



EXHIBIT B  
TITLE EXCEPTIONS

7. As disclosed by the tax roll, the premises herein described have been zoned or classified for farm use. At any time that said land is disqualified for such use, the property will be subject to additional taxes or penalties and interest.
8. As disclosed by the tax roll, the premises herein described are classified as forest lands. In the event of declassification, said premises will be subject to additional taxes and interest pursuant to the provisions of ORS Chapter 321.
9. Existing rights of way for roads, highways, irrigation ditches, canals and pole lines.
10. Reservations contained in Patents from the United States of America and in Deeds from the State of Oregon, if any.
11. Any adverse claim based upon the assertion that:  
Rights of the public and governmental bodies in and to any portion of the premises herein described lying below the high water mark of the Bridge Creek or Bear Creek, including any ownership rights which may be claimed by the State of Oregon below the high water line.
12. Right of the public to enter, view, examine and study the subject property, including the terms and provisions thereof:  
Recorded: August 25, 1947  
Book/Page: 25/596 (Records of Wheeler County, Oregon)
13. An Easement created by instrument, subject to the terms and provisions thereof:  
Dated: December 3, 1963  
Recorded: December 11, 1963  
Book/Page: 30/566 (Records of Wheeler County, Oregon)  
Grantor: John Hudspeth, Florine Hudspeth, Fred Hudspeth and Margaret Hudspeth, co-partners, doing business as Hudspeth Sawmill Company and Hudspeth Lane & Livestock Company, Roger Hudspeth, doing business as Paulina Cattle Company, and Jamie Hudspeth, his wife; Ron Hudspeth and Jane Hudspeth, husband and wife  
In Favor of: Hudspeth Pine, Inc.  
Purpose: Road access
14. Easements, Conditions and Restrictions created by final judgment:  
Filed: February 24, 1971  
Case No. 2250  
Court: Wheeler County Circuit Court  
Between: State of Oregon, by and through its State Highway commission, composed of Glean L. Jackson, Fred W. Hill and Thaddeus B. Bruno, and CBC Company, an Oregon corporation; The Connecticut Mutual Life Insurance Company, a Connecticut corporation; Eastern Oregon Land Company, a California corporation; and First National Bank of Oregon, a national banking association.
15. Restrictions, Covenants and Conditions, including the terms and provisions thereof, as contained in deed:  
From: United States of America  
To: Brooks Resources Corporation, an Oregon corporation  
Recorded: May 9, 1980  
Book/Page: 35/736 (Records of Wheeler County, Oregon)



16. Easement, Restrictions and Covenants created by instrument, subject to the terms and provisions thereof:

Dated: February 6, 1980  
Recorded: May 9, 1980  
Microfilm No.: M-35-737 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Corporation, an Oregon corporation  
In Favor of: United States of America

17. A Telephone Line Right-of-way Easement created by instrument, subject to the terms and provisions thereof:

Dated: March 21, 1985  
Recorded: April 5, 1985  
Microfilm No.: M-37-221 (Records of Wheeler County, Oregon)  
Grantor: Brooks Resources Investment Corporation, an Oregon corporation  
In Favor of: Telephone Utilities of Eastern Oregon, Inc., an Oregon corporation  
Purpose: Telephone line access

18. An Easement created by instrument, subject to the terms and provisions thereof:

Dated: November 15, 2000  
Recorded: November 27, 2000  
Microfilm No.: 000393 (Records of Wheeler County, Oregon)  
Grantor: Derby Smith Partners, LLC, an Oregon limited liability company  
In Favor of: Thomas R. Norton and Mary T. Norton, husband and wife  
Purpose: Road purposes

Re-Recorded: December 15, 2000  
Microfilm No.: 000405 (Records of Wheeler County, Oregon)



STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor, convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 32% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26 *E. M. J.*

The true and actual consideration for the conveyance is \$0.

Send tax statements to: No Change

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.

Dated this 29<sup>th</sup> day of December, 2000.

*Edmund Carlyle Norton, Jr.*  
Edmund Carlyle Norton, Jr.

*Betty Jo Norton*  
Betty Jo Norton

STATE OF OREGON     )  
                                  ) ss.  
County of Wheeler     )

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 29<sup>th</sup> day of December, 2000.



*M. Garcia*  
Notary Public for Oregon  
My Commission Expires: 2-17-01



DEED

000429

2000 DEC 29 P 1:56

Fee 31.00  
*M. Garcia*

01/17/01 UNANCY REALESTATE WORTON LID 845

1 - Statutory Bargain & Sale Deed

After Recording Return To:  
DUTLI & WILSON, LLP  
545 NE 7th Street Prineville, Oregon 97754  
541-447-3910 Fax 541-447-7827







STATUTORY BARGAIN & SALE DEED

Edmund Carlyle Norton, Jr., aka E.C. Norton, Jr., and Betty Jo Norton, husband and wife, as Grantor, convey to Thomas E. Norton and Mary T. Norton, husband and wife, Grantee, an undivided 22 2/3% interest in the following described real property in Wheeler County, Oregon:

Township 10 South, Range 20 East of the Willamette Meridian: Section 26

The true and actual consideration for the conveyance is \$0.

As a result of this deed and previous deeds, Grantees now own an undivided 100% of the above- described property

Send tax statements to: No Change

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.

Dated this 28<sup>th</sup> day of January, 2003.

*Edmund Carlyle Norton, Jr.*  
Edmund Carlyle Norton, Jr.

*Betty Jo Norton*  
Betty Jo Norton

STATE OF OREGON )  
County of Crook ) ss.

Personally appeared the above named Edmund Carlyle Norton, Jr., and Betty Jo Norton and acknowledged the foregoing instrument to be their voluntary act and deed, before me this 28<sup>th</sup> day of January, 2003.



*Christine McMurrain*  
Notary Public for Oregon  
My Commission Expires: 10.22.2006



DEED  
030062

BARBARA S. SITTON  
WHEELER COUNTY CLERK

2003 FEB -5 A 10:53

BY *Roberta Cole* DEPUTY

Fee 26.00

G:\WP61\NANCY\REAL ESTATE\NORTON.ED\BAS.4

1 - Statutory Bargain & Sale Deed

After Recording Return To:  
DUTLI & BORNEMAN, LLP  
545 NE 7th Street • Prineville, Oregon 97754 • 541-447-3910 • Fax 541-447-7827



#2898

STATE OF OREGON } ss.  
County of Wheeler }

I hereby certify that the within instrument was received for record.

MAY 9 1980 8:37 am

and assigned NOV-35-736

(Deeds)  
in the Microfilm Records of said county

GENERAL TITLE & ESCROW

Witness My Hand and Seal of County Affixed

ARLENE STEGNER  
County Clerk

*Arlene Stegner*

BARGAIN AND SALE DEED

The Grantor, UNITED STATES OF AMERICA, for and in consideration of the exchange of lands, does hereby grant, bargain, sell and convey to BROOKS RESOURCES CORPORATION, AN OREGON CORPORATION, the following described property located in the County of Wheeler, State of Oregon, to wit:

A tract of land located in Section 36, Township 10 South, Range 20 East, Willamette Meridian, Wheeler County, Oregon, being more particularly described as follows:

Beginning at a National Park Service aluminum monument marking the Northwest corner of said Section 36; thence South 89° 49' 23" East (South 89° 57' 19" East Grid) a distance of 2274.90 feet to a point from which the North 1/4 corner of said Section 36 bears South 89° 49' 23" East (South 89° 57' 19" East Grid) a distance of 365.63 feet; thence South 07° 17' 21" East a distance of 165.12 feet; thence North 87° 29' 07" West a distance of 150.92 feet; thence South 00° 46' 55" East a distance of 348.22 feet; thence South 10° 39' 17" East a distance of 224.00 feet; thence South 29° 54' 08" East a distance of 300.97 feet; thence South 36° 04' 21" East a distance of 186.08 feet; thence South 02° 57' 02" West a distance of 340.71 feet; thence South 48° 04' 25" West a distance of 326.08 feet; thence South 32° 17' 25" West a distance of 398.47 feet; thence following the arc of a 589.89 foot radius curve right a distance of 188.69 feet (chord bears North 07° 28' 27" West 187.89 feet); thence North 01° 41' 24" East a distance of 348.98 feet; thence following the arc of a 596.01 foot radius curve left a distance of 404.88 feet (chord bears North 17° 46' 16" West 397.14 feet); thence North 37° 13' 56" West a distance of 139.81 feet; thence following the arc of a 800.93 foot radius curve left a distance of 129.19 feet (chord bears North 41° 51' 11" West 129.05 feet); thence North 46° 28' 26" West a distance of 167.08 feet; thence following the arc of a 120.00 foot radius curve right a distance of 48.95 feet (chord bears North 34° 47' 16" West 48.61 feet); thence North 23° 06' 06" West a distance of 12.01 feet; thence following the arc of a 180.00 foot radius curve left a distance of 89.07 feet (chord bears North 37° 16' 39" West 88.16 feet); thence North 51° 27' 12" West a distance of 50.62 feet; thence following the arc of a 529.96 foot radius curve left a distance of 9.16 feet (chord bears North 51° 56' 55" West 9.16 feet); thence North 52° 26' 37" West a distance of 139.39 feet; thence following the arc of a 530.00 foot radius curve left a distance of 168.69 feet (chord bears North 61° 33' 43" West 167.98 feet); thence North 70° 40' 49" West a distance of 46.76 feet; thence following the arc of a 130.00 foot radius curve left a distance of 129.48 feet (chord bears South 80° 47' 11" West 124.19 feet); thence South 52° 15' 11" West a distance of 172.64 feet; thence following the arc of a 220.00 foot radius curve right a distance of 356.71 feet (chord bears North 81° 17' 47" West 318.90 feet); thence North 34° 50' 45" West a distance of 239.50 feet; thence following along the arc of a 430.00 foot radius curve left a distance of 397.01 feet (chord bears North 61° 17' 45" West 383.06 feet); thence following the arc of a 94.26 foot radius curve right a distance of 79.41 feet (chord bears North 63° 36' 38" West 77.09 feet) to a point on the west line of said Section 36; thence North 00° 15' 35" East (North 00° 07' 39" East Grid) following the west line of said Section 36 a distance of 126.77 feet to the Point of Beginning and terminus of this description.

WH-50295 R/0



And a tract of land containing 0.95 acres, more or less, located in the North One-Half (N½) of Section 36, Township 10 South, Range 20 East, Willamette Meridian, Wheeler County, Oregon, being more particularly described as follows:

Beginning at a National Park Service aluminum monument marking the North ¼ corner of said Section 36, thence North 86° 16' 44" East (North 86° 08' 48" East Grid) following the north line of said Section 36 a distance of 247.47 feet; thence South 59° 46' 50" West a distance of 129.63 feet; thence South 68° 21' 01" West a distance of 179.29 feet; thence North 70° 46' 23" West a distance of 353.65 feet to the north line of said Section 36; thence South 89° 49' 23" East (South 89° 57' 19" East Grid) following the north line of said Section 36 a distance of 365.63 feet to the Point of Beginning.

SUBJECT TO: All easements, restrictions and rights-of-way of record.

All bearings for the above description are Geodetic, all distances are ground distances.

The above mentioned grid bearings are based upon a boundary survey of the Painted Hills Unit of the John Day Fossil Beds National Monument performed by Robert D. Bagett in August of 1977 for the National Park Service. Theata angle is +00° 07' 56".

The land hereinabove described contains 38 acres, more or less.

The land is conveyed subject to the restrictions, covenants and conditions imposed upon the above described lands and the acts which the Grantee and its successors and assigns covenant to do and refrain from doing on the above described lands are as follows:

1. The land may be used for the impoundment of water and for purposes incidental thereto and for the grazing of livestock. Except for fences and roadway improvements, no structures or improvements of any kind may be built. The provisions contained herein are intended to and should be construed to provide the Grantee with sufficient lands for the impoundment of water to enable the construction of dams, including purposes incidental thereto on its adjoining property and to impound water and graze livestock, but in doing so, and insofar as economically feasible, retain the appearance of the land that exists as of the date of this deed.
2. Farming or grazing use shall not include feeder pig operations, hog finishing operations, cattle feedlot operations, the raising of poultry in confined spaces, or other similar operations whereby livestock, poultry, or other animals are raised in a confined or controlled environment.
3. Mobile homes, travel trailers, tent trailers, tents, self-propelled recreational vehicles, and like structures or vehicles shall not be located or used on the land for residential, camping, storage, or other purposes.
4. The erection or display of advertising signs and/or billboards on the land is expressly prohibited.
5. The dumping of trash or other unsightly materials on the land or the keeping thereon of junked or wrecked vehicles, junked farming equipment or similar items is prohibited.
6. The land shall be maintained in its present acreage and shall not be subdivided into any smaller parcels.



7. Grantee and successors and assigns in impounding water will prevent wave action from impacting in any way adjoining lands within the park. In the event erosion through wave action is to be prevented through the placement of riprap or other imported materials, the appearance and placement of such material shall be mutually agreed to.
8. Grantee will endeavor to establish vegetation to minimize the visual appearance of mudflats during periods of low water.
9. The Grantee will prohibit any water related recreational use on waters impounded on the property.
10. Grantee will fence the new common boundary created by this deed within 18 months of the date of this deed. The fencing, with respect to color and materials, shall be the same as that used within the park unless otherwise directed by the Superintendent of John Day Fossil Beds National Monument, or his authorized representative.
11. The land being conveyed is subject to existing rights in third parties for ingress and egress over an existing access road. The Grantee assumes any and all responsibility for the construction of an alternative access road, if required, except that the Grantee has the Grantor's specific permission to construct said relocated access road across park land. The centerline of said relocated access road may be located 30 feet west of the westerly boundary of the property being conveyed and the southerly extension thereof to its intersection with the existing access road. The exact location of the relocated access road is more specifically shown on Century West Engineering Corporation drawing No. 0001.272.C17 entitled "Road Relocation, Painted Cove Area, John Day Fossil Beds National Monument, Painted Hills Unit."
12. These covenants and restrictions shall not be construed to grant the public any right to enter or use the land for any purpose.
13. The National Park Service, its agents, employees, and assigns, shall have the right to enter upon, cross the land, for the purpose of enforcing the provisions of this deed, and together with such right, may cause to be removed from such land any unauthorized signs or other devices or structures, accumulation of trash or debris, or other dead, dying or diseased vegetation or animals. Existing field roads or other normally traveled routes should be utilized for such ingress or egress where practical and shall be done at reasonable hours and after prior arrangement with the Grantee wherever possible.

TO HAVE AND TO HOLD the above granted and described premises, together with all and singular the tenements, hereditaments, and appurtenances thereunto belonging, or in anywise appertaining, unto said BROOKS RESOURCES CORPORATION, AN OREGON CORPORATION and its assigns forever.

The land is being acquired by Brooks Resources Corporation, an Oregon Corporation.

IN WITNESS WHEREOF, the said Grantor has hereunto set its hand this 4th day of April, 19 80.

NATIONAL PARK SERVICE  
DEPARTMENT OF THE INTERIOR

By: Keith M. Watkins  
KEITH M. WATKINS  
Chief, Land Acquisition Officer

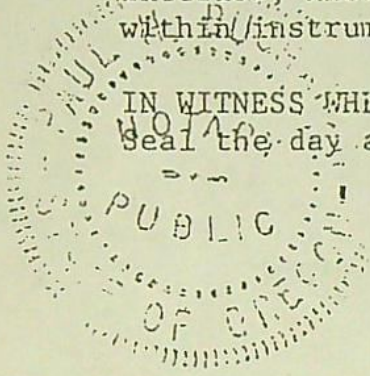


ACKNOWLEDGMENT

County of Deschutes )  
 ) SS  
State of Oregon )

On this 4th day of April, 1980,  
before me, Paul H. Buchanan, a Notary  
Public in and for said County and State, residing therein, duly  
commissioned and sworn, personally appeared KEITH M. WATKINS, Chief,  
Land Acquisition Officer, National Park Service, Department of the  
Interior, known to me to be the person whose name is subscribed to the  
within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my Official  
Seal the day and year in this certificate first above written.



Paul H. Buchanan  
Notary Public in and for said

My commission expires:

1-22-83

County of Deschutes

State of Oregon







STATE OF OREGON  
COUNTY OF WHEELER  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

WILLIAM SMITH PROPERTIES, INC.  
15 SW COLORADO AVENUE  
BEND, OREGON 97702

confirms the right to store the waters of BEAR CREEK AND BRIDGE CREEK, tributaries of THE JOHN DAY RIVER, in MITCHELL RANCH RESERVOIR (PAINTED HILLS RESERVOIR) ENLARGEMENT, appropriated under Permit 48540, for IRRIGATION.

The right to store these waters was perfected under Reservoir Permit R-9896. The date of priority is OCTOBER 17, 1983. The amount of water entitled to be stored each year under this right is 490.0 ACRE-FEET, BEING 160.0 ACRE-FEET FROM BEAR CREEK AND 330.0 ACRE-FEET FROM BRIDGE CREEK.

The reservoir is located as follows:

NE 1/4 SW 1/4  
NW 1/4 SW 1/4  
SW 1/4 SW 1/4  
SE 1/4 SW 1/4  
SECTION 25

SE 1/4 SE 1/4  
SECTION 26

NW 1/4 NW 1/4  
SECTION 36

TOWNSHIP 10 SOUTH, RANGE 20 EAST, W.M.

THE DAM AND RESERVOIR ARE TO BE OPERATED AND MAINTAINED IN STRICT ACCORDANCE WITH THE APPROVED PLANS AND SPECIFICATIONS ON FILE WITH THE WATER RESOURCES DEPARTMENT.

The right to store and use the water for the above purpose is restricted to beneficial use at the place of use described.

WITNESS the signature of the Water Resources Director, affixed AUGUST 14, 1995.

MARtha O. PAGEL

Martha O. Pagel

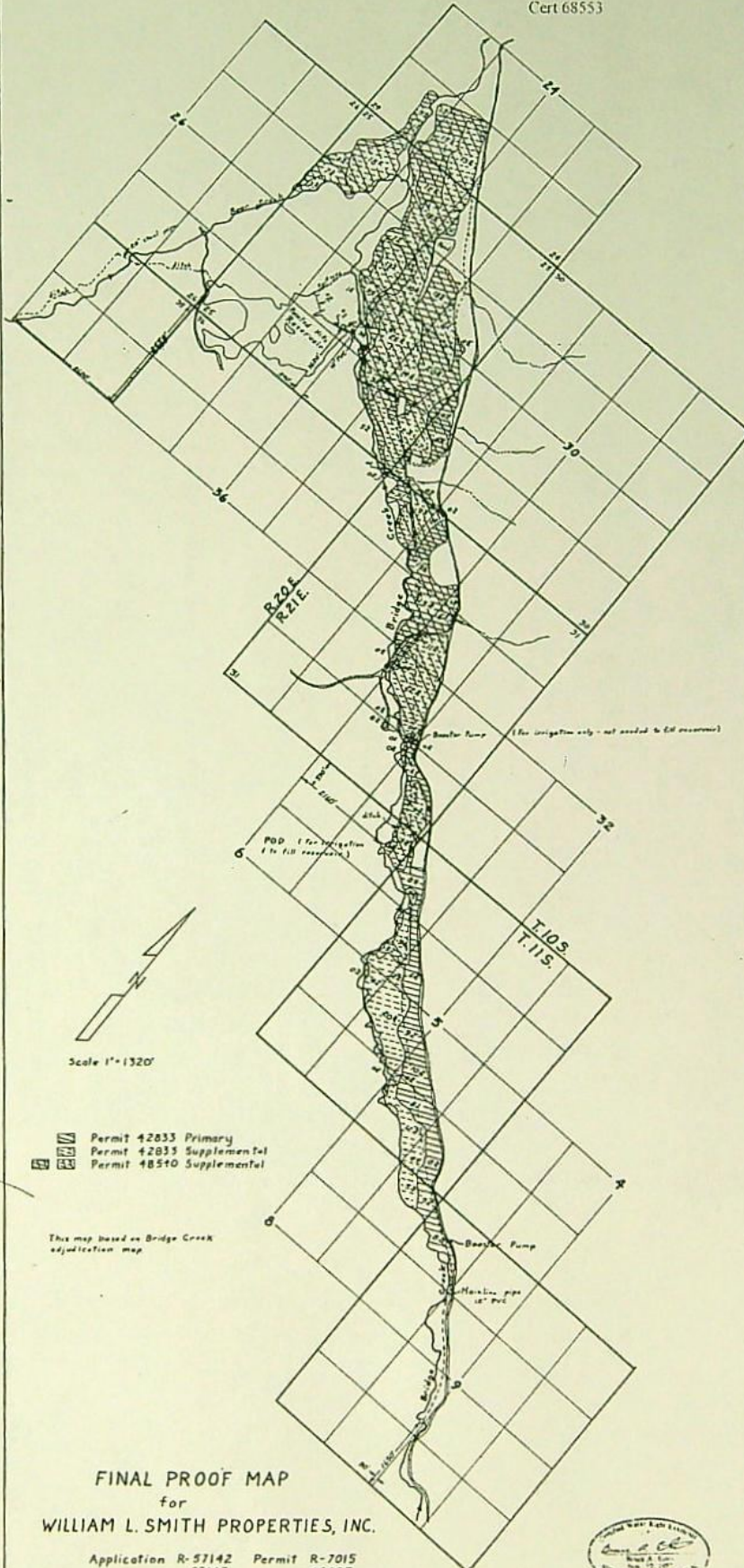
Recorded in State Record of Water Right Certificates numbered 68553.

R-67960.DSM



TOWNSHIPS 10 & 11 SOUTH, RANGES 20 & 21 EAST, W.M.

Cert 68553



FINAL PROOF MAP  
for  
WILLIAM L. SMITH PROPERTIES, INC.

Application R-57142	Permit R-7015
57143	42833
R-67960	R-9896
67961	48540



This map is for the purpose of locating a water right only and has no intent to provide legal dimensions or the location of property lines.





# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building  
725 Summer St NE, Suite A  
Salem, OR 97301  
Phone 503 986-0900  
Fax 503 986-0904  
[www.oregon.gov/owrd](http://www.oregon.gov/owrd)

July 31, 2023

VIA E-MAIL

### Applicant

BRIDGE CREEK RANCH LLC  
355 GOODPASTURE ISLAND RD  
EUGENE, OR 97401

Reference: Water Right Transfer Application T-14170

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Transfer Application T-14170. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. Your response and submittal of the items outlined below are required by August 31, 2023.

### *Required items needing your immediate attention:*

1. Please carefully review the Draft Preliminary Determination to verify that it accurately reflects the changes you intend to make and to become familiar with the proposed conditions.
2. Respond in writing by August 31, 2023, with acknowledgement that you agree to the proposed action and conditions.
3. If you find any errors, please let me know.
4. **REQUIRED:** You must submit a **Report of Ownership** for the lands where the water right is currently located (i.e., the FROM lands). This report:
  - a) Must be prepared by a title company;
  - b) Shall include a "prepared by" statement and the date the title company prepared the report printed on the cover sheet;
  - c) Must be:
    - i. Prepared no earlier than 3 months prior to the issuance of the Draft Preliminary Determination showing current ownership; **OR**
    - ii. Prepared within 3 months of the date the water right conveyance agreement was recorded; **OR**
    - iii. Show ownership for the FROM lands at the time a water right conveyance agreement was recorded.



*If water right conveyance agreements are involved, it is helpful to provide copies of those agreements along with the Report of Ownership.*

**IMPORTANT:** In order for the Department to clearly understand the date that the title company prepared the Report of Ownership, the title company must indicate/state the date that they prepared the report on the coversheet and/or first page of the report.

- d) Must include a list of owners at the time the report was generated; **AND**
  - e) Must include a legal description of the property where the water right to be transferred is currently located (i.e., the FROM lands).
5. You must provide a notarized statement of consent signed by any landowner listed in the Report of Ownership who is not already included in the transfer application. The Department's statement of consent form (**Consent By Deeded Landowner**) is available at: [https://www.oregon.gov/OWRD/WRDFormsPDF/consent to transfer form.pdf](https://www.oregon.gov/OWRD/WRDFormsPDF/consent%20to%20transfer%20form.pdf)

### **Conditions of your water right...**

The Watermaster has required a water measurement device and a staff gage at the new diversion point prior to diversion of water. Enclosed is a contact information sheet to assist you in pursuing additional information or approval of the required (or alternate) device(s).

This transfer will require installation of a fish screen at the new diversion point **prior to diversion of water. You may not divert water prior to installation and approval of the fish screen by the Oregon Department of Fish and Wildlife (ODFW).** You may wish to contact the ODFW staff person listed on the enclosed contact sheet for more information about the screen and to determine a reasonable timeline.

**Please note the proposed date by which all conditions must be met is October 1, 2024.** If the required completion date is insufficient to comply with any of the conditions, you may request more time, at no cost to you, during this stage of processing. **Please let me know by the comment deadline if you will need more time and explain the reasons why.**

### **What happens next...**

Once the preliminary determination is issued a publication period is required. The Department will publish a notice in their weekly publication, which opens a 30-day period in which the transfer can be protested.

Issuance of the Preliminary Determination will occur shortly after we receive:

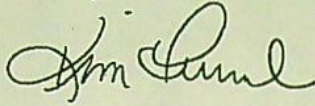
1. Your written response to the conditions and proposed action in the Draft Preliminary Determination (e-mail is acceptable); and
2. The Report of Ownership, including affidavits of consent from any landowners shown in the ownership report who have not signed the transfer application. The title company must indicate/state the date that they prepared the ownership report on the coversheet and/or first page of the report.



If we do not receive the items listed above by August 31, 2023, a Preliminary Determination may be issued denying the application as incomplete.

Please don't hesitate to contact me at 503 979-9607 or Kim.R.French@water.oregon.gov if I may be of assistance.

Sincerely,



Kim French  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-14170  
Kenneth C. Thiemann, District 21 Watermaster (*via e-mail*)  
Elizabeth Howard, Lindsay Thane, Agent for the applicant (*via e-mail*)  
Doug Woodcock, Water Resources Department Acting Director  
Dwight French, Water Right Services Administrator  
Will Davidson, Water Rights Protest Coordinator  
Lisa Jaramillo, Transfers and Conservation Section Manager

encs



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application )  
T-14170, Wheeler County )

**D R A F T**

PRELIMINARY DETERMINATION  
PROPOSING APPROVAL OF AN  
ADDITIONAL POINT OF DIVERSION

**Authority**

Oregon Revised Statutes (ORS) 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right. Oregon Administrative Rules (OAR) Chapter 690, Division 380 implement the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

BRIDGE CREEK RANCH LLC  
355 GOODPASTURE ISLAND ROAD  
EUGENE, OR 97401

**Findings of Fact**

1. On December 8, 2021, Bridge Creek Ranch LLC filed a Transfer Application requesting a change in point of diversion under Certificate 68553, which authorizes the storage of water from Bear Creek (160.0 acre feet) and Bridge Creek (330.0 acre feet), tributaries of the John Day River, in Painted Hills Reservoir to be appropriated for beneficial use (irrigation) under secondary Permit S-48540 (Certificate 68554). The Oregon Water Resources Department (Department or OWRD) determined that the application could not be accepted at that time because, based upon guidance provided by the Oregon Department of Justice, a storage right does not qualify as a "water use subject to transfer" as defined in ORS 540.505(4) and therefore did not meet the criteria outlined in ORS 540.510 for filing a transfer application.
2. On December 5, 2022, a matter entitled "Bridge Creek Ranch, LLC vs. Oregon Water Resources Department; 22CV05598" came before the Marion County Circuit Court (Court) for hearing relating to a mandamus proceeding filed by the applicant.
3. On January 10, 2023, the Court issued a letter opinion that found "...storage of water for different purposes qualifies as 'a water use.' As such, a right to store water under a water certificate is a right to a 'water use' established by... a water certificate under ORS 540.505(4)(b)." The Court also found "...that OWRD has the authority to allow transfers of point of diversion and point of use for certificated storage rights under ORS 540.530."



4. On February 7, 2023, the Department filed an appeal of the Court's findings.
5. On February 1, 2023, the Marion County Circuit Court issued a Peremptory Writ of Mandamus citing facts and legal conclusions made in the Court's letter opinion entered on January 1, 2023, and ordering OWRD to begin processing Bridge Creek Ranch, LLC's application in accordance with the Petition for Writ of Mandamus within seven (7) days after OWRD's receipt of a new and complete application for transfer involving water right Certificate 68553.
6. On February 9, 2023, Bridge Creek Ranch LLC filed an application for a change in point of diversion under Certificate 68553. The Department deemed the application complete and assigned the application number T-14170.
7. Notice of the application for transfer was published on February 14, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On May 5, 2023, the applicant amended the application from a change in point of diversion to an additional point of diversion.
9. The portion of the right to be transferred is as follows:

**Certificate:** 68553 in the name of WILLIAM SMITH PROPERTIES INC. (perfected under Permit R-9896)

**Use:** STORAGE for IRRIGATION

**Priority Date:** OCTOBER 17, 1983

**Rate:** 330.0 ACRE-FEET (AF)

**Source:** BRIDGE CREEK, tributary of THE JOHN DAY RIVER

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q
10 S	20 E	WM	25	NE SW
10 S	20 E	WM	25	NW SW
10 S	20 E	WM	25	SW SW
10 S	20 E	WM	25	SE SW
10 S	20 E	WM	26	SE SE
10 S	20 E	WM	36	NW NW

10. Certificate 68553 does not describe the location of authorized Bridge Creek POD 2; however, information is available describing the location as:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	21 E	WM	6	NE NE	BRIDGE CREEK POD 2 - 590 FEET SOUTH AND 2160 FEET EAST FROM THE N1/4 CORNER OF SECTION 6

11. Transfer Application T-14170 proposes an additional point of diversion on Bridge Creek located approximately 1,110 feet downstream from the existing authorized Bridge Creek POD 2, as follows:



Twp	Rng	Mer	Sec	Q-Q	Measured Distances
10 S	21 E	WM	31	SE SE	POD 3 - 160 FEET NORTH AND 1850 FEET EAST FROM THE S1/4 CORNER OF SECTION 31

12. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

***Transfer Review Criteria [OAR 690-380-4000(14), 690-380-4010(2) and 690-380-2110(2)]***

13. Water has been stored within the five-year period prior to submittal of Transfer Application T-14170 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
14. A water delivery system sufficient to store the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-14170.
15. The proposed point of diversion diverts water from the same source of surface water (Bridge Creek) as the authorized point of diversion (Bridge Creek POD 2), as required by OAR 690-380-2110(2).
16. The proposed change, as conditioned, would not result in enlargement of the right.
17. The proposed change, as conditioned, would not result in injury to other existing water rights.
18. All other application requirements are met.

**Determination and Proposed Action**

The additional point of diversion proposed in Transfer Application T-14170 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-14170 is approved, the final order will include the following:*

1. *The additional point of diversion proposed in Transfer Application T-14170 is approved.*
2. *The right to store the water is restricted to the place of storage described and is subject to all other conditions and limitations contained in Certificate 68553 and any related decree.*
3. *Water right Certificate 68553 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*



4. *The quantity of water diverted for storage at the new point of diversion (POD 3) shall not exceed the quantity of water lawfully available at the original point of diversion (Bridge Creek POD 2).*
5. *Water shall be acquired from the same source of surface water (Bridge Creek) as the original point of diversion (Bridge Creek POD 2).*
6. *Prior to diverting water, the water user shall install a headgate to control and regulate the quantity of water diverted. The type and plans of the headgate must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain the headgate as required by the Department*
7. *Water Use Measurement Conditions:*
  - a. *Before diversion of water may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion.*
  - b. *The water user shall maintain the meters or measuring devices in good working order.*
  - c. *The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
8. *Reservoir Water Use Measurement Conditions:*
  - a. *Before diversion of water may begin under this order, the water user shall install staff gages, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir.*
  - b. *Before diversion of water may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.*
  - c. *The water user shall allow the Watermaster access to the devices; provided however, where any device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
9. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water*



user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a "Claim of Beneficial Use" report, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

10. Completion of the change shall be made, consistent with the terms of this order, on or before **October 1, 2024**. A "Claim of Beneficial Use" report prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the change.
11. After satisfactory proof of the change is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

**D R A F T**

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
DOUGLAS E. WOODCOCK, ACTING DIRECTOR  
Oregon Water Resources Department

This draft Preliminary Determination was prepared by Kim French. If you have questions about the information in this document, you may reach me at 503 979-9607 or [Kim.R.French@water.oregon.gov](mailto:Kim.R.French@water.oregon.gov).



**Oregon Department of Fish and Wildlife**  
**Additional Fish Screening and Passage Information for the Applicant**  
*(To be completed by ODFW for WRD to provide to the applicant.)*

Transfer #: T-14170, Bridge Creek Ranch LLC

**The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.**

- Fish screening is required as a condition of this transfer. The fish screen must meet ODFW's design, construction, operational and maintenance standards.

Pursuant to ORS 498.306, cost-share funds may be available to assist in the installation of fish screening.

The applicant should contact the ODFW staff member below to obtain additional information on the design, construction, operational, and maintenance standards for the fish screen and to obtain information about ODFW's cost-sharing program for screening. **Prior to installation, the water user must obtain written approval from ODFW that the required screen meets ODFW's criteria.**

ODFW staff name: Nathaniel Ashley

Address: 357 Patterson Bridge Rd

City/State/Zip: John Day, OR 97845

Phone: (541)575-0561

- This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff member below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: Stephan Charette

Address: 305 N Canyon Blvd

City/State/Zip: John Day, OR 97845

Phone: (541)575-1167 x225



Oregon Water Resources Department
Measurement Condition Information for the Applicant
(To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-14170

- Checkboxes for meter requirements: 'totalizing & instantaneous flow meter', 'at each point of diversion/appropriation (new and existing)', 'at each new point of diversion/appropriation.'

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: Kenneth C. Thiemann Jr

District: 21

Address: PO Box 427

City/State/Zip: Condon, OR 97823

Phone: (541) 969-8799

Email: kenneth.c.thiemann@water.oregon.gov

Note: If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

\*\*\*\*\*

Approval of an Alternate Measurement Device T-
(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable alternate measurement device:

Two horizontal lines for describing the alternate measurement device.

Watermaster signature District Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266





OREGON WATER RESOURCES DEPARTMENT  
**TRANSFER REIMBURSEMENT AUTHORITY**  
**ESTIMATE APPLICATION**



*ORS 536.055 authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement.*  
**Please contact Transfer Personnel before submitting this request; as the application fee is a non-refundable \$125.00 fee per request. Checks submitted for this application should be separate From Transfer fees.**  
*The purpose of this application is to obtain estimates of the cost and time required to process a Transfer Application Request. There is a non-refundable application fee of \$125.00 per request.*

REQUEST	TYPE	FILE NUMBER
<input checked="" type="checkbox"/>	Transfer Application	Transfer Number <u>Not yet received.</u> <u>Transfer is for Certificate 68553.</u>

	Applicant Information	Applicant's Representative/Contact
Name:	<u>Bridge Creek Ranch LLC</u>	<u>Elizabeth Howard and Lindsay Thane</u>
Address:	<u>355 Goodpasture Island Road</u> <u>Eugene, OR 97401</u>	<u>1211 SW 5th Ave., Suite 1900</u> <u>Portland, OR 97204</u>
Phone:	<u>541-681-5332</u>	<u>503-796-2093 and 503-796-2059</u>
Fax:		
E-Mail Address:	<u>mpati@pape.com</u>	<u>ehoward@schwabe.com; lthane@schwabe.com</u>

I understand the following:

- That upon receipt of my non-refundable application fee of \$ 125.00, OWRD will, within fourteen (14) days, notify me in writing of the estimate of costs and time frame for the expedited service.
- That this fee covers the reimbursement authority staff to evaluate and provide the estimate for processing of the request.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimate I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to:

**Oregon Water Resources Department**  
**Transfer Reimbursement Authority Program**  
**725 Summer St. NE, Suite A**  
**Salem, OR 97301-1271**

**RECEIVED**

FEB 09 2023

**OWRD**

I certify that I am the (check one):

Applicant  Applicant's Representative  Other (Please specify) \_\_\_\_\_

Name: Lindsay Thane

Signature:

**OWRD USE ONLY: Reimbursement Authority Number: R129941-23**

R129941-23





**OREGON WATER RESOURCES DEPARTMENT  
TRANSFER REIMBURSEMENT AUTHORITY  
ESTIMATE APPLICATION**



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Please contact Transfer Personnel before submitting this request; as the application fee is a non-refundable \$125.00 fee per request. Checks submitted for this application should be separate from Transfer fees.  
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<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
<input checked="" type="checkbox"/>	Transfer Application	Not yet received. Transfer is for Certificate 68553.
		Transfer Number

	Applicant Information	Applicant's Representative/Contact
Name:	<u>Bridge Creek Ranch LLC</u>	<u>Elizabeth Howard</u>
Address:	<u>355 Goodpasture Island Road</u>	<u>1211 SW 5th Ave., Suite 1900</u>
	<u>Eugene, OR 97401</u>	<u>Portland, OR 97204</u>
Phone:	<u>541-681-5332</u>	<u>503-796-2093</u>
Fax:	_____	_____
E-Mail Address:	<u>mpati@pape.com</u>	<u>ehoward@schwabe.com</u>

I understand the following:

- That upon receipt of my non-refundable application fee of **\$ 125.00**, OWRD will, within fourteen (14) days, notify me in writing of the estimate of costs and time frame for the expedited service.
- That this fee covers the reimbursement authority staff to evaluate and provide the estimate for processing of the request.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
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- Send completed Application and payment to:

**Oregon Water Resources Department  
Transfer Reimbursement Authority Program  
725 Summer St. NE, Suite A  
Salem, OR 97301-1271**

I certify that I am the (check one):

Applicant  Applicant's Representative  Other (Please specify) \_\_\_\_\_

Name: Elizabeth Howard

Signature: \_\_\_\_\_

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FEB 09 2023

OWRD USE ONLY: Reimbursement Authority Number: R11- \_\_\_\_\_ -23



**Oregon Department of Fish and Wildlife**  
**Water Right and Diversion Transfer Comment Form**

*(ODFW provides to WRD so that WRD can make findings according to statutory requirements.)*

Reference Transfer #: T-14170, Bridge Creek Ranch LLC

Date of review: 02/13/2023

**A. Please check box if you believe there is a potential for injury to an instream water right.**

The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on \_\_\_\_\_ [*stream*], tributary to \_\_\_\_\_, because \_\_\_\_\_.

*(Please attach any available supporting information.)*

**Note:** This will prompt WRD to make a determination whether the transfer will injure an instream water right. *(OWRD makes the determination of injury to a water right, while ODFW's role is to raise concerns, and to evaluate proposed mitigation and net benefit to the resource if OWRD consents to injury of an instream water right.)*

**B. Please check one of the following five boxes related to fish screen requirements pursuant to ORS 540.525 or 540.532:**

**1. Screen Maintain**

*[Select this option if the new Point of Diversion (POD) requires a fish screen and is currently equipped with an appropriate fish screen that will still be in compliance if the transferred water is diverted from this POD.]*

**Note:** This option will yield the following:

**Finding of Fact:** The Oregon Department of Fish and Wildlife has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is currently equipped with an appropriate fish screen.

**Condition:** The water user shall operate and maintain an approved fish screen at the new point of diversion. If Oregon Department of Fish and Wildlife (ODFW) determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

**2. Screen Now**

*[Option 2 should generally be selected if listed fish species are present at the point of diversion and/or the originating water right diversion is currently screened. If Option 2 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. The new diversion may be eligible for cost-share.]*

**Note:** This option will yield the following:

**Finding of Fact:** The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. This diversion may be eligible for screening cost-share funds.

**Condition:** Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

*Please return all 3 pages to: Transfers Section, Water Resources Department,  
725 Summer St. NE, Suite A, Salem, OR 97301-1266*



**3. Screen 2 Year**

*[Option 3 may be checked if the change is from an unscreened diversion to a HISTORIC POD or an existing POD in use for another water right, and cost-share funds are not currently available. It should NOT be checked if listed fish species are present at the point of diversion, the originating water right diversion is screened, cost-share funds are currently available, or the diversion is not eligible for ODFW's cost-share program. Please provide contact information on the "Fish Screening and Passage Information" sheet.] If extraordinary circumstances are present, please explain: \_\_\_\_\_*

**Note:** This option will yield the following:

**Finding of Fact:** The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screen is necessary at the new point of diversion to prevent fish from entering the diversion and that the diversion is not currently equipped with an appropriate fish screen. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost-share funds become available to assist in the construction of a fish screen. If cost-share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost-share funding.

**Condition:** By October 1, 20\_\_ [Within two years after the date of this order] the water user shall install an approved fish screen at the new point of diversion. The water user may withdraw water at the new point of diversion without a screen until October 1, 20\_\_. The water user shall provide to OWRD a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

The water user shall maintain and operate the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

**4. Screen Future**

*[Use this option if fish are not currently present, but might possibly be at some future time.]*

**Note:** This option will yield the following:

**Finding of Fact:** The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

**Condition:** The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.

**5. No Screen Needed**

*[Check this box if fish are not currently present, and are not expected in the future.]*

Jorden D Smith Digitally signed by Jorden D Smith  
Date: 2023.02.13 08:54:09 -08'00'

Signature

Jorden Smith  
Printed Name

(541) 805-1990

Phone

East Region Hydro and Water Rights Coordinator  
Title



**Oregon Department of Fish and Wildlife**  
**Additional Fish Screening and Passage Information for the Applicant**  
*(To be completed by ODFW for WRD to provide to the applicant.)*

Transfer #: T-14170, Bridge Creek Ranch LLC

**The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.**

- Fish screening is required as a condition of this transfer. The fish screen must meet ODFW's design, construction, operational and maintenance standards.

Pursuant to ORS 498.306, cost-share funds may be available to assist in the installation of fish screening.

The applicant should contact the ODFW staff member below to obtain additional information on the design, construction, operational, and maintenance standards for the fish screen and to obtain information about ODFW's cost-sharing program for screening. **Prior to installation, the water user must obtain written approval from ODFW that the required screen meets ODFW's criteria.**

ODFW staff name: Nathaniel Ashley

Address: 357 Patterson Bridge Rd

City/State/Zip: John Day, OR 97845

Phone: (541)575-0561

- This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff member below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: Stephan Charette

Address: 305 N Canyon Blvd

City/State/Zip: John Day, OR 97845

Phone: (541)575-1167 x225



**REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT  
Contract Number: R11-421-23**

**RECEIVED**  
**FEB 21 2023**  
**OWRD**

This Agreement is between the **Oregon Water Resources Department**, hereafter OWRD, and **Bridge Creek Ranch, LLC**, hereafter Applicant, hereafter known together as the parties.

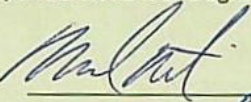
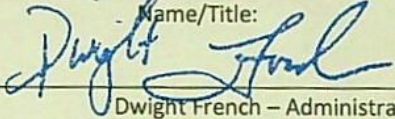
OWRD Information	Applicant's Information	Applicant's Representative
Contact: Kelly Starnes Title: Transfer Advisor Address: 725 Summer Street, NE, Suite A Salem, OR 97301-1266	Name: Bridge Creek Ranch, LLC Contact: Mike Pati Address: 355 Goodpasture Island Rd. Eugene, OR 97401	Name: Schwabe, Williamson & Wyatt Contact: Elizabeth Howard & Lindsay Thane Address: 1211 SW 5 <sup>th</sup> Ave., Suite 1900 Portland, OR 97204
Phone: 503 979-3511 Fax: 503 986-0901 Email: <a href="mailto:patrick.k.starnes@water.oregon.gov">patrick.k.starnes@water.oregon.gov</a>	Phone: (541) 681-5332 Fax: Email: <a href="mailto:mpati@pape.com">mpati@pape.com</a>	Phone: (503) 796-2059 Email: <a href="mailto:ehoward@schwabe.com">ehoward@schwabe.com</a> Email: <a href="mailto:lthane@schwabe.com">lthane@schwabe.com</a>

**Purpose** The purpose of this Agreement is to expedite the processing of the **Transfer Application**. (Application Number: T-14170)

1. **Authority.** The OWRD has been authorized pursuant to ORS 536.055 to enter into a voluntary agreement with any applicant, permittee or regulated entity (collectively Applicant) for expediting or enhancing a regulatory process. In making this agreement, OWRD shall require the applicant to pay the full cost of expedited process.
2. **Restrictions.** Applicant and OWRD agree that this Agreement shall not be construed to restrict in any way the decisions and actions by OWRD. OWRD shall be free to exercise independent judgment consistent with existing laws and regulations.
3. **Effective Date and Duration.** Unless otherwise terminated by non-deposit of funds by the Applicant, this Agreement shall become effective on the date on which both parties have signed the Agreement and the full deposit of the estimated cost of the proposed service.
4. **Consideration.**
  - a. Applicant shall pay OWRD in advance for actual costs incurred by OWRD. The estimated maximum reimbursement payable to OWRD under this Agreement is **\$1,488.63**. Applicant agrees to pay the full amount of **\$1,488.63** to OWRD prior to commencement of any work stated in this Agreement. This payment will be placed in an account administered by OWRD and drawn upon as costs are actually incurred. If the actual cost of performing the work is less than payments received, OWRD will refund the unspent balance. If the actual cost of processing exceeds the estimate, the Applicant can either elect to terminate this Agreement or amend the Agreement to reflect the increase in cost.
  - b. The costs stated in this Agreement do not include the statutory application processing and filing fees.
5. **Confidentiality.** Applicant agrees that any information provided to or acquired by OWRD under this Agreement will be subject to the Oregon Public Records Law and shall be considered public records.
6. **Indemnity.** Applicant shall defend, save, hold harmless, and indemnify the State of Oregon, OWRD, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of Applicant or its representatives, officers, employees, contractors, or agents under this Agreement or with respect to the expedited service. The Applicant acknowledges that the Oregon Water Resources Department cannot and does not guarantee a favorable review under the subject regulatory process.



7. **Termination.** Applicant may request to terminate this agreement only in writing at anytime during the process. The Applicant agrees to pay for the work done by OWRD up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance.
8. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certify that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
9. **Duration of Estimate.** The Estimate of Time to completion is **approximately** 120 days once this Agreement has been fully executed and payment of the estimated cost deposited. If the Applicant's Agreement is not received by the Department within thirty (30) days of mailing the Agreement, the Applicant may need to re-apply for a new estimate. NOTE: Any time estimate is approximate; No guarantee of Final Order issuance of a date is certain. Duration estimates do not include any statutory waiting periods.
10. **Completion Date.** OWRD, by the execution of this Agreement does not guarantee the completion date indicated in this Agreement. Completion date is only an estimate and may be affected by the Department's workload, issues arising from the processing of the requested services and Applicant's timely response to requests for additional information.
11. **Captions.** The captions or headings in this Agreement are for the convenience only and in no way define, limit, or describe the scope, or intent, of any provision of this Agreement.
12. **Amendment and Merger.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.
13. **Signatures.** All parties, by the authorized representative's signature below, hereby acknowledge that they have read this Agreement, understand it and agree to be bound by its terms and conditions.

For Applicant:		MIKE PATI, PRESIDENT, PATE PROPERTIES, INC, SOLE MEMBER OF BRIDGE CREEK RANCH, LLC	2/20/23
	Name/Title:		Date
For OWRD:		Dwight French – Administrator	2-27-2023
			Date

Mail signed Agreement to:

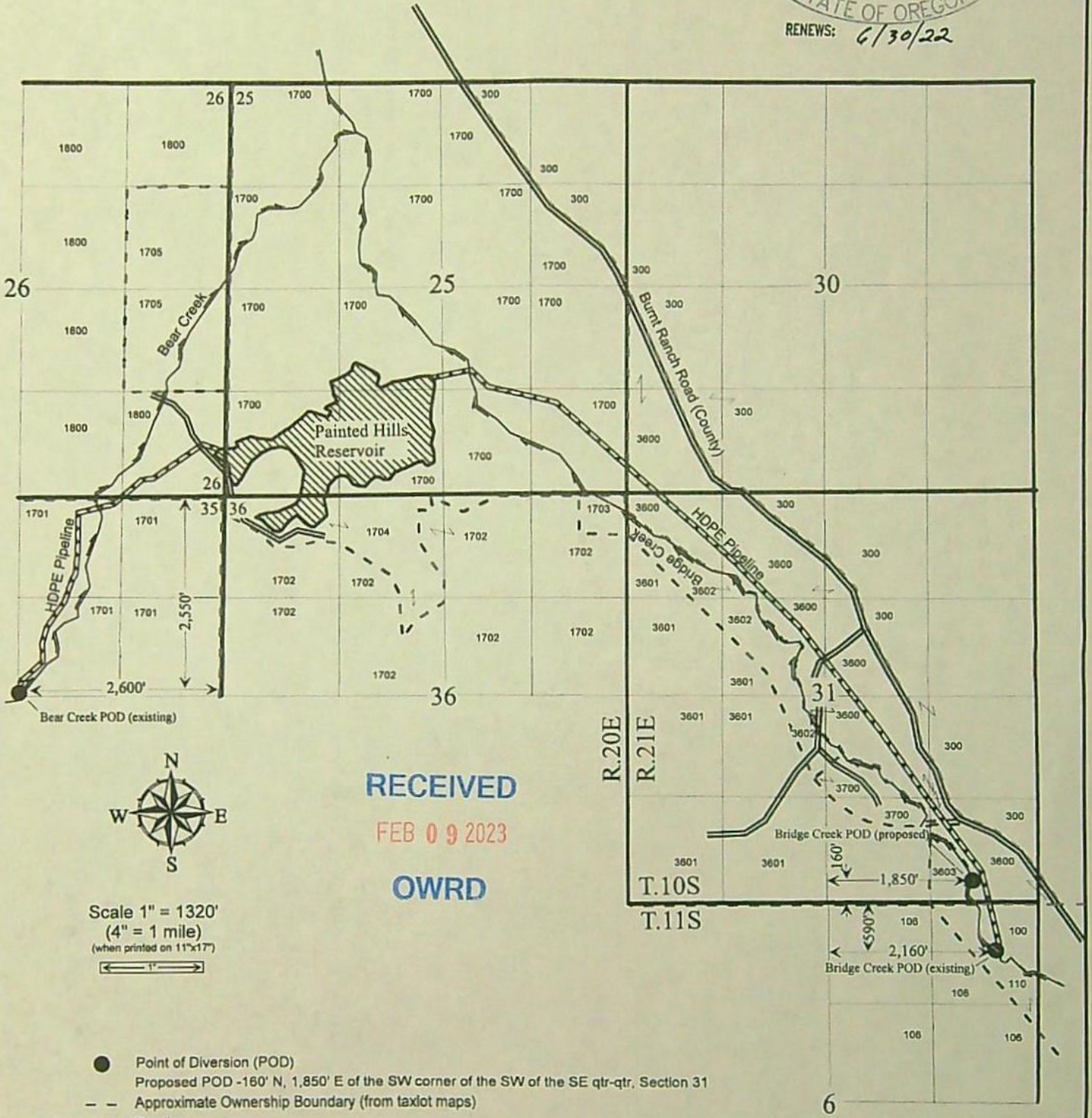
Stacy Phillips  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266

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FEB 21 2023  
**OWRD**

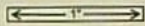


# POD Transfer (C68553)

CERTIFIED WATER RIGHT EXAMINER  
 72665  
*Gabriel M. Williams*  
 GABRIEL M. WILLIAMS  
 JULY 10, 2018  
 STATE OF OREGON  
 RENEWS: 6/30/22



Scale 1" = 1320'  
 (4" = 1 mile)  
 (when printed on 11"x17")



- Point of Diversion (POD)  
 Proposed POD -160' N, 1,850' E of the SW corner of the SW of the SE qtr-qtr, Section 31
- - - Approximate Ownership Boundary (from taxlot maps)
- == Pipeline
- == Road
- Creek

This map is for the purpose of locating a water right only and is not intended to provide legal dimensions or locations of property ownership lines.

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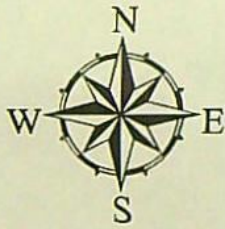
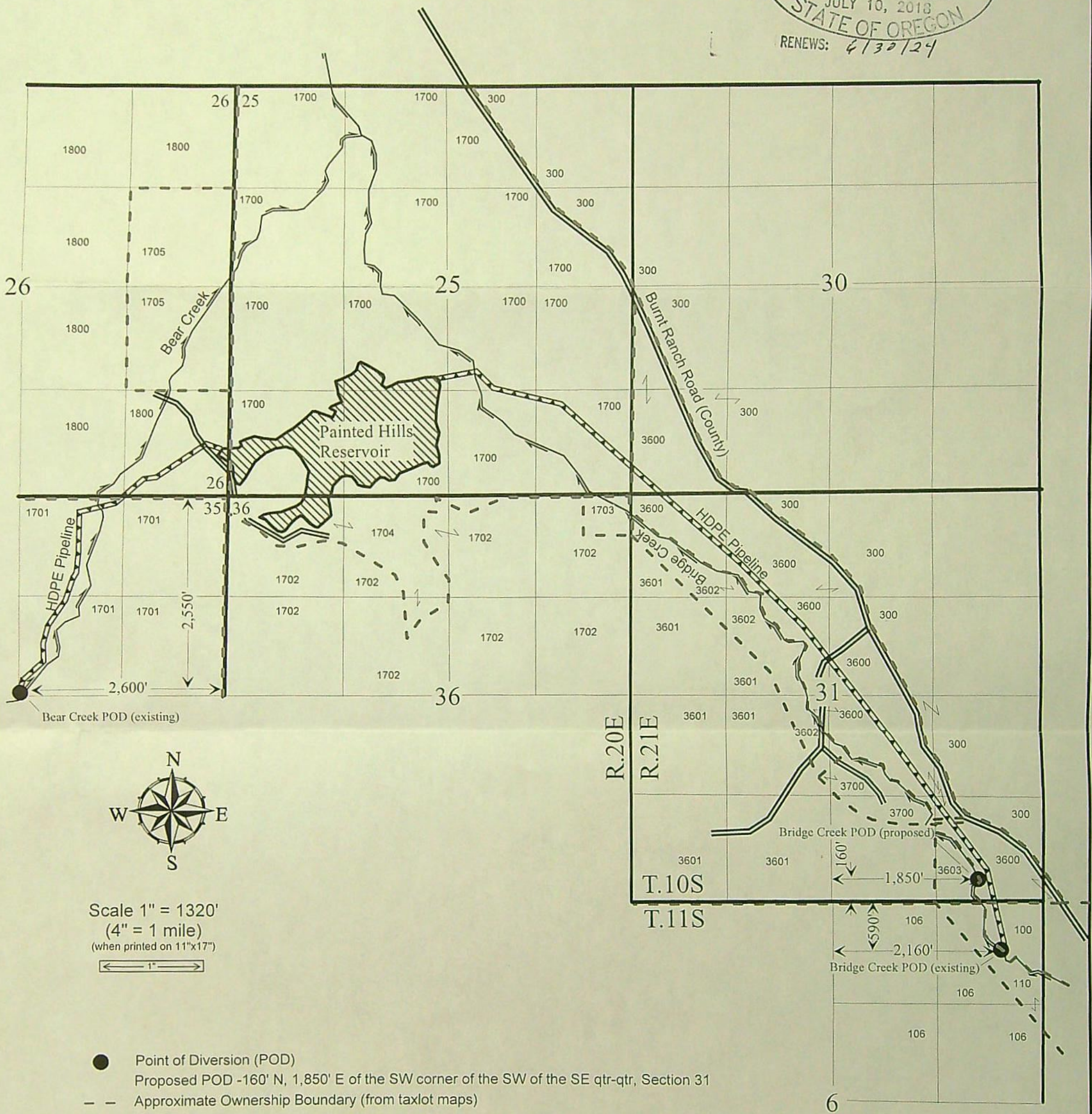
RECEIVED  
 OWRD

DRAWING: S6 - 1.1	DRAWN BY: GMMW	SHEET TITLE: Transfer Map	PROJECT: Transfer Map Cert 68553		DRAWING STATUS	DATE	No.	REVISION	DATE
			PROJECT LOCATION: MITCHELL, OREGON		DRAFT	8/30/21			
			CLIENT: Bridge Creek Ranch, LLC	1180 SW LAKE RD, STE 202 REDMOND, OR 97756	FINAL	9/28/21			
				(541) 771-6911 gabe@RSIenr.com					



# POD Transfer (C68553)

CERTIFIED WATER RIGHT EXAMINER  
 72665  
*Gabe M. Williams*  
 GABRIEL M. WILLIAMS  
 JULY 10, 2018  
 STATE OF OREGON  
 RENEWS: 4/30/24



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FEB 09 2023

OWRD

S6 - 1.1  
 DRAWING:  
 DRAWN BY: GMW  
 SHEET TITLE:  
 Transfer Map

PROJECT:  
 Transfer Map Cert 68553  
 PROJECT LOCATION:  
 MITCHELL, OREGON  
 CLIENT:  
 Bridge Creek Ranch, LLC

**RSI** Resource Specialists INC.  
 1180 SW LAKE RD, STE 202 (541) 771-6911  
 REDMOND, OR 97756 gabe@RSIengr.com

DRAWING STATUS	DATE	No.	REVISION	DATE
DRAFT	8/30/21			
FINAL	9/28/21			



# Application for Permanent Water Right Transfer



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

## Part 1 of 5 – Minimum Requirements Checklist

**This 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.

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

- Part 1 – Completed Minimum Requirements Checklist.
- Part 2 – Completed 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 new online fee calculator at: [http://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator](http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator).
- Part 4 – Completed Applicant Information and Signature.
- Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: 68553**  
Please include a separate Part 5 for each water right. (See instructions on page 6)  
**NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.**

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**Attachments:**

- Completed Transfer Application Map.
- Completed Evidence of Use Affidavit and supporting documentation.
- N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation 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.
- N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500’ from the surface water source and more than 1000’ upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

(For Staff Use Only)

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

- Application fee not enclosed/insufficient
- Land Use Form not enclosed or incomplete
- Additional signature(s) required
- Map not included or incomplete
- Evidence of Use Form not enclosed or incomplete
- Part \_\_\_\_\_ is incomplete

Other/Explanation \_\_\_\_\_

Staff: \_\_\_\_\_ 503- \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



## Part 2 of 5 – Transfer Application Map

OWRD

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

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

- N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see [http://apps.wrd.state.or.us/apps/wr/cwre\\_license\\_view/](http://apps.wrd.state.or.us/apps/wr/cwre_license_view/). CWRE stamp and signature are not required for substitutions.
- 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 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), 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°).

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## Part 4 of 5 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>Bridge Creek Ranch LLC</b>		PHONE NO. <b>541-681-5332</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>355 Goodpasture Island Road</b>			FAX NO.
CITY <b>Eugene</b>	STATE <b>OR</b>	ZIP <b>97401</b>	E-MAIL <b>mpatl@pape.com</b>
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 <b>Schwabe, Williamson &amp; Wyatt Attn: Elizabeth Howard</b> <i>and Lindsay Thane</i>		PHONE NO. <b>503-796-2093</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>1211 SW 5th Ave., Suite 1900</b>			FAX NO.
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97204</b>	E-MAIL <b>ehoward@schwabe.com</b> <i>and lthane@schwabe.com</i>
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:

This transfer is to move the point of diversion (POD) to a different location on Bridge Creek. The new POD will be located on Bridge Creek Ranch's property, whereas the current POD is located on Bureau of Land Management property.

If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

### Check One Box

- By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); OR
- I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; OR
- I affirm the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

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By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: Bend Bulletin.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

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



*[Signature]* MIKE PATI, PRESIDENT, PAPE PROPERTIES, INC., 2/6/23  
 Applicant signature Print Name (and Title if applicable) Date  
SOLE MEMBER OF BRIDGE CREEK RANCH, LLC

\_\_\_\_\_  
 Applicant signature Print Name (and Title if applicable) 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 deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.

Check the following boxes that apply:

- The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold?  Yes  No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see: [https://www.oregon.gov/owrd/WRDFormsPDF/Transfer\\_Property\\_Transactions.pdf](https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf)

RECEIVING LANDOWNER NAME		PHONE NO.	ADDITIONAL CONTACT NO.
N/A			
ADDRESS			FAX NO.
CITY	STATE	ZIP	E-MAIL
Describe any special ownership circumstances:			
The confirming Certificate shall be issued in the name of: <input type="checkbox"/> Applicant <input type="checkbox"/> Receiving Landowner			



**By my signature below, I confirm that I understand:**

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: \_\_\_\_\_.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

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



*M. Patel*  
Applicant signature

MICEPATI, PRESIDENT  
Print Name (and Title if applicable)

12/1/21  
Date

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\_\_\_\_\_  
Applicant signature

\_\_\_\_\_  
Print Name (and Title if applicable)

\_\_\_\_\_  
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 deeded landowners (and mailing and/or e-mail addresses if different than the applicant's) or attach affidavits of consent (and mailing and/or e-mail addresses) from all landowners or individuals/entities to which the water right(s) were conveyed.*

Check the following boxes that apply:

- The applicant is responsible for completion of change(s). Notices and correspondence should continue to be sent to the applicant.
- The receiving landowner will be responsible for completing the proposed change(s) after the final order is issued. Copies of notices and correspondence should be sent to this landowner.
- Both the receiving landowner and applicant will be responsible for completion of change(s). Copies of notices and correspondence should be sent to this landowner and the applicant.

At this time, are the lands in this transfer application in the process of being sold?  Yes  No

If YES, and you know who the new landowner will be, please complete the receiving landowner information table below. If you do not know who the new landowner will be, then a request for assignment will have to be filed for at a later date.

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see: [https://www.oregon.gov/owrd/WRDFormsPDF/Transfer\\_Property\\_Transactions.pdf](https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf)

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RECEIVING LANDOWNER NAME <b>N/A</b>			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS				FAX NO.
CITY	STATE	ZIP	E-MAIL	
Describe any special ownership circumstances:				
The confirming Certificate shall be issued in the name of: <input type="checkbox"/> Applicant <input type="checkbox"/> Receiving Landowner				

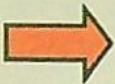


Check here if any of the water rights proposed for transfer are or will be located within or served by an irrigation or other water district. (Tip: Complete and attach Supplemental Form D.)

IRRIGATION DISTRICT NAME <b>N/A</b>	ADDRESS	
CITY	STATE	ZIP

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 <b>N/A</b>	ADDRESS	
CITY	STATE	ZIP



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

ENTITY NAME <b>Wheeler County</b>	ADDRESS <b>701 Adams Street, P.O. Box 447</b>	
CITY <b>Fossil</b>	STATE <b>Oregon</b>	CITY <b>Fossil</b>

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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Part 5 of 5 – Water Right Information

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 additional rows to tables within the form.

CERTIFICATE # 68553

Description of Water Delivery System

System capacity: 13.0 cubic feet per second (cfs) from Bear Creek and 3.0 cfs from Bridge Creek 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. The PODs on Bear Creek and Bridge Creek are used to divert water under multiple irrigation and storage water rights. At the Bridge Creek POD, water is diverted through a headgate and then piped to a fish screen. The water flows out of the fish screen and into a PVC pipe into the Painted Hills Reservoir. The Bear Creek diverts water into a pipeline that has a fish screen to a measuring device and water then flows through a gravity flow pipe to the Painted Hills Reservoir.

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)
Bear Creek (POD 1)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		10	S	20	E	35	SW	NE	1701	* 2250 feet south and 2600 feet west from NE corner, Section 35
Bridge Creek (POD 2)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		11	S	21	E	6	NE	NE	110	* 590 feet south and 2160 feet east from north ¼ corner, Section 6
POD 3	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		10	S	21	E	31	SE	SE	3600	1,850 feet east and 160 feet north from the south ¼ corner, Section 31
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed										

\*The POD locations are not specifically described in Certificate 68553. The certificate only states that water is authorized for diversion from Bridge Creek and Bear Creek. The POD location descriptions are the measured distances in the final proof survey map.

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

- Place of Use (POU)
- Character of Use (USE)
- Point of Diversion (POD)
- Additional Point of Diversion (APOD)
- Surface Water POD to Ground Water POA (SW/GW)
- Supplemental Use to Primary Use (S to P)
- Point of Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)
- Substitution (SUB)
- Government Action POD (GOV)



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

- Yes Complete only the Proposed ("to" or "on" 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 Changes to Water Right Certificate # 68553**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

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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
														2	S	9	E	2	SW	NW	500		5.0		POD #6	1901
													APOD	10	S	20	E	25	NE	SW	1700		n/a		POD 1, 2, 3	10/17/198 3
													APOD	10	S	20	E	25	NW	SW	1700		n/a		POD 1, 2, 3	10/17/198 3
													APOD	10	S	20	E	25	SW	SW	1700		n/a		POD 1, 2, 3	10/17/198 3
													APOD	10	S	20	E	25	SE	SW	1700		n/a		POD 1, 2, 3	10/17/198 3
													APOD	10	S	20	E	26	SE	SE	1700		n/a		POD 1, 2, 3	10/17/198 3
													APOD	10	S	20	E	36	NW	NW	1700		n/a		POD 1, 2, 3	10/17/198 3
TOTAL ACRES:												TOTAL ACRES:										n/a				

Additional remarks: This transfer would add a point of diversion on Bridge Creek to eventually replace POD #2, which is the current POD on Bridge Creek. The transfer proposes that proposed POD #3 and existing POD #2 would be used to divert water from Bridge Creek to storage in the Painted Hills Reservoir. POD #1, which is on Bear Creek, would continue to be used to divert water.




**For Place of Use or Character 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: 68551 and Permit R-15180.

Certificate 68551 and Permit R-15180 also authorize storage in the Painted Hills Reservoir.

 Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

**For Substitution (ground water supplemental irrigation will be substituted for surface water primary irrigation)**

Ground water supplemental Permit or Certificate # \_\_\_\_\_;

Surface water primary Certificate # \_\_\_\_\_.

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**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

Well log(s) are attached 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](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 for any wells that do not have a well log. For *proposed wells 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



# 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 )  
 ) ss  
 County of WHEELER

I, GABRIEL M WILLIAMS, in my capacity as CONSULTANT AND ENGINEER FOR BRIDGE CREEK RANCH, LLC,  
 mailing address 1180 SW LAKE RD. SUITE 202, REDMOND, OREGON 97756  
 telephone number (541)771-6911, being first duly sworn depose and say:

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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 # 68553; 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)

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.): STORAGE FOR IRRIGATION

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.

*John M. Wilk*  
Signature of Affiant


11/17/21  
Date

Signed and sworn to (or affirmed) before me this 17<sup>th</sup> day of November, 2021.



*Dianna Dale Myers*  
Notary Public for Oregon

My Commission Expires: September 24, 2022

 <b>OFFICIAL STAMP DIANNA DALE MYERS NOTARY PUBLIC-OREGON COMMISSION NO. 979398 MY COMMISSION EXPIRES SEPTEMBER 24, 2022</b>	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 <b>confirming</b> 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"> <li>● Power usage records for pumps associated with irrigation use</li> <li>● Fertilizer or seed bills related to irrigated crops</li> <li>● Farmers Co-op sales receipt</li> </ul>
<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"> <li>● District assessment records for water delivered</li> <li>● Crop reports submitted under a federal loan agreement</li> <li>● Beneficial use reports from district</li> <li>● IRS Farm Usage Deduction Report</li> <li>● Agricultural Stabilization Plan</li> <li>● CREP Report</li> </ul>
<input checked="" type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph  *See attached memo with imbedded photos.	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.  Sources for aerial photos: OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a> OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a> Google Earth – <a href="http://earth.google.com">earth.google.com</a> TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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## Memorandum

Date: November 2<sup>nd</sup>, 2021  
From: Gabriel Williams PE, Resource Specialists Inc.  
Re: Cert 68553 Evidence of Use for Painted Hills Reservoir

This documentation demonstrates diversion of water from Bridge Creek and Bear Creek for storage in the Painted Hills Reservoir under certificate 68553.



The photo to the left shows the operation of the Bridge Creek Diversion on 11-30-20.

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The photo to the right is a aquamaster 900 which is installed just downstream of the Bridge Creek Diversion on the pipeline that supplies water to the Painted Hills Reservoir. This photo was taken on 3-3-21 during the filling of the reservoir for storage.



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The photo above was taken on 1-19-21 and shows water being diverted through the Bear Creek Diversion.

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The Google Earth image below shows the reservoir filled to its full certificated 800 ac-ft capacity on 7-2-2017.



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# Land Use Information Form



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

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; OR
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

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## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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# Land Use Information Form

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

Applicant(s): Bridge Creek Ranch, LLC

Mailing Address: 355 Goodpasture Island Road

City: Eugene State: OR Zip Code: 97401 Daytime Phone: (541) 681-5332

## 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>See Attachment</u>	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____

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

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## 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) Bridge Creek and Bear Creek

Estimated quantity of water needed: 490.0  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 transfer proposes to move the point of diversion on Bridge Creek from a location in Section 6 to a location in Section 31 to allow Bridge Creek Ranch to more easily and efficiently divert water to Painted Hills Reservoir.

**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. →

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## 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):  
*Wheeler County Comprehensive Plan § 3(j); WCZO § 6.9 - Exception for minor betterment of existing lawful use*
- 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 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 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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OWRD

Name: Matt Davis Title: Planning Director

Signature:  Phone: 541-763-2126 Date: 12-1-2021

Government Entity: Wheeler County Planning Department

**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.

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**Receipt for Request for Land Use Information**

Applicant name: \_\_\_\_\_

City or County: \_\_\_\_\_ Staff contact: \_\_\_\_\_

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_ Date: \_\_\_\_\_



Land Use Information Form Attachment

Transfer Application for Certificate 68553  
For Bridge Creek Ranch, LLC

Township	Range	Section	¼ X	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SE SE</u>	<u>3600</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NW SE</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SW NE</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SE NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NE NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NW NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>30</u>	<u>SW SW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>SE SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
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<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>NE SW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
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<u>10 S</u>	<u>20 E</u>	<u>26</u>	<u>SE SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
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<u>10 S</u>	<u>20 E</u>	<u>35</u>	<u>SW NE</u>	<u>1701</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>35</u>	<u>NW NE</u>	<u>1701</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>26</u>	<u>SE SE</u>	<u>1800</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

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CIRCUIT COURT OF OREGON  
THIRD JUDICIAL DISTRICT  
MARION COUNTY COURTHOUSE  
P.O. BOX 12869  
SALEM, OR 97309-0869

AUDREY J. BROYLES  
Circuit Court Judge  
PHONE: (503) 588-5492  
FAX: (503) 589-3266

1/10/2023  
\_ Verified Correct Copy of Original

January 9, 2023

RE: Bridge Creek Ranch, LLC vs. Oregon Water Resources Department; 22CV05598

Dear Counsel,

The above-entitled matter came before the court on December 5, 2022, for hearing on Applicant-Relator's Motion for Summary Judgment as well as Defendants' Cross Motion for Summary Judgment relating to the mandamus proceeding filed by Bridge Creek Ranch. Counsel for the parties were present as well as amici curiae counsel.

The court heard the arguments of counsel and amici curiae and took the matter under advisement. The court, in considering the motions has considered the pleadings, declarations, relevant case law and statutes and the arguments of counsel.

The parties agree that summary judgment is proper in a mandamus proceeding when the mandamus petition presents only an issue of law with no factual disputes and that this particular action presents no genuine issues of material fact. The court finds that storage of water for different purposes qualifies as a 'water use'. As such, a right to store water under a water certificate is a right to a 'water use established by...a water certificate under ORS 540.505(4)(b). The court also finds that OWRD has the authority to allow transfers of point of diversion and point of use for certificated storage water rights under ORS 540.530.

In conclusion, the court grants Applicant-Relator's Motion for Summary Judgment and denies Defendant's Cross Motion for Summary Judgment. Ms. Kobak, please prepare the order and writ for my signature, directing OWRD to process BCR's water transfer application under ORS 540.510(1).

Sincerely,

  
Audrey J Broyles  
Marion County Circuit Court Judge

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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

BRIDGE CREEK RANCH, LLC,  
Applicant-Relator,  
vs.  
OREGON WATER RESOURCES  
DEPARTMENT, and Douglas Woodcock,  
Director of Oregon Water Resources  
Department,  
Defendants.

No. 22CV05598  
**The Honorable Judge Audrey Broyles**  
MANDAMUS PROCEEDING  
**GENERAL JUDGMENT**

Pursuant to the letter opinion issued on January 10, 2023 granting Applicant-Relator Bridge Creek Ranch's ("BCR") motion for summary judgment, and denying Defendants Oregon Water Resources Department ("OWRD") and Douglas Woodcock's cross-motion for summary judgment, and the Court being fully advised, now, therefore,

THE COURT FINDS, DECLARES AND ADJUDGES that peremptory mandamus shall issue, which shall command Defendants to process BCR's application in accordance with the Petition for Writ of Mandamus. The Court directs the clerk or court administrator to issue the writ.

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*Audrey J. Broyles*

Circuit Court Judge Audrey J. Broyles



1 SUBMITTED BY:

2 Sara Kobak, OSB No. 023495  
3 SCHWABE, WILLIAMSON & WYATT, P.C.  
4 1211 SW Fifth Avenue, Suite 1900  
5 Portland, OR 97204  
6 Telephone: 503-222-9981  
7 Email: skobak@schwabe.com

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**CERTIFICATE OF COMPLIANCE**

This proposed order or judgment is ready for judicial signature because:

- 1.  Each opposing party affected by this order or judgment has stipulated to the order or judgment, as shown by each opposing party's signature on the document being submitted.
- 2.  Each opposing party affected by this order or judgment has approved the order or judgment, as shown by signature on the document being submitted or by written confirmation of approval sent to me
- 3.  I have served a copy of this order or judgment on all parties entitled to service and:
  - a.  No objection has been served on me.
  - b.  I received objections that I could not resolve with the opposing party despite reasonable efforts to do so. I have filed a copy of the objections I received and indicated which objections remain unresolved.
  - c.  After conferring about objections, [role and name of opposing party] agreed to independently file any remaining objection.
- 4.  The relief sought is against an opposing party who has been found in default.
- 5.  An order of default is being requested with this proposed judgment.
- 6.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.
- 7.  This is a proposed judgment that includes an award of punitive damages and notice has been served on the Director of the Crime Victims' Assistance Section as required by subsection (4) of this rule.
- 8.  Other: None of the parties have filed an answer yet.

Presented this 1st day of February, 2023 by:

SCHWABE, WILLIAMSON & WYATT, P.C.

s/ Sara Kobak  
Sara Kobak, OSB No. 023495

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of February, 2023, I caused to be served the foregoing JUDGMENT on the following parties at the following addresses:

YoungWoo Joh, Assistant Attorney General  
Brian Simmonds Marshall,  
Senior Assistant Attorney General  
OREGON DEPARTMENT  
OF JUSTICE  
100 SW Market Street  
Portland, OR 97201  
Telephone: 971-673-1880

Hand Delivery  
Facsimile  
U.S. Mail  
Certified Mail  
Overnight Courier  
Email  
Electronic Service  
Other:

*Attorneys for Adverse Party  
Oregon Water Resources Department*

s/ Sara Kobak  
Sara Kobak, OSB No. 023495

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FEB 09 2023  
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IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MARION

BRIDGE CREEK RANCH, LLC,  
Applicant-Relator,  
vs.  
OREGON WATER RESOURCES  
DEPARTMENT, and Douglas Woodcock,  
Director of Oregon Water Resources  
Department,  
Defendants.

No. 22CV05598  
**The Honorable Judge Audrey Broyles**  
MANDAMUS PROCEEDING  
**PEREMPTORY WRIT OF MANDAMUS**

Pursuant to ORS 34.150(3), based on the facts stated in Applicant-Relator Bridge Creek Ranch's ("BCR") Petition for Writ of Mandamus, and the legal conclusions in this Court's letter opinion entered on January 10, 2023, about the legal obligation of Defendants Oregon Water Resources Department *et al.* ("OWRD") to perform the act, OWRD is hereby commanded to begin processing BCR's application in accordance with the Petition for Writ of Mandamus, within seven days after OWRD receives a new and complete application from BCR. OWRD is further commanded to return this writ immediately thereafter, with a certificate from OWRD annexed, stating that OWRD has performed the act commanded herein.

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**OWRD**

*Audrey J. Broyles*  
Circuit Court Judge Audrey J. Broyles



1 SUBMITTED BY:  
Sara Kobak, OSB No. 023495  
2 SCHWABE, WILLIAMSON & WYATT, P.C.  
1211 SW Fifth Avenue, Suite 1900  
3 Portland, OR 97204  
Telephone: 503-222-9981  
4 Email: skobak@schwabe.com

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1 CERTIFICATE OF COMPLIANCE

2 This proposed order or judgment is ready for judicial signature because:

- 3 1.  Each opposing party affected by this order or judgment has stipulated to the order
- 4 or judgment, as shown by each opposing party's signature on the document being
- 5 submitted.
- 6 2. X Each opposing party affected by this write has approved the form of the writ, as
- 7 shown by signature on the document being submitted or by written confirmation
- 8 of approval sent to me
- 9 3.  I have served a copy of this order or judgment on all parties entitled to service
- 10 and:
- 11 a.  No objection has been served on me.
- 12 b.  I received objections that I could not resolve with the opposing party
- 13 despite reasonable efforts to do so. I have filed a copy of the objections I
- 14 received and indicated which objections remain unresolved.
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- 17 4.  The relief sought is against an opposing party who has been found in default.
- 18 5.  An order of default is being requested with this proposed judgment.
- 19 6.  Service is not required pursuant to subsection (3) of this rule, or by statute, rule,
- 20 or otherwise.
- 21 7.  This is a proposed judgment that includes an award of punitive damages and
- 22 notice has been served on the Director of the Crime Victims' Assistance Section
- 23 as required by subsection (4) of this rule.
- 24 8.  Other: None of the parties have filed an answer yet.

25 Presented this 1st day of February, 2023 by:

26 SCHWABE, WILLIAMSON & WYATT, P.C.

27 s/ Sara Kobak  
Sara Kobak, OSB No. 023495

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Brian Simmonds Marshall,  
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100 SW Market Street  
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Telephone: 971-673-1880

- Hand Delivery
- Facsimile
- U.S. Mail
- Certified Mail
- Overnight Courier
- Email
- Electronic Service
- Other:

*Attorneys for Defendant  
Oregon Water Resources Department*

s/ Sara Kobak  
Sara Kobak, OSB No. 023495

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FEB 09 2023  
OWRD



# Land Use Information Form



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

## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

**This form is NOT required if:**

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; OR
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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OWRD

WR / FS



# Land Use Information Form



Applicant(s): Bridge Creek Ranch, LLC

Mailing Address: 355 Goodpasture Island Road

City: Eugene State: OR Zip Code: 97401 Daytime Phone: (541) 681-5332

## 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>See Attachment</u>	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted <input type="checkbox"/> Conveyed <input type="checkbox"/> Used	_____

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

Wheeler 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) Bridge Creek and Bear Creek

Estimated quantity of water needed: 490.0    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 transfer proposes to move the point of diversion on Bridge Creek from a location in Section 6 to a location in Section 31 to allow Bridge Creek Ranch to more easily and efficiently divert water to Painted Hills Reservoir.

**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. →

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OWRD 14170



## 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): WCZO 3.1 (3)(a); WCZO 3.1 (3)(o)
- 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:	
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		<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
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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.

Removal/fill permits and possibly Floodplain Development approvals may be required depending on project specifics.

Name: Matt Davis Title: Planning Director

Signature:  Phone: 541-728-1275 Date: 02/03/2023

Government Entity: Wheeler County Community Development Department

**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: \_\_\_\_\_

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**Land Use Information Form Attachment**

**Transfer Application for Certificate 68553  
For Bridge Creek Ranch, LLC**

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SE SE</u>	<u>3600</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NW SE</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SW NE</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>SE NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NE NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>31</u>	<u>NW NW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>21 E</u>	<u>30</u>	<u>SW SW</u>	<u>3600</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>SE SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>SW SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>NW SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>NE SW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>NW SW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>SW SW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>25</u>	<u>SE SW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>26</u>	<u>SE SE</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>36</u>	<u>NW NW</u>	<u>1700</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>35</u>	<u>SW NE</u>	<u>1701</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>35</u>	<u>NW NE</u>	<u>1701</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
<u>10 S</u>	<u>20 E</u>	<u>26</u>	<u>SE SE</u>	<u>1800</u>	<u>EFU</u>	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

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# 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 )  
 ) ss  
 County of WHEELER)

I, GABE WILLIAMS, in my capacity as CONSULTANT AND ENGINEER FOR BRIDGE CREEK RANCH, LLC,  
 mailing address 1180 SW LAKE RD. SUITE 202, REDMOND, OREGON 97756  
 telephone number (541)771-6911, being first duly sworn depose and say:

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

- Personal observation                       Professional expertise

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2. I attest that:

Water was used during the previous five years on the entire place of use for  
 Certificate # 68553; 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)

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)

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 TACS



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

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.

Gabriel M. [Signature]  
Signature of Affiant

2/3/23  
Date

Signed and sworn to (or affirmed) before me this 3<sup>rd</sup> day of February 2023.



[Signature]  
Notary Public for Oregon

My Commission Expires: August 22, 2026

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 <b>confirming</b> 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"><li>• Power usage records for pumps associated with irrigation use</li><li>• Fertilizer or seed bills related to irrigated crops</li><li>• Farmers Co-op sales receipt</li></ul>
<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"><li>• District assessment records for water delivered</li><li>• Crop reports submitted under a federal loan agreement</li><li>• Beneficial use reports from district</li><li>• IRS Farm Usage Deduction Report</li><li>• Agricultural Stabilization Plan</li><li>• CREP Report</li></ul>
<input checked="" type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph  *See attached memo with imbedded photos.	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.  Sources for aerial photos: OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a> OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a> Google Earth – <a href="http://earth.google.com">earth.google.com</a> TerraServer – <a href="http://www.terraserver.com">www.terraserver.com</a>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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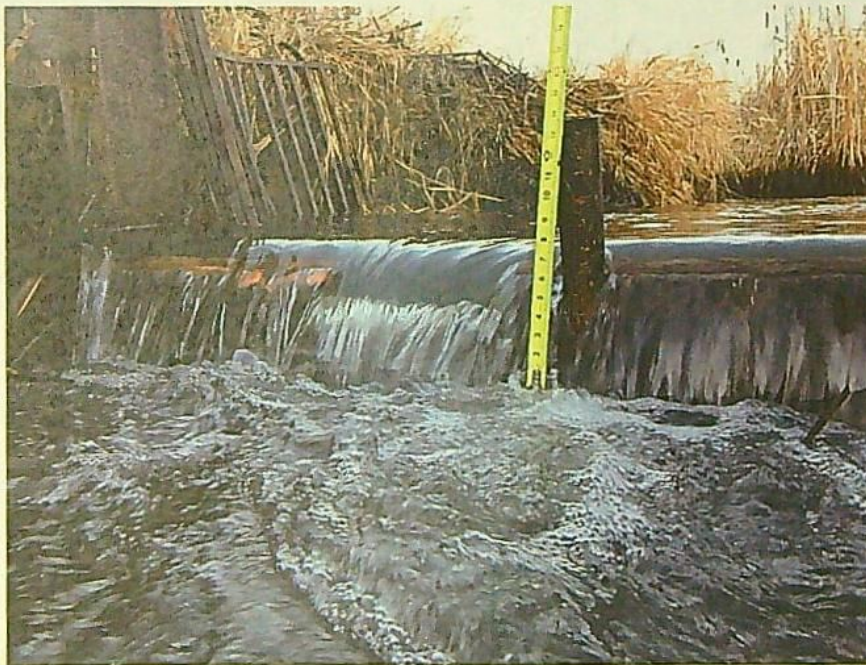
14170



## Memorandum

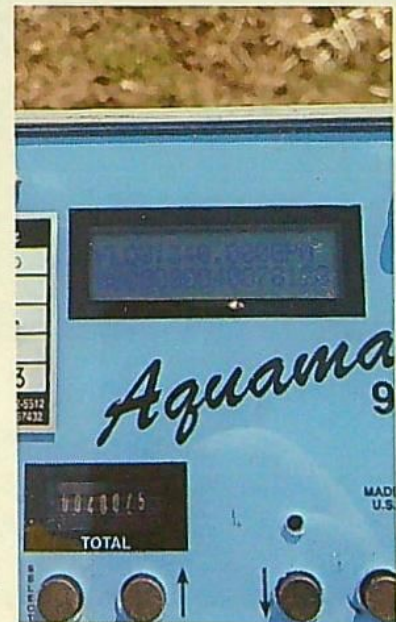
Date: November 2<sup>nd</sup>, 2021  
From: Gabriel Williams PE, Resource Specialists Inc.  
Re: Cert 68553 Evidence of Use for Painted Hills Reservoir

This documentation demonstrates diversion of water from Bridge Creek and Bear Creek for storage in the Painted Hills Reservoir under certificate 68553.



The photo to the left shows the operation of the Bridge Creek Diversion on 11-30-20.

The photo to the right is a aquamaster 900 which is installed just downstream of the Bridge Creek Diversion on the pipeline that supplies water to the Painted Hills Reservoir. This photo was taken on 3-3-21 during the filling of the reservoir for storage.



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The photo above was taken on 1-19-21 and shows water being diverted through the Bear Creek Diversion.

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The Google Earth image below shows the reservoir filled to its full certificated 800 ac-ft capacity on 7-2-2017.



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Page 3 of 3

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Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bridge Creek Ranch LLC  
355 Good Pasture Island Rd, Eugene OR 97401

Transaction Type: RA

Fees Received: \$ 125.00

Cash  Check; Check No. 236806

Name(s) on Check: The Paper Group Inc.

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,  
OWRD Customer Service Staff

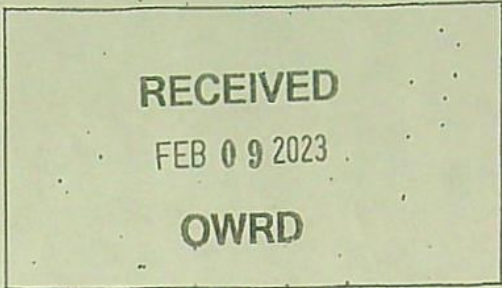
Submission received by: Coie Lornien  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.

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Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bridge Creek Ranch LLC  
355 Good Pasture Island RD, Eugene OR 97401

Transaction Type: RA

Fees Received: \$ 125.00

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Check:

Check No. 236806

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Sincerely,

OWRD Customer Service Staff

Submission received by: Coie Lounien

(Name of OWRD staff)

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- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet. 14170
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.



February 8, 2023

**Lindsay Thane**

Admitted in Oregon, Washington and  
Montana

T: 503-796-2059

C: 406-214-1918

lthane@schwabe.com

**VIA OVERNIGHT DELIVERY - UPS**

Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

RE: Application for Permanent Water Right Transfer – Certificate 68553  
Our File No.: 129629-213607

To Whom it May Concern:

Pursuant to the Marion County Circuit Court's decision in *Bridge Creek Ranch, LLC v. Oregon Water Resources Department*, case no. 22CV05598, Bridge Creek Ranch resubmits the enclosed permanent water right transfer application for the Department to process. Circuit Court Judge Broyles' letter opinion, General Judgment, and Peremptory Writ of Mandamus in case no. 22CV05598 is attached for reference.

This permanent transfer application was submitted to the Department on December 8, 2021. We no longer have the transfer application that was originally submitted to the Department so, to the extent the Department requires a wet original signature for the application, the evidence of use affidavit, the land use information statement, and a wet CWRE seal on the application map, we are enclosing recently signed copies of those documents. As such, the following documents are enclosed as part of this permanent water right transfer application for Certificate 68553:

1. Copy of the file stamped received copy of application for a Permanent Water Right Transfer that was submitted December 8, 2021.
2. Check made payable to OWRD in the amount of \$1,360.00 for the required transfer application filing fee.
3. Transfer Reimbursement Authority Estimate Application, together with a check made payable to OWRD in the amount of \$125.00 for the required reimbursement authority estimate application filing fee.
4. Newly signed: transfer application signature page, evidence of use affidavit, land use information form, and reimbursement authority estimate application.
5. Newly stamped CWRE transfer application map.

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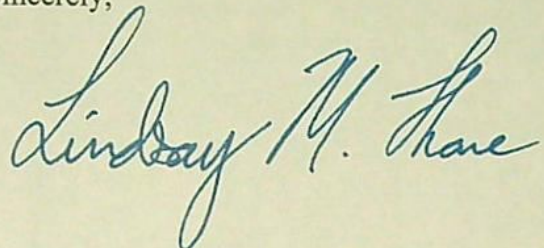
**OWRD**  
14170



Oregon Water Resources Department  
February 8, 2023  
Page 2

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Lindsay M. Thane". The signature is written in a cursive style with a large initial "L".

Lindsay Thane

LTH:imt

Enclosures

cc: Elizabeth Howard  
Gabe Williams  
Mike Pati

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## Business Registry Business Name Search

[New Search](#)

## Business Entity Data

02-10-2023 11:57

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
031582-84	DBC	ACT	OREGON	05-01-1986	05-01-2023	
<b>Entity Name</b>	PAPE' PROPERTIES, INC.					
<b>Foreign Name</b>						

14170

[New Search](#)

## Associated Names

Type	PPB PRINCIPAL PLACE OF BUSINESS					
<b>Addr 1</b>	355 GOODPASTURE ISLAND RD STE 300					
<b>Addr 2</b>						
<b>CSZ</b>	EUGENE	OR	97401	<b>Country</b>	UNITED STATES OF AMERICA	

Please click [here](#) for general information about registered agents and service of process.

Type	AGT REGISTERED AGENT			Start Date	Resign Date
<b>Name</b>	SETH	SMYTHE			
<b>Addr 1</b>	355 GOODPASTURE ISLAND RD				
<b>Addr 2</b>					
<b>CSZ</b>	EUGENE	OR	97401	<b>Country</b>	UNITED STATES OF AMERICA

Type	MAL MAILING ADDRESS					
<b>Addr 1</b>	355 GOODPASTURE ISLAND RD					
<b>Addr 2</b>						
<b>CSZ</b>	EUGENE	OR	97401	<b>Country</b>	UNITED STATES OF AMERICA	

Type	PRE PRESIDENT			Resign Date	
<b>Name</b>	MICHAEL	PATI			
<b>Addr 1</b>	PO BOX 407				
<b>Addr 2</b>					
<b>CSZ</b>	EUGENE	OR	97440	<b>Country</b>	UNITED STATES OF AMERICA



Type	SEC	SECRETARY				Resign Date	
Name	SETH	L	SMYTHE				
Addr 1	PO BOX 407						
Addr 2							
CSZ	EUGENE	OR	97440	Country	UNITED STATES OF AMERICA		














[New Search](#)

## Name History



Business Entity Name	Name Type	Name Status	Start Date	End Date
PAPE' PROPERTIES, INC.	EN	CUR	05-01-1986	

Please [read](#) before ordering [Copies](#).[New Search](#)

## Summary History

Image Available	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	03-18-2022		FI		
	AMENDED ANNUAL REPORT	04-05-2021		FI		
	AMENDED ANNUAL REPORT	04-16-2020		FI		
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	04-23-2019		FI	Agent	
	AMENDED ANNUAL REPORT	04-01-2019		FI	Agent	
	AMENDED ANNUAL REPORT	04-23-2018		FI		
	AMENDED ANNUAL REPORT	04-05-2017		FI	Agent	
	AMENDED ANNUAL REPORT	03-17-2016		FI		
	AMENDED ANNUAL REPORT	03-26-2015		FI		
	AMENDED ANNUAL REPORT	03-19-2014		FI		
	AMENDED ANNUAL REPORT	03-21-2013		FI		
	AMENDED ANNUAL REPORT	03-19-2012		FI		
	AMENDED ANNUAL REPORT	03-16-2011		FI		
	ANNUAL REPORT PAYMENT	04-01-2010	03-31-2010	SYS		



	ANNUAL REPORT PAYMENT	04-03-2009	04-02-2009	SYS		
	ANNUAL REPORT PAYMENT	03-28-2008		SYS		
	ANNUAL REPORT	04-04-2007		FI		
	ANNUAL REPORT	04-28-2006		FI		
	ANNUAL REPORT	04-08-2005		FI		
	CHANGE OF REGISTERED AGENT/ADDRESS	07-07-2004		FI	Agent	
	AMNDMT TO ANNUAL RPT/INFO STATEMENT	03-26-2004		FI		
	ANNUAL REPORT PAYMENT	03-23-2004		SYS		
	ANNUAL REPORT PAYMENT	03-25-2003		SYS		
	ANNUAL REPORT PAYMENT	04-09-2002		SYS		
	ANNUAL REPORT PAYMENT	04-24-2001		SYS		
	CHANGED RENEWAL	04-04-2000		FI		
	STRAIGHT RENEWAL	04-03-2000		FI		
	CHANGED RENEWAL	04-13-1999		FI		
	STRAIGHT RENEWAL	03-24-1999		FI		
	STRAIGHT RENEWAL	03-27-1998		FI		
	CHANGED RENEWAL	03-27-1998		FI		
	AMENDED RENEWAL	04-07-1997		FI		
	STRAIGHT RENEWAL	04-08-1996		FI		
	CHANGED RENEWAL	04-08-1996		FI		
	STRAIGHT RENEWAL	05-05-1995		FI		
	AMENDED RENEWAL	06-24-1994		FI		
	AMENDED RENEWAL	05-20-1993		FI		
	STRAIGHT RENEWAL	04-20-1992		FI		
	STRAIGHT RENEWAL	03-21-1991		FI		
	NB AMENDMENT	09-06-1990		FI		
	STRAIGHT RENEWAL	03-20-1990		FI		
	AMENDED RENEWAL	03-24-1989		FI		
	AMENDED RENEWAL	04-01-1988		FI		
	AMENDED RENEWAL	03-27-1987		FI		
	NEW FILING	05-01-1986		FI		

14170



## Business Registry Business Name Search

[New Search](#)

## Business Entity Data

02-10-2023 11:35

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Next Renewal Date	Renewal Due?
564914-92	DLLC	ACT	OREGON	12-10-2008	12-10-2023	
<b>Entity Name</b>	BRIDGE CREEK RANCH LLC					
<b>Foreign Name</b>						

14170

[New Search](#)

## Associated Names

Type	PPB	PRINCIPAL PLACE OF BUSINESS				
<b>Addr 1</b>	37882 BURNT RANCH RD					
<b>Addr 2</b>						
<b>CSZ</b>	MITCHELL	OR	97750	<b>Country</b>	UNITED STATES OF AMERICA	

Please click [here](#) for general information about registered agents and service of process.

Type	AGT	REGISTERED AGENT		Start Date	11-10-2020	Resign Date	
<b>Name</b>	SETH		SMYTHE				
<b>Addr 1</b>	355 GOODPASTURE ISLAND ROAD						
<b>Addr 2</b>							
<b>CSZ</b>	EUGENE	OR	97401	<b>Country</b>	UNITED STATES OF AMERICA		

Type	MAL	MAILING ADDRESS				
<b>Addr 1</b>	355 GOODPASTURE ISLAND ROAD					
<b>Addr 2</b>						
<b>CSZ</b>	EUGENE	OR	97401	<b>Country</b>	UNITED STATES OF AMERICA	

Type	MEM	MEMBER <i>Parent Company</i>				Resign Date	
<b>Of Record</b>	031582-84	PAPE' PROPERTIES, INC.					
<b>Addr 1</b>	PO BOX 407						
<b>Addr 2</b>							
<b>CSZ</b>	EUGENE	OR	97440	<b>Country</b>	UNITED STATES OF AMERICA		



Type	MGR	MANAGER			Resign Date	
Name	SETH		SMYTHE			
Addr 1	355 GOODPASTURE ISLAND ROAD					
Addr 2						
CSZ	EUGENE	OR	97401		Country	UNITED STATES OF AMERICA














[New Search](#)

## Name History


Business Entity Name	Name Type	Name Status	Start Date	End Date
BRIDGE CREEK RANCH LLC	EN	CUR	12-10-2008	

Please [read](#) before ordering [Copies](#).[New Search](#)

## Summary History

Image Available	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
	AMENDED ANNUAL REPORT	11-21-2022		FI		
	AMENDED ANNUAL REPORT	11-01-2021		FI		
	AMENDED ANNUAL REPORT	11-10-2020		FI	Agent	
	AMENDED ANNUAL REPORT	11-13-2019		FI		
	AMENDED ANNUAL REPORT	11-20-2018		FI		
	AMENDED ANNUAL REPORT	11-20-2017		FI		
	AMENDED ANNUAL REPORT	10-30-2016		FI	Agent	
	AMENDED ANNUAL REPORT	12-01-2015		FI	Agent	
	AMENDED ANNUAL REPORT	11-03-2014		FI		
	AMENDED ANNUAL REPORT	11-26-2013		FI	Agent	
	AMENDED ANNUAL REPORT	11-13-2012		FI		
	AMENDED ANNUAL REPORT	11-03-2011		FI		
	ANNUAL REPORT PAYMENT	11-04-2010	11-03-2010	SYS		
	AMENDED ANNUAL REPORT	11-16-2009		FI		
	CHANGE OF REGISTERED	10-26-2009		FI		



	AGENT/ADDRESS					
	ARTICLES OF ORGANIZATION	12-10-2008		FI	Agent	

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14170



# Permanent Transfer Application Intake Completion Checklist

Check the Certificate(s) in WRIS

Transfer # T- 14170

Checked by- <u>Oula</u>	<b>Type of Change(s) Proposed:</b> <i>Mark the Proposed Changes</i>	Substitution	Supplemental to Primary	POU	<input checked="" type="checkbox"/> <b>POD</b>	APOD
Date- <u>2/10/23</u>		Gov Action	Surface to Ground	USE	POA	APOA
Fee Received: <u>1360</u>		How many rights to be Transferred? <u>1</u>				
Calculated Fee: <u>1360</u>		Certificate # <u>68553</u>				
Additional Observations: <u>Reservoir Right Change in POD</u>						

If OK and complete, check box to the left; if **NOT**, fill in.

1. Is applicant information complete? Have all applicants listed at the top of the page signed at the bottom?  
If no, what is missing? Whose signature is missing? \_\_\_\_\_
2. Does applicant indicate the place of use is in or near an irrigation district? Is a Form D included?  N/A.  
Name of the district: \_\_\_\_\_
3. Part 5 of application, has the applicant(s) completed the entire page and does the information match the description of the explanation of the reasons for transfer on Part 4 of the application?  
If no, you may need to contact the applicant or agent? \_\_\_\_\_
4. Is there only one (1) water right included in this transfer application?  
If no, are the criteria of OAR 690-380-3220 for more than one WR met? Yes or No \_\_\_\_\_  
If no, then the transfer application **CANNOT** be accepted. See attached "3220" Decision Tree Flowchart.
5. For multiple certificates do each of the certificates listed on Application Page 1 have their own separate completed Part 5 tables 1 & 2?  
If no, which certificate(s) are missing a separate Part 5 tables 1 & 2? \_\_\_\_\_
6. Is the map prepared and signed by a CWRE? Does the map meet requirements?  
If no, what is missing? \_\_\_\_\_. Map waiver included?  Yes  No
7. If a change in point of appropriation (POA), have the well logs been included?  N/A.
8. If a change in place of use (POU) within Umatilla County, have the applicant(s) provided a Supplemental Form U?  N/A.
9. If all boxes on this checklist are checked (with no remaining deficiencies identified), **ACCEPT** the application.  
Put this application intake completeness check sheet in the transfer folder.

OR:  If all boxes to the left are **NOT** checked, then this application is deficient and **CANNOT** be accepted.  
It should be returned and the deficiencies listed in the "staff" section at the bottom of **Application Page 1**, unless the applicant or agent can resolve the deficiencies within 2-3 days.

Actions taken: \_\_\_\_\_ Date: \_\_\_\_\_





RECEIVED  
FEB 09 2023  
OWRD

Date Received (Date Stamp Here)

### OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bridge Creek Ranch LLC  
355 Good Pasture Island RD, Eugene OR 97401

Transaction Type: Transfer

Fees Received: \$ 1360.00

Cash     Check;    Check No. 236807  
Name(s) on Check: Paper Group Inc.

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,  
OWRD Customer Service Staff

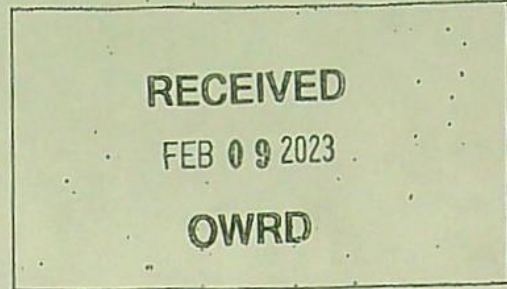
Submission received by: Corie Lovrien  
(Name of OWRD staff)

**Instructions for OWRD staff:**

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt Information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.

14170





Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bridge Creek Ranch LLC  
355 Good Pasture Island RD, Eugene OR 97401

Transaction Type: Transfer

Fees Received: \$ 1360.00

Cash

Check;

Check No. 236807

Name(s) on Check: Pape Group Inc.

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

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If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,

OWRD Customer Service Staff

Submission received by: Corie Corvian  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt Information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.

14170



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **140154**

INVOICE # \_\_\_\_\_

RECEIVED FROM: The Pope Group, Inc.  
BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	1-14170

CASH:  CHECK #  245538 OTHER: (IDENTIFY) \_\_\_\_\_

TOTAL REC'D	\$ 1488.63
-------------	------------

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	<u>47124</u>	<u>911421-23</u>	\$
<u>0412</u> OTHER:	(IDENTIFY) <u>Transfer Reimbursement Authority</u>		\$ <u>1488.63</u>
0243 I/S Lease	0244 Muni Water Mgmt. Plan	0245 Cons. Water	

**4270 WRD OPERATING ACCT**

MISCELLANEOUS			
0407	COPY & TAPE FEES		\$
0410	RESEARCH FEES		\$
0408	MISC REVENUE: (IDENTIFY)	_____	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	_____	\$
0240	EXTENSION OF TIME		\$
WATER RIGHTS:			
		EXAM FEE	RECORD FEE
0201	SURFACE WATER	\$	0202 \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	
WELL CONSTRUCTION			
		EXAM FEE	LICENSE FEE
0218	WELL DRILL CONSTRUCTOR	\$	0219 \$
	LANDOWNER'S PERMIT		0220 \$
	OTHER (IDENTIFY)	_____	

**0536 TREASURY 0437 WELL CONST. START FEE**

0211	WELL CONST START FEE	\$	CARD#
0210	MONITORING WELLS	\$	CARD#
	OTHER (IDENTIFY)	_____	

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233	POWER LICENSE FEE (FW/WRD)	\$
0231	HYDRO LICENSE FEE (FW/WRD)	\$
	HYDRO APPLICATION	\$

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_  
OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_  
DESCRIPTION \_\_\_\_\_

**RECEIVED  
OVER THE COUNTER**

RECEIPT: **140154** DATED: 2-21-23 BY: Mindy Coalden





The Papé Group, Inc.  
 P.O. Box 407  
 Eugene, Oregon 97440

REMITTANCE ADVICE

DATE  
 02/17/23

CHECK NO.  
 245538

\*

2302

102342

245538

OREGON WATER RESOURCES DEPARTMENT  
 725 SUMMER STREET NE  
 SUITE A  
 SALEM OR 97301

INVOICE NO.	DATE	REFERENCE	INVOICE AMOUNT	DISCOUNT	NET AMOUNT
02-16-23 REQ-00	02/16/23	CERT 68553	1,488.63	.00	1,488.63
		*** TOTALS *	1,488.63	.00	

DETACH AND RETAIN THIS STATEMENT WITH YOUR RECORDS

\*

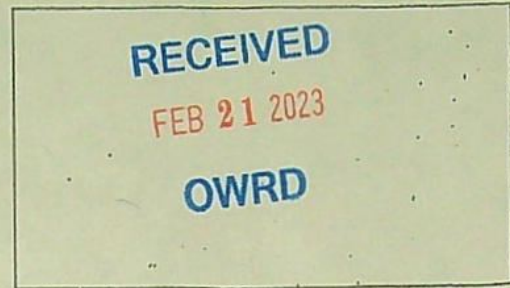
2302

102342

TOTAL AMOUNT  
 245538

1,488.63





Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bridge Creek Ranch  
355 Goodpasture Island Rd, Eugene OR 97401

Transaction Type: RA

Fees Received: \$ 1488.63

Cash  Check: Check No. 245538

Name(s) on Check: The Paper Group, Inc

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,  
OWRD Customer Service Staff

Submission received by: Corie Lounien  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
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- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.



Part 5 of 5 – Water Right Information

**SUPERSEDED**

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 additional rows to tables within the form.

OWRD

RECEIVED

CERTIFICATE # 68553

DEC 08 2021

Description of Water Delivery System

System capacity: 13.0 cubic feet per second (cfs) from Bear Creek and 3.0 cfs from Bridge Creek 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. The PODs on Bear Creek and Bridge Creek are used to divert water under multiple irrigation and storage water rights. At the Bridge Creek POD, water is diverted through a headgate and then piped to a fish screen. The water flows out of the fish screen and into a PVC pipe into the Painted Hills Reservoir. The Bear Creek diverts water into a pipeline that has a fish screen to a measuring device and water then flows through a gravity flow pipe to the Painted Hills Reservoir.

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)
Bear Creek (POD 1)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		10 S	20 E	35	SW NE	1701	* 2250 feet south and 2600 feet west from NE corner, Section 35
Bridge Creek (POD 2)	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		11 S	21 E	6	NE NE	110	* 590 feet south and 2160 feet east from north ¼ corner, Section 6
POD 3	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		10 S	21 E	31	SE SE	3600	1,850 feet east and 160 feet north from the south ¼ corner, Section 31
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed							

\*The POD locations are not specifically described in Certificate 68553. The certificate only states that water is authorized for diversion from Bridge Creek and Bear Creek. The POD location descriptions are the measured distances in the final proof survey map.

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

- Place of Use (POU)
- Character of Use (USE)
- Point of Diversion (POD)
- Additional Point of Diversion (APOD)
- Surface Water POD to Ground Water POA (SW/GW)
- Supplemental Use to Primary Use (S to P)
- Point of Appropriation/Well (POA)
- Additional Point of Appropriation (APOA)
- Substitution (SUB)
- Government Action POD (GOV)



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

- Yes Complete only the Proposed ("to" or "on" 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.

**SUPERSEDED**

**RECEIVED**

DEC 08 2021

**OWRD**

**RECEIVED**

FEB 09 2023

**OWRD**



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

**SUPERSEDED**

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 Changes to Water Right Certificate # 68553**

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.  
If there is more than one POD/POA involved in the proposed changes, 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					
<b>EXAMPLE</b>																									
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
																								POD #6	1901
													POD	10	S	20	E 25	NE	SW	1700		n/a		POD 1, 3	10/17/1983
													POD	10	S	20	E 25	NW	SW	1700		n/a		POD 1, 3	10/17/1983
													POD	10	S	20	E 25	SW	SW	1700		n/a		POD 1, 3	10/17/1983
													POD	10	S	20	E 25	SE	SW	1700		n/a		POD 1, 3	10/17/1983
													POD	10	S	20	E 26	SE	SE	1700		n/a		POD 1, 3	10/17/1983
													POD	10	S	20	E 36	NW	NW	1700		n/a		POD 1, 3	10/17/1983
TOTAL ACRES:							TOTAL ACRES:						n/a												

**Additional remarks: This transfer would change the point of diversion on Bridge Creek to replace POD #2, which is the current POD on Bridge Creek. The new POD, POD #3, would be used to divert water to storage in the Painted Hills Reservoir. POD #1, which is on Bear Creek, would continue to be used to divert water.**

**RECEIVED**

FEB 09 2023

OWRD

14170





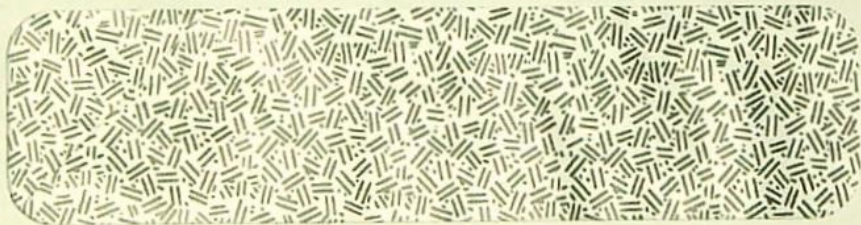
---

**GROUP**

---

The Papé Group, Inc., PO Box 407, Eugene, OR 97440

ADDRESS SERVICE REQUESTED







**PAPÉ**

---

**G R O U P**

---

**Janet M. King**  
*Assistant Property Manager*

**541-341-3342**  
cell: 541-731-0876  
fax: 971-239-0590

[jking@pape.com](mailto:jking@pape.com)

355 Goodpasture Island Road, Ste 300  
Eugene, OR 97401

PO Box 407, Eugene, OR 97440



STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
 SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

*RA for water*

RECEIPT # **140088**

INVOICE # \_\_\_\_\_

RECEIVED FROM: The Paper Group, Inc

APPLICATION \_\_\_\_\_

BY: \_\_\_\_\_

PERMIT \_\_\_\_\_

TRANSFER T-14170

CASH:  CHECK: # 236806 OTHER: (IDENTIFY) \_\_\_\_\_

TOTAL REC'D \$ 125.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES 47124 R/129941-23 \$ \_\_\_\_\_

0412 OTHER: (IDENTIFY) Reimbursement Authority \$ 125.00

0243 I/S Lease \_\_\_\_\_ 0244 Muni Water Mgmt. Plan \_\_\_\_\_ 0245 Cons. Water \_\_\_\_\_

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

0407 COPY & TAPE FEES \$ \_\_\_\_\_

0410 RESEARCH FEES \$ \_\_\_\_\_

0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

0240 EXTENSION OF TIME \$ \_\_\_\_\_

**WATER RIGHTS:**

0201 SURFACE WATER EXAM FEE \$ \_\_\_\_\_ 0202 RECORD FEE \$ \_\_\_\_\_

0203 GROUND WATER \$ \_\_\_\_\_ 0204 \$ \_\_\_\_\_

0205 TRANSFER \$ \_\_\_\_\_

**WELL CONSTRUCTION**

0218 WELL DRILL CONSTRUCTOR EXAM FEE \$ \_\_\_\_\_ 0219 LICENSE FEE \$ \_\_\_\_\_

LANDOWNER'S PERMIT 0220 \$ \_\_\_\_\_

OTHER (IDENTIFY) \_\_\_\_\_

**0536 TREASURY 0437 WELL CONST. START FEE**

0211 WELL CONST START FEE \$ \_\_\_\_\_ CARD# \_\_\_\_\_

0210 MONITORING WELLS \$ \_\_\_\_\_ CARD# \_\_\_\_\_

OTHER (IDENTIFY) \_\_\_\_\_

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233 POWER LICENSE FEE (FW/WRD) \$ \_\_\_\_\_

0231 HYDRO LICENSE FEE (FW/WRD) \$ \_\_\_\_\_

HYDRO APPLICATION \$ \_\_\_\_\_

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_

OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_

DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

**RECEIVED  
 OVER THE COUNTER**

RECEIPT: **140088**

DATED: 2/9/23 BY: [Signature]





The Papé Group, Inc.  
 P.O. Box 407  
 Eugene, Oregon 97440

REMITTANCE ADVICE

DATE  
 01/13/23

CHECK NO.  
 236806

\*

2301

102342

236806

OREGON WATER RESOURCES DEPARTMENT  
 725 SUMMER STREET NE  
 SUITE A  
 SALEM OR 97301

INVOICE NO.	DATE	REFERENCE	INVOICE AMOUNT	DISCOUNT	NET AMOUNT
01-12-23 REQ-00 <i>Reimbursement Authority Fee</i>	01/12/23	C68553	125.00	.00	125.00
		*** TOTALS *	125.00	.00	

DETACH AND RETAIN THIS STATEMENT WITH YOUR RECORDS

\*

2301

102342

TOTAL AMOUNT  
 236806

125.00



STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A  
 SALEM, OR 97301-4172  
 (503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **140089**

INVOICE # \_\_\_\_\_

RECEIVED FROM: The Paper Group, Inc  
 BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	T-14170

CASH:  CHECK:#  236907 OTHER: (IDENTIFY)  \_\_\_\_\_

TOTAL REC'D \$ 1,360.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407	COPIES	\$
_____	OTHER: (IDENTIFY)	\$
0243 I/S Lease	0244 Muni Water Mgmt. Plan	0245 Cons. Water

**4270 WRD OPERATING ACCT**

MISCELLANEOUS <u>46110</u>		
0407	COPY & TAPE FEES	\$
0410	RESEARCH FEES	\$
0408	MISC REVENUE: (IDENTIFY)	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	\$
0240	EXTENSION OF TIME	\$
WATER RIGHTS:		
0201	SURFACE WATER	EXAM FEE \$
0203	GROUND WATER	\$
0205	TRANSFER	\$ <u>1,360.00</u>
WELL CONSTRUCTION		
0218	WELL DRILL CONSTRUCTOR	EXAM FEE \$
	LANDOWNER'S PERMIT	\$
_____	OTHER (IDENTIFY)	\$

**0536 TREASURY 0437 WELL CONST. START FEE**

0211	WELL CONST START FEE	\$	CARD#
0210	MONITORING WELLS	\$	CARD#
_____	OTHER (IDENTIFY)		

**0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER**

0233	POWER LICENSE FEE (FW/WRD)	\$
0231	HYDRO LICENSE FEE (FW/WRD)	\$
_____	HYDRO APPLICATION	\$

**TREASURY OTHER / RDX**

FUND _____	TITLE _____	
OBJ. CODE _____	VENDOR # _____	
DESCRIPTION _____		\$

**RECEIVED  
 OVER THE COUNTER**

RECEIPT: **140089** DATED: 2/9/23 BY: [Signature]





The Papé Group, Inc.  
 P.O. Box 407  
 Eugene, Oregon 97440

REMITTANCE ADVICE

DATE  
 01/13/23

CHECK NO.  
 236807

\* 2301 102342 236807

OREGON WATER RESOURCES DEPARTMENT  
 725 SUMMER STREET NE  
 SUITE A  
 SALEM OR 97301

INVOICE NO.	DATE	REFERENCE	INVOICE AMOUNT	DISCOUNT	NET AMOUNT
01-12-23 REQ-01 <i>Transfer Applications Fee</i>	01/12/23	C68553	1,360.00	.00	1,360.00
		*** TOTALS *	1,360.00	.00	

DETACH AND RETAIN THIS STATEMENT WITH YOUR RECORDS

\*

2301

102342

TOTAL AMOUNT  
 236807

1,360.00