

T-10948

T-10948

Name B+G Resources  
Kenneth Gustafson  
Address 5206 SW MacAdam Ave Ste. 470  
Portland, OR 97239

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Umatilla River/McKay Res.  
Trib. of Columbia River/Umatilla River

Change in POU/POD  
Date Filed 8-26-09  
Initial notice date \_\_\_\_\_  
DPD issued date \_\_\_\_\_  
PD issued date \_\_\_\_\_  
PD notice date \_\_\_\_\_  
Date of FO 3-21-11 Vol 83 Page 839  
Ext. vol 103 pg 133

Use IR County Umatilla  
Quantity of water (CFS) \_\_\_\_\_ No. of Acres \_\_\_\_\_  
Name of ditch \_\_\_\_\_  
App # S-20936 Per # S-16393 Cert # 83483 PR Date 1945  
App # S-20936 Per # S-16393 Cert # 80564 PR Date 1945  
App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_  
App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

FEES PAID		
Date	Amount	Receipt #
8-26-09	2000.00	97608
8-28-13	575.00	109790
10-1-15	575.00	117572
9/30/16	575.00	121479

C-Date \_\_\_\_\_  
COBU due date \_\_\_\_\_  
COBU Received date 12/4/2017  
Certificate issued \_\_\_\_\_

FEES REFUNDED		
Date	Amount	Receipt#

Assignments: REC'D JAN 14 2010 GH

Irrigation District none  
Agent Courtney Duke-Schroeder Law Offices P.C. Po Box 12527, Portland, OR 97212  
CWRE Dale VanSchoiack  
CC's list BOR: Ryan Patterson: 1150 N. Curtis Rd Ste 100 Boise, ID 83706

- Oversized map - Location

# Mailing List for Certificate

Scheduled Mailing Date:

Copies Mailed	
by:	<u>TM</u> (STAFF)
on:	<u>8/28/2020</u> (DATE)

Application: T-10948

Certificate: 95219 (cf-80564)  
95220 (cf-83483)

Water Right Holder:

B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND OR 97201

Copies of Final Certificate to be sent to:

1. Watermaster District 5 (include copy of map)
2. Water Availability
3. Vault
4. File

Is the Permit Holder(s) of record currently identified as a landowner of any tax lots involved as confirmed by the County records? **YES - B & G Resources own lands per Umatilla County Assessor**

Other persons to receive copies: (include map):

1. Dale VanSchoiack, CWRE, 2141 South Lyle, Kennewick, WA 99337

Record Marking(s):

1. Original Application# S-20936
2. Old Certificate# 80564
3. Original Application# S-20936
4. Old Certificate# 83483



# Oregon

Kate Brown, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Ste A

Salem, OR 97301

Phone: 503-986-0900

Fax: 503-986-0904

[www.Oregon.gov/OWRD](http://www.Oregon.gov/OWRD)

**Date Mailed: AUG 28 2020**

### NOTICE OF CERTIFICATE ISSUANCE

Attached are certificates that confirm the water rights established under the terms of a transfer order issued by this Department.

These certificates are orders in other than a contested case. These orders are subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and petition the Director for reconsideration of these orders. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If you have any questions please contact Gerry Clark at 503-986-0811.



STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND OR 97201

confirms the right to the use of water perfected under the terms of Permit S-16393. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point(s) of diversion from the source. The specific limits and conditions of the use are listed below.

SOURCE OF WATER: UMATILLA RIVER AND MCKAY RESERVOIR, CONSTRUCTED UNDER APPLICATION R-7526 AND PERMIT R-584, TRIBUTARY OF THE COLUMBIA RIVER

PURPOSE OR USE: IRRIGATION OF 26.2 ACRES

MAXIMUM RATE: 0.655 CUBIC FOOT PER SECOND

DATE OF PRIORITY: JULY 3, 1945

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	30 E	WM	12	NW NE	NEW POD - 540 FEET SOUTH AND 1660 FEET WEST FROM NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
2 N	30 E	WM	1	SW SE	3.7
2 N	30 E	WM	12	NE NE	11.1
2 N	30 E	WM	12	NW NE	11.3
2 N	30 E	WM	12	SE NE	0.1

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482. Pursuant to ORS 183.482, ORS 536.075 and OAR 137-003-0675, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

The water user shall maintain the totalizing flow meter or other suitable measuring device as approved by the Director in good working order, at each point of diversion. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.

The water user shall maintain and operate the fish screen at the new point of diversion consistent with Oregon Department of Fish and Wildlife's (ODFW) operational and maintenance standards.

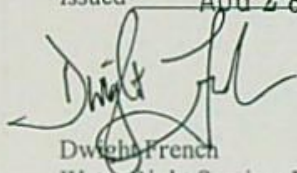
The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion described as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	30 E	WM	12	SE NE	ORIGINAL POD - 1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER, SECTION 12

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

This certificate is issued to confirm changes in POINT OF DIVERSION and PLACE OF USE approved by an order of the Water Resources Director entered MARCH 21, 2011, at Special Order Volume 83, Page 839, approving Transfer Application T-10948, supersedes Certificate 80564, State Record of Water Right Certificates.

Issued AUG 28 2020



Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B & G RESOURCES  
 c/o KENNETH E. GUSTAFSON  
 5200 SW MACADAM, SUITE 470  
 PORTLAND OR 97201

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SOURCE OF WATER: UMATILLA RIVER AND MCKAY RESERVOIR, CONSTRUCTED UNDER APPLICATION R-7526 AND PERMIT R-584, A TRIBUTARY OF THE COLUMBIA RIVER

PURPOSE OR USE: IRRIGATION OF 5.4 ACRES

MAXIMUM RATE: 0.135 CUBIC FOOT PER SECOND

DATE OF PRIORITY: JULY 3, 1945

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 N	30 E	WM	12	NW NE	NEW POD - 540 FEET SOUTH AND 1660 FEET WEST FROM NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
2 N	30 E	WM	12	NE NE		1.0
2 N	30 E	WM	12	SE NE		2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

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The water user shall maintain and operate the fish screen at the new point of diversion consistent with Oregon Department of Fish and Wildlife's (ODFW) operational and maintenance standards.

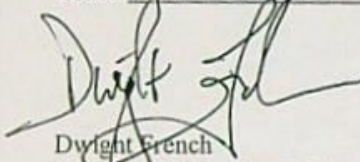
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The right to the use of the water for the above purpose is restricted to beneficial use on the place of use described.

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered MARCH 21, 2011, at Special Order Volume 83, Page 839, approving Transfer Application T-10948, supersedes Certificate 83483, State Record of Water Right Certificates.

Issued AUG 28 2020



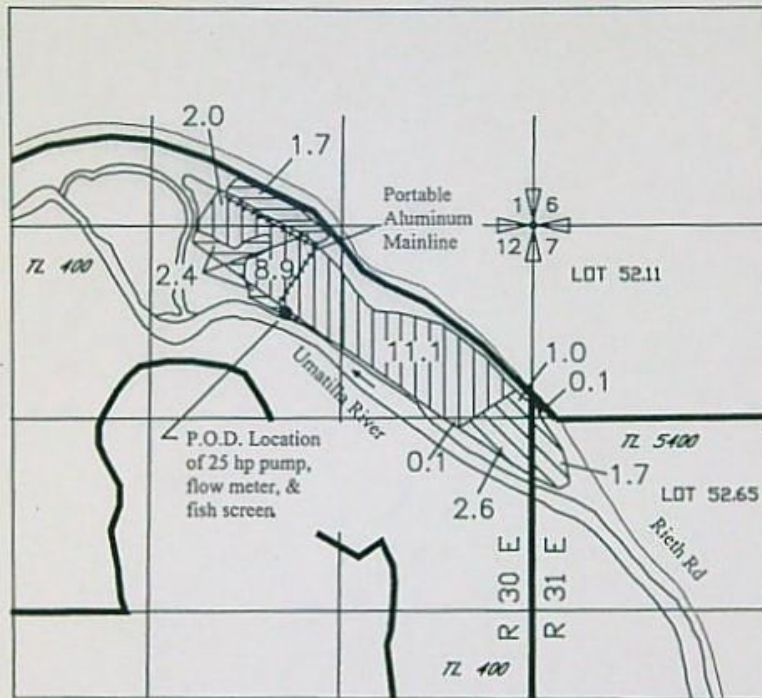
Dwight French  
Water Right Services Division Administrator, for  
Thomas M. Byler, Director  
Oregon Water Resources Department

REVISED (7/21/20)  
 CLAIM OF BENEFICIAL USE MAP  
 FOR TRANSFER 10948  
 IN THE NAME OF B & G RESOURCES  
 c/o KENNETH E. GUSTAFSON  
 SECTIONS 1 & 12, T2N, R30E & R31E, WM  
 UMATILLA COUNTY







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Jul 24 2020

OWRD



LEGEND

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: 540 FT SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SEC 12
-  PORTABLE ALUMINUM PIPELINE



0 660 1320



SCALE IN FEET



*Renewal 6/30/22*

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DGV Consulting, PLLC  
 PHONE (509) 627-8717  
 dalevconsulting@gmail.com  
 Date: July 21, 2020

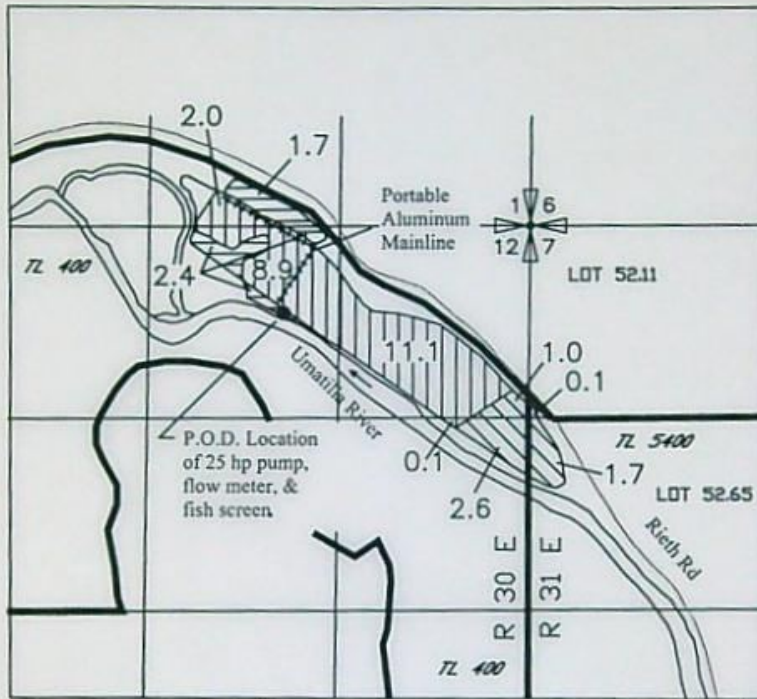


REVISED (7/21/20)  
 CLAIM OF BENEFICIAL USE MAP  
 FOR TRANSFER 10948  
 IN THE NAME OF B & G RESOURCES  
 c/o KENNETH E. GUSTAFSON  
 SECTIONS 1 & 12, T2N, R30E & R31E, WM  
 UMATILLA COUNTY

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JUL 24 2020

OWRD




LEGEND





0 660 1320




SCALE IN FEET


 4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD

 22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.

 5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.

 T400 TAX LOT (TYP)

 P.O.D. LOCATION: 540 FT SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SEC 12

 PORTABLE ALUMINUM PIPELINE



Renew 6/30/22

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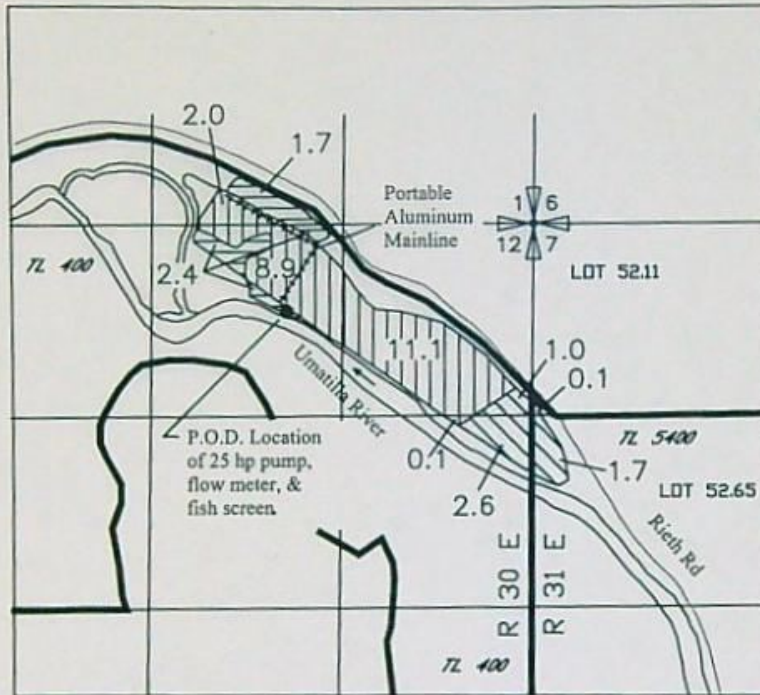
DGV Consulting, PLLC  
 PHONE (509) 627-8717  
 dalevconsulting@gmail.com  
 Date: July 21, 2020

REVISED (7/21/20)  
 CLAIM OF BENEFICIAL USE MAP  
 FOR TRANSFER 10948  
 IN THE NAME OF B & G RESOURCES  
 c/o KENNETH E. GUSTAFSON  
 SECTIONS 1 & 12, T2N, R30E & R31E, WM  
 UMATILLA COUNTY







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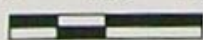


LEGEND

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: 540 FT SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SEC 12
-  PORTABLE ALUMINUM PIPELINE



0 660 1320



SCALE IN FEET



Renew 6/30/22

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DGV Consulting, PLLC  
 PHONE (509) 627-8717  
 dalevconsulting@gmail.com  
 Date: July 21, 2020

dalevconsulting@gmail.com

---

**From:** dalevconsulting@gmail.com  
**Sent:** Tuesday, July 21, 2020 4:15 PM  
**To:** 'CLARK Gerald E \* WRD'  
**Cc:** 'KAVANAGH Kerry L \* WRD'  
**Subject:** RE: App T-10948 - Cert RA Project R12708-21 for B & G Resources

Gerry please disregard my earlier email.

I spent some more time going through my project file for this COBU and found that the coordinates that I used on the original COBU Map were taken from the ODFW fish screen report. At the time, I decided to use those coordinates because this is one of those areas where the bank of the river is very susceptible to movement with spring runoff. During my site visit in September of 2017 it was evident that the POD was being moved to follow the river bank.

I went back through my file and have established the POD location to be 540' south and 1660' west of the NE corner of Section 12. I have updated the revised COBU Map to move the POD location (dot) and change the Legend Location to be 540' south and 1660' west of the NE corner of Section 12.

I am mailing Kerry an updated revised mylar map (it is dated 7/21/20) showing the above revisions.

Regards,  
Dale

---

**From:** dalevconsulting@gmail.com <dalevconsulting@gmail.com>  
**Sent:** Tuesday, July 21, 2020 2:34 PM  
**To:** 'CLARK Gerald E \* WRD' <Gerald.E.Clark@oregon.gov>  
**Cc:** 'KAVANAGH Kerry L \* WRD' <Kerry.L.Kavanagh@oregon.gov>  
**Subject:** RE: App T-10948 - Cert RA Project R12708-21 for B & G Resources

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JUL 24 2020

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Hi Gerry,  
The coordinate distances are correct. I have the dot representing the POD on the map in the wrong place. I have already mailed the revised mylar. When you get it please discard it.

I will update the POD dot location on the map, prepare a sealed mylar and mail the updated revised map this afternoon.  
Dale

---

**From:** CLARK Gerald E \* WRD <Gerald.E.Clark@oregon.gov>  
**Sent:** Tuesday, July 21, 2020 10:14 AM  
**To:** dalevconsulting@gmail.com  
**Cc:** KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Subject:** App T-10948 - Cert RA Project R12708-21 for B & G Resources

Dale,

I was reviewing the certificate documents that Kerry prepared for the above project. Based on my review of the most recent Claim map, I believe that the coordinates for the point of diversion may be in error. It appears to me that the distance west from the section corner is somewhere in the neighborhood of 2100 to 2200 feet.

Could you please check that measurement and update the map if necessary?

Please let me know if you have any additional questions.

Thanks for your help on this project. Have a great day!

Gerry

Gerry Clark

**Oregon Water Resources Department**

Program Analyst, Certificate Section, Water Right Services Division

725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-986-0811

RECEIVED

JUL 24 2020

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**From:** dalevconsulting@gmail.com  
**Sent:** Tuesday, July 21, 2020 7:17 AM  
**To:** 'KAVANAGH Kerry L \* WRD'  
**Cc:** 'William Porfily'  
**Subject:** RE: NEED coordinates or bearing/distance for POD - App T-10948 - Certificate RA Project R12708-21 for B & G Resources  
**Attachments:** Sealed Amended COBU Map 7-21-20.pdf

JUL 23 2020

OWRD

Kerry,

I am mailing the sealed mylar map to the Salem office today. Attached is a pdf of the sealed amended map.  
Dale

---

**From:** KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Sent:** Monday, July 20, 2020 11:49 AM  
**To:** dalevconsulting@gmail.com  
**Cc:** 'William Porfily' <wporfily@gmail.com>; KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Subject:** RE: NEED coordinates or bearing/distance for POD - App T-10948 - Certificate RA Project R12708-21 for B & G Resources

Hi Dale,

The draft revised COBU map looks good.

Please send a final revised COBU map on polyester film to the Salem office.

I will proceed with review of the draft certificate.

Thanks,  
Kerry

**Kerry Kavanagh**

Certificate Reimbursement Authority Program Coordinator  
Certificate Section, Water Rights Services Division  
725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927  
kerry.l.kavanagh@oregon.gov | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

---

**From:** dalevconsulting@gmail.com <dalevconsulting@gmail.com>  
**Sent:** Saturday, July 18, 2020 6:58 AM  
**To:** KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Cc:** 'William Porfily' <wporfily@gmail.com>  
**Subject:** RE: NEED coordinates or bearing/distance for POD - App T-10948 - Certificate RA Project R12708-21 for B & G Resources

Kerry will the attached revised map work. If so, let me know and I will mail you a sealed mylar of the map.

Thanks,

Dale

RECEIVED

From: KAVANAGH Kerry L \* WRD <[Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)>

JUL 23 2020

Sent: Friday, July 17, 2020 11:10 AM

To: Dale Van Schoiack <[dalevconsulting@gmail.com](mailto:dalevconsulting@gmail.com)>

OWRD

Cc: KAVANAGH Kerry L \* WRD <[Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)>

Subject: NEED coordinates or bearing/distance for POD - App T-10948 - Certificate RA Project R12708-21 for B & G Resources

Hello Dale,

I am reviewing the claim of beneficial use map and report for Application T-10948 - Certificate Reimbursement Authority (RA) Project R12708-21 for B & G Resources. I noticed that the point of diversion is described by latitude and longitude. For purposes of approving a claim of beneficial use, we need the point of diversion location described either by bearing and distance or the coordinates (number of feet north/south and east/west) from a recognized public land survey corner.

Please submit a revised claim of beneficial use (Claim) map for Application T-10948 showing the location of the POD either by bearing and distance or by coordinates. I am attaching a pdf of the Claim map submitted on December 4, 2017 prepared by you as the CWRE.

If you have any questions, please email me at [kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov).

Thank you,

Kerry

**Kerry Kavanagh**

Certificate Reimbursement Authority Program Coordinator

Certificate Section, Water Rights Services Division

725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927

[kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov) | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

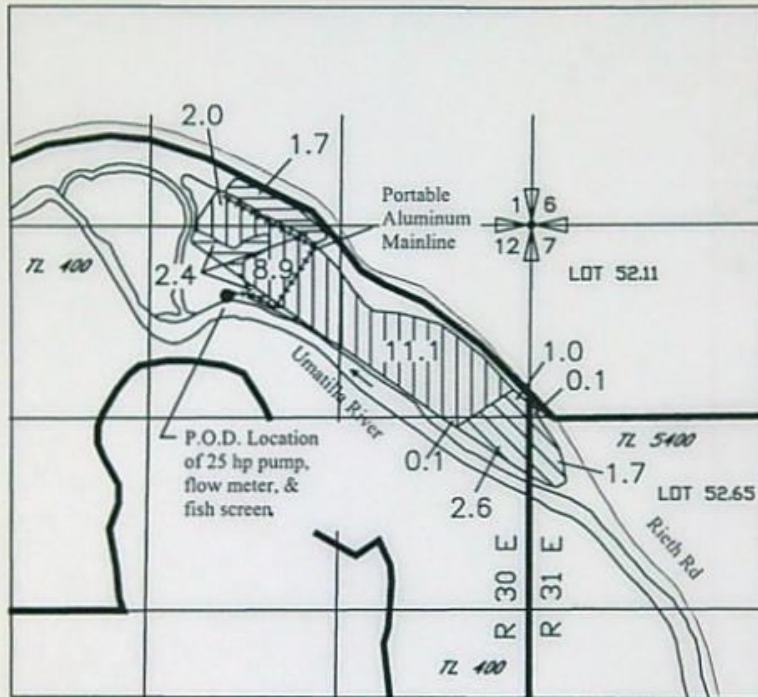
**SUPERSEDED**

REVISED (7/18/20)  
CLAIM OF BENEFICIAL USE MAP  
FOR TRANSFER 10948  
IN THE NAME OF B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
SECTIONS 1 & 12, T2N, R30E & R31E, WM  
UMATILLA COUNTY

RECEIVED

JUL 23 2020

OWRD



LEGEND



0 660 1320



SCALE IN FEET

4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW P.O.D.

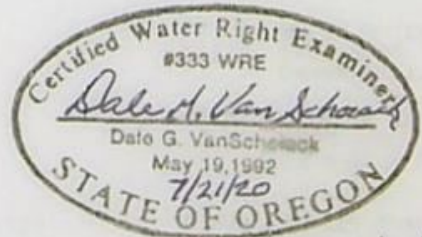
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5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.

T2 5400 TAX LOT (TYP)

P.O.D. LOCATION: 410 FT SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SEC 12

PORTABLE ALUMINUM PIPELINE



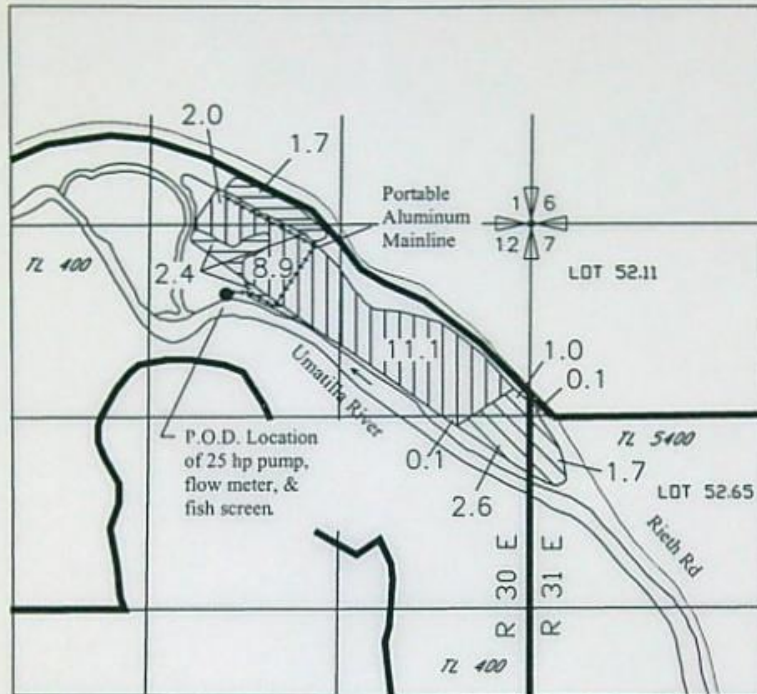
Renews 6/30/22

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DGV Consulting, PLLC  
PHONE (509) 627-8717  
dolevconsulting@gmail.com  
Date: July 18, 2020

**SUPERSEDED**

CLAIM OF BENEFICIAL USE MAP  
FOR TRANSFER 10948  
IN THE NAME OF B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
SECTIONS 1 & 12, T2N, R30E & R31E, WM  
UMATILLA COUNTY



**LEGEND**

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW P.O.D.
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: LATITUDE 45.6746  
LONGITUDE -119.0029
-  PORTABLE ALUMINUM PIPELINE



0 660 1320



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*Renews 6/30/18*

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DGV Consulting, PLLC  
PHONE (509) 627-8717  
dalevconsulting@gmail.com  
Date: Oct 10, 2017





**Oregon**  
Kate Brown, Governor

**Water Resources Department**  
725 Summer St NE, Suite A  
Salem, OR 97301  
(503) 986-0900  
Fax (503) 986-0904

December 12, 2017

B & G Resources Inc.  
c/o Ken E Gustafson  
1825 SE St Andrew Dr  
Portland OR 97202

On December 4, 2017 the Water Resources Department received the Claim of Beneficial Use (COBU) for the following file(s):

T-10948

The COBU included a report and map. The Department hopes to review your submittal within approximately 2 - 4 years. At that time we will review these items and provide a final certificate, proposed certificate, or a request for additional information.

If you are interested in having your COBU reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at:  
[http://www.wrd.state.or.us/OWRD/mgmt\\_reimbursement\\_authority.shtml](http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml)

For all other questions please call our Customer Service phone: (503) 986-0811.

If you sell the property, please contact the Department, or have the new owners contact the Department about the need to file an assignment.

Cc: file

Dale VanSchoiack, CWRE



**CLAIM OF  
BENEFICIAL USE  
for Permits claiming more  
than 0.1 cfs and All Transfers**



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

**A fee of \$200 must accompany this form for permits with priority dates of July 9, 1987, or later.**

**A fee of \$200 must accompany this form for any Transfer final orders including a water right with a priority date of July 9, 1987, or later.**

**Example – A transfer involves 5 rights and one of the rights has a priority date of July 9, 1987, or later, the fee is required.**

**Claims received without the correct fee of \$200 will be returned.**

A separate form shall be completed for each permit.

*In cases where a permit has been amended through the permit amendment process, a separate claim for the permit amendment is not required. Incorporate the permit amendment into the claim for the permit.*

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at:  
[http://www.oregon.gov/owrd/pages/wr/cwre\\_info.aspx](http://www.oregon.gov/owrd/pages/wr/cwre_info.aspx)

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

If you have questions regarding the completion of this form, please call 503-986-0900 and ask for the Certificate Section.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see  
[http://www.oregon.gov/owrd/pages/mgmt\\_reimbursement\\_authority.aspx](http://www.oregon.gov/owrd/pages/mgmt_reimbursement_authority.aspx)

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**SECTION 1**

**GENERAL INFORMATION**

**1. File Information**

APPLICATION # (G, R, S OR T)	PERMIT # (IF APPLICABLE)	PERMIT AMENDMENT # (IF APPLICABLE)
T 10948		

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME <b>B &amp; G Resources Inc. c/o Ken E. Gustafson</b>		PHONE NO. <b>503 310 2302</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>1825 SE St. Andrews Dr.</b>			
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97202</b>	E-MAIL <b>ken@kengus.onmicrosoft.com</b>

If the current property owner is not the permit or transfer holder of record, it is recommended that an assignment be filed with the Department. *Each permit or transfer holder of record must sign this form.*

3. Permit or transfer holder of record (this may, or may not, be the current property owner)

PERMIT OR TRANSFER HOLDER OF RECORD <b>B &amp; G Resources Inc. c/o Ken E. Gustafson</b>		
ADDRESS <b>5200 SW Macadam Ave., Suite 470</b>		
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97239</b>

ADDITIONAL PERMIT OR TRANSFER HOLDER OF RECORD <b>Not Applicable</b>		
ADDRESS		
CITY	STATE	ZIP

4. Date of Site Inspection:

5. Person(s) interviewed and description of their association with the project:

NAME	DATE	ASSOCIATION WITH THE PROJECT
<b>Ken Gustafson</b>	<b>9/12/17</b>	<b>Owner</b>
<b>Jeff Bodewig</b>	<b>9/12/17</b>	<b>Irrigator</b>

6. County:

7. If any property described in the place of use of the permit or transfer final order is excluded from this report, identify the owner of record for that property (ORS 537.230(4)):

OWNER OF RECORD <b>Not Applicable</b>		
ADDRESS		
CITY	STATE	ZIP

Add additional tables for owners of record as needed

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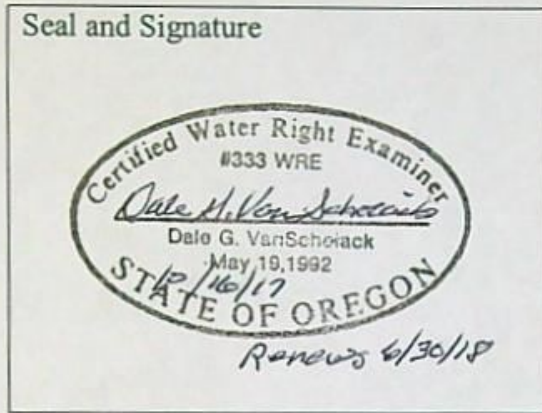
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**SECTION 2  
SIGNATURES**

CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME <b>Dale VanSchoiack</b>		PHONE NO. <b>509 627 8717</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>2141 South Lyle</b>			
CITY <b>Kennewick</b>	STATE <b>WA</b>	ZIP <b>99337</b>	E-MAIL <b>dalevconsulting@gmail.com</b>

Permit or Transfer Holder's of Record Signature or Acknowledgement

Each permit or transfer holder of record must sign this form in the space provided below.

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	TITLE	DATE
	Kenneth E. Gustafson	Vice Pres	12/1/17

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**SECTION 3  
CLAIM DESCRIPTION**

1. Point of diversion/appropriation name or number:

POINT OF DIVERSION/APPROPRIATION (POD/POA) NAME OR NUMBER (CORRESPOND TO MAP)	WELL LOG ID # FOR ALL WORK PERFORMED ON THE WELL (IF APPLICABLE)	WELL TAG # (IF APPLICABLE)
POD	Not Applicable	Not Applicable

Attach each well log available for the well (include the log for the original well and any subsequent alterations, reconstructions, or deepenings)

2. Point of diversion/appropriation source and, if from surface water, the tributary:

POD/POA NAME OR NUMBER	SOURCE	TRIBUTARY
POD	Umatilla River	Columbia River

3. Developed use(s), period of use, and rate for each use:

POD/POA NAME OR NUMBER	USES	IF IRRIGATION, LIST CROP TYPE	SEASON OR MONTHS WHEN WATER WAS USED	ACTUAL RATE OR VOLUME USED (CFS, GPM, OR AF)
POD* Cert 80564	Irrigation	alfalfa & barley	Irrigation season of each year	0 .655 cfs
POD* Cert 83483	Irrigation	alfalfa & barley	Irrigation season of each year	0 .135 cfs
Total Quantity of Water Used				0.790 cfs

\* The POD is the same for both certificates.

4. Provide a general narrative description of the distribution works. This description must trace the water system from each point of diversion or appropriation to the place of use:

Water is pumped from the north bank of the Umatilla River with a 25 horsepower centrifugal pump. The Point of Diversion is located in the NWNE of Section 12, T2N, R30E. The pump suction pipe is equipped with a fish screen. From the pump the water flows easterly 380 feet± through an above ground 6" aluminum mainline that lies along the southerly edge of the farm ground. The mainline then bends to the north and extends in a northerly direction 420 feet± to a point near the northerly edge of the farm ground. At this point there is a pipeline that extends 720 feet± in northwesterly direction. The above ground aluminum mainline includes valve risers along its length. Portable hand lines, a wheel line, and a big gun sprinkler are connected to valves along the mainline and are used to irrigate the farm ground.

Reminder: The map associated with this claim must identify the location of the point(s) of diversion, Donation Land Claims (DLC), Government Lots (GLot), and Quarter-Quarters (QQ).

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5. Variations:

Was the use developed differently from what was authorized by the permit, permit amendment final order, or extension final order? If yes, describe below.

YES

(e.g. "The permit allowed three points of diversion. The water user only developed one of the points." or "The permit allowed 40.0 acres of irrigation. The water user only developed 10.0 acres.")

**The location of the Point of Diversion is slightly different from the location described in the transfer Final Order. The location of some of the relocated water rights is slightly different from the location stated in the final order.**

6. Claim Summary:

POD / POA NAME OR #	MAXIMUM RATE AUTHORIZED	CALCULATED THEORETICAL RATE BASED ON SYSTEM	AMOUNT OF WATER MEASURED	USE	# OF ACRES ALLOWED	# OF ACRES DEVELOPED
POD* Cert 80564	0.655 cfs	0.91 cfs pump output	Not Applicable	irrigation	26.2	26.2
POD* Cert 83483	0.135 cfs	0.91 cfs pump output	Not Applicable	irrigation	5.4	5.4

\* The POD is the same for both certificates.

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**SECTION 4  
SYSTEM DESCRIPTION**

Are there multiple PODs or POAs?

NO

If "YES" you will need to copy and complete Sections 4B through 4G for each POD/POA.

POD/POA Name or Number this section describes (only needed if there is more than one):

POD

**A. Place of Use**

1. Is the right for municipal use?

NO

If "YES" the table below may be deleted.

TWP	RNG	MER	SEC	QQ	GLot	DLC	USE	IF IRRIGATION, # PRIMARY ACRES	IF IRRIGATION, # SUPPLEMENT AL ACRES
T2N	R30E	WM	1	SWSE			irrigation	3.7 Cert 80564	
T2N	R30E	WM	12	NENE			irrigation	11.1 Cert 80564 1.0 Cert 83483	
T2N	R30E	WM	12	NWNE			irrigation	11.3 Cert 80564	
T2N	R30E	WM	12	SENE			irrigation	0.1 Cert 80564 2.6 Cert 83483	
T2N	R31E	WM	7	NWNW	Lot 52.11		irrigation	0.1 Cert 83483	
T2N	R31E	WM	7	SWNW	Lot 52.65		irrigation	1.7 Cert 83483	
<b>Total Acres Irrigated</b>								<b>31.6 acres</b>	

Reminder: The map associated with this claim must identify Donation Land Claims (DLC), Government Lots (GLot), Quarter Quarters (QQ), and if for irrigation, the number of acres irrigated within each projected DLC, GLot, and QQ.

**B. Diversion and Delivery System Information**

Provide the following information concerning the diversion and delivery system. Information provided must describe the equipment used to transport and apply the water from the point of diversion/appropriation to the place of use.

1. Is a pump used?

YES

If "NO" items 2 through item 6 may be deleted.

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2. Pump Information

MANUFACTURER	MODEL	SERIAL NUMBER	TYPE (CENTRIFUGAL, TURBINE OR SUBMERSIBLE)	INTAKE SIZE	DISCHARGE SIZE
Cornell	2.5 WH-CC	196509	Centrifugal	3"	2.5"

3. Motor Information

MANUFACTURER	HORSEPOWER
Century	25 hp

4. Theoretical Pump Capacity

HORSEPOWER	OPERATING PSI	LIFT FROM SOURCE TO PUMP *IF A WELL, THE WATER LEVEL DURING PUMPING	LIFT FROM PUMP TO PLACE OF USE	TOTAL PUMP OUTPUT (IN CFS)
25 hp	70 psi *	10 ft±	38 ft (840' to 878')	0.91 cfs

\* The irrigator report this is the pump discharge pressure.

5. Provide pump calculations:

Estimate of pumping head.

Lift	10 ft (Estimated)
Valve and fitting loss	10 ft (Estimated)
Pressure	<u>162 ft</u> (70 psi ± @ pump discharge)
Total Pumping Head	182 ft

25 hp centrifugal pump.

$$Hp = \frac{gpm \times head (ft)}{3960 \times efficiency (\%)} \text{ or } gpm = \frac{Hp \times 3960 \times efficiency (\%)}{head (ft)}$$

$$\frac{25 \times 3960 \times .75^*}{182} = 408 \text{ gpm} = 0.91 \text{ cfs}$$

\* Assumed efficiency for centrifugal pump.

6. Measured Pump Capacity (using meter if meter was present and system was operating)

INITIAL METER READING	ENDING METER READING	DURATION OF TIME OBSERVED	TOTAL PUMP OUTPUT (IN CFS)
Not Applicable			

Reminder: For pump calculations use the reference information at the end of this document.

7. Is the distribution system piped?

YES

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If "NO" items 8 through item 11 may be deleted.

**8. Mainline Information**

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
6"	380 ft	Portable aluminum	Above ground
6"	420 ft	Portable aluminum	Above ground
6"	720 ft	Portable aluminum	Above ground

**9. Lateral or Handline Information**

LATERAL OR HANDLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
wheel line SE	1320 ft±	4" aluminum	Above ground
wheel line NW	1200 ft±	4" aluminum	Above ground
Hand line	2400 ft±	3" aluminum	Above ground

**10. Sprinkler Information**

SIZE	OPERATING PSI	SPRINKLER OUTPUT (GPM)	TOTAL NUMBER OF SPRINKLERS	MAXIMUM NUMBER USED	TOTAL SPRINKLER OUTPUT (CFS)
Wheel lines 5/32	45 psi	4.7 gpm	63±	63±	0.61 cfs
Hand lines 5/32	45 psi	4.7 gpm	60±	25±	0.26 cfs
Big gun 0.55"	50 psi	59 gpm	1	1	0.13 cfs

**Reminder: For sprinkler output determination use the reference information at the end of this document.**

**11. Pivot Information**

MANUFACTURER	MAXIMUM WETTED RADIUS	OPERATING PSI	TOTAL PIVOT OUTPUT (GPM)	TOTAL PIVOT OUTPUT (CFS)
Not Applicable				

**12. Additional notes or comments related to the system:**

None

**C. Groundwater Source Information (Well and Sump)**

1. Is the appropriation from ground water (well or sump)?

NO

*If "NO", items 2 through 8 relating to this section may be deleted.*

**Items 2 through 8 relating to this section were deleted.**

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## D. Storage

1. Does the distribution system include in-system storage (e.g. storage tank, bulge in system / reservoir)

NO

*If "NO", item 2 and 3 relating to this section may be deleted.*

**Items 2 and 3 relating to this section were deleted.**

## E. Gravity Flow Pipe

(THE DEPARTMENT TYPICALLY USES THE HAZEN-WILLIAM'S FORMULA FOR A GRAVITY FLOW PIPE SYSTEM)

1. Does the system involve a gravity flow pipe?

NO

*If "NO", items 2 through 4 relating to this section may be deleted.*

**Items 2 through 4 relating to this section were deleted.**

## F. Gravity Flow Canal or Ditch

(THE DEPARTMENT TYPICALLY USES MANNING'S FORMULA FOR CANALS AND DITCHES)

1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system?

NO

*If "NO", items 2 through 4 relating to this section may be deleted.*

**Items 2 through 4 relating to this section were deleted.**

## G. Reservoir

1. Does the claim involve a reservoir modified through a transfer?

NO

**Reminder: Complete this section if the reservoir right has been modified through the transfer process. If the claim is for a permitted reservoir use the Claim of Beneficial Use form for reservoirs.**

*If "NO", items 2 through 9 relating to this section may be deleted.*

**Items 2 through 9 relating to this section were deleted.**

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## SECTION 5 CONDITIONS

All conditions contained in the permit, permit amendment, transfer final order, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

### 1. Time Limits:

Permits, transfer final orders, and any extension final orders contain any or all of the following dates: the date when the actual construction work was to begin, the date when the construction was to be completed, and the date when the complete application of water to the proposed use was to be completed. These dates may be referred to as ABC dates. Describe how the water user has complied with each of the development timelines established in the permit, extension or transfer final order:

	DATE FROM PERMIT OR TRANSFER	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	March 21, 2011		
BEGIN CONSTRUCTION (A)	Not Stated	Most of the system was in place at the time the order was issued.	The water user started to make system upgrades and pursuing relocation of the POD.
COMPLETE CONSTRUCTION (B)	Not Stated	September 1, 2017	The water user made system upgrades and irrigated as authorized by the transfer.
COMPLETE APPLICATION OF WATER (C)	October 1, 2012 Extended to October 1, 2017	September 12, 2017	The water user completed irrigating all the acres involving a change in the POU.

\* MUST BE WITHIN PERIOD BETWEEN PERMIT, TRANSFER FINAL ORDER, OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETELY APPLY WATER

2. Is there an extension final order(s)?

YES

*If "NO", you may delete item 3 in this section.*

3. If for a transfer extension order, provide the following information:

VOLUME	PAGE	DATE EXTENDED TO
Volume 91	Pages 320-321	October 1, 2014
Volume 95	Pages 37-38	October 1, 2015
Volume 98	Pages 155-156	October 1, 2016
Volume 103	Page 133	October 1, 2017

4. Initial Water Level Measurements:

a. Was the water user required to submit an initial static water level measurement?

NO

*If "NO", items 4b through 4d relating to this section may be deleted.*

**Items 4b through 4d relating to this section were deleted.**

5. Annual Static Water Level Measurements:

a. Was the water user required to submit annual static water level measurements?

NO

*If "NO", items 5b through 5e relating to this section may be deleted.*

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Items 5b through 5e relating to this section were deleted.

6. Pump Test (Required for most ground water permits prior to issuance of a certificate)

a. Did the permit require the submittal of a pump test? NO

*If "NO", items 6b through 6e relating to this section may be deleted.*

Items 6b through 6e relating to this section were deleted.

7. Measurement Conditions:

a. Does the permit, permit amendment, transfer final order, or any extension final order require the installation of a meter or approved measuring device? YES

*If "NO", items 7b through 7f relating to this section may be deleted.*

**Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion or appropriation.**

b. Has a meter been installed? YES

c. Meter Information

POD/POA NAME OR #	MANUF	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
POD	Sparling	130466	Good Condition	132878 gal x 100	The meter existed at the time the transfer was authorized.

*If a meter has been installed, items 7d through 7f relating to this section may be deleted.*

Items 7d through 7f relating to this section were deleted.

8. Recording and reporting conditions

a. Is the water user required to report the water use to the Department? NO

*If "NO", item 8b relating to this section may be deleted.*

Item 8b relating to this section was deleted.

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9. Fish Screening

a. Are any points of diversion required to be screened to prevent fish from entering the point of diversion? YES

*If "NO", items 9b through 9e relating to this section may be deleted.*

**Reminder: If fish screening devices were required, the COBU map must indicate their location in relation to the point of diversion.**

b. Has the fish screening been installed? YES

c. When was the fish screening installed?

DATE	BY WHOM
9/19/2012	PGG

**Reminder: If the permit or transfer final order was issued on or after February 1, 2011, the fish screen is required to be approved by the Oregon Department of Fish and Wildlife regardless of the rate of diversion.**

d. If the diversion involves a pump *and* the total diversion rate of all rights at the point of diversion is less than 225 gpm (0.5 cfs) and the permit was issued prior to February 1, 2011:

- Has the self-certification form previously been submitted to the Department? NA
- If not, go to <http://www.oregon.gov/owrd/Pages/pubs/forms.aspx>, complete and attach a copy of the self-certification form to this claim, and send a copy of it to the Oregon Department of Fish and Wildlife (ODFW).

**Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. The ODFW self certification form needs to have been previously submitted or be attached to this form.**

e. If the diversion does **not** involve a pump *or* the total diversion rate of all rights at the point of diversion is 225 gpm (0.5 cfs) or greater:

- Has the ODFW approval been previously submitted? Unknown
- If not, contact and work with ODFW to ensure compliance. To demonstrate compliance, provide signed documentation from ODFW. A form is available at: <http://www.oregon.gov/owrd/Pages/pubs/forms.aspx>

**Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. In order to receive a favorable approval, the ODFW/WRD "Fish Screen Inspection" form needs to have been previously submitted or be attached to this form.**

#### 10. By-pass Devices

a. Are any points of diversion required to have a by-pass device to prevent fish from entering the point of diversion?

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NO

*If "NO", items 10b and 10c relating to this section may be deleted.*

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Items 10b and 10c relating to this section were deleted.

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11. Other conditions required by permit, permit amendment final order, extension final order, or transfer final order:

- a. Were there special well construction standards? NO
- b. Was submittal of a ground water monitoring plan required? NO
- c. Was the water user required to restore the riparian area if it was disturbed? NO
- d. Was a fishway required? NO
- e. Was submittal of a letter from an engineer required prior to storage of water? NO
- f. Was submittal of a water management and conservation plan required? NO
- g. Other conditions? YES

If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

The transfer final order required written correspondence that the fish screen and fish screen installation has been approved by ODFW. An inspection report completed by ODFW documenting the screen and screen installation has been approved by ODFW is included with this report.

## SECTION 6 ATTACHMENTS

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
COBU Map	COBU Map
ODFW Screen Inspection Form	ODFW Screen Inspection Form

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## SECTION 7

### CLAIM OF BENEFICIAL USE MAP

The Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on poly film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.

**The COBU map was prepared using field observations, the county assessor map, the transfer map, and a google image**

#### Map Checklist

Please be sure that the map you submit includes ALL the items listed below.  
(Reminder: Incomplete maps and/or claims may be returned.)

- Map on polyester film
- Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- Township, Range, Section, Donation Land Claims, and Government Lots
- If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- Locations of fish screens and/or fish by-pass devices in relationship to point of diversion
- Locations of meters and/or measuring devices in relationship to point of diversion or appropriation
- Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- Point(s) of diversion or appropriation (illustrated and coordinates)
- Tax lot boundaries and numbers
- Source illustrated if surface water
- Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- Application and permit number or transfer number
- North arrow
- Legend
- CWRE stamp and signature

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OREGON DEPARTMENT OF FISH AND WILDLIFE  
OREGON WATER RESOURCES DEPARTMENT

FISH SCREEN INSPECTION FORM

Applicant

Name: Ken Gustafson of B & G Resources  
Address: 1825 SE St. Andrews Dr Phone 503-221-5117

Application Number: \_\_\_\_\_ Water Right Permit Number: S-16393  
Water Right Amount (cfs) 0.8 Water Right Transfer Number: \_\_\_\_\_

Diversion

Stream: Umatilla River Tributary to: Columbia River  
Address (if different than applicants): River Mile 41  
Diversion Type (gravity or pump): Pump Location:     ,     , Sec.       
GPS Coordinates: 45.67503, -119.00380

Pump Information

Brand: GE Horsepower: 20 Intake Size: 6"

Screen Information

Type/Brand: Sturgeon Installed by: PGG  
Date Installed: 09 / 19 / 2012 Date of Inspection: 10 / 10 / 2012  
Manufacturer: Clemons Model #: ST6  
Inspected by: [Signature] Agency: ODFW JDSP

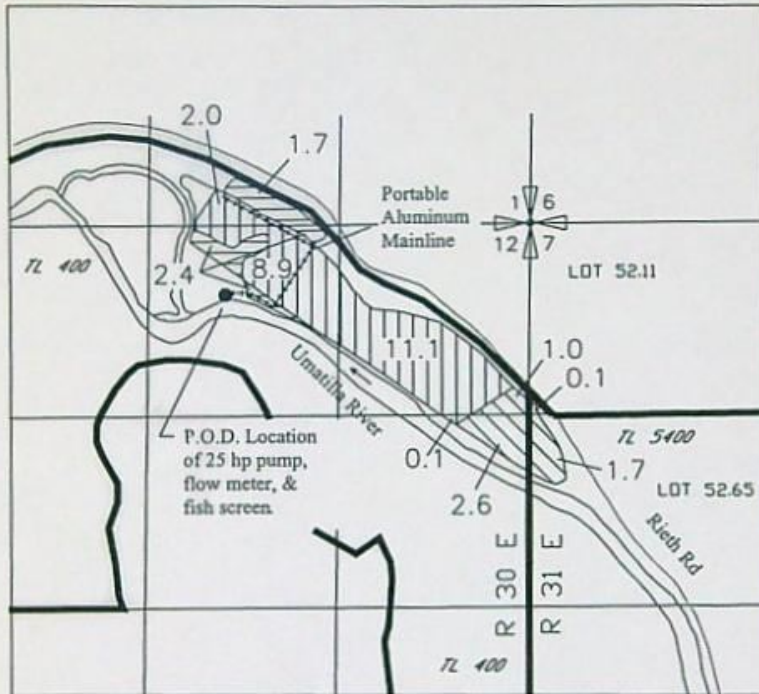
Comments:

- Screen meets current state criteria for fish protection.
- Screen does not meet current state criteria for fish protection.
- Another screen inspection should be done before water use begins.
- Fish passage meets current criteria
- Fish passage does not meet current criteria
- Fish passage not required
- Bypass structure meets current state criteria
- Bypass does not meet current state criteria
- Bypass Structure not required






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**SUPERSEDED**

CLAIM OF BENEFICIAL USE MAP  
FOR TRANSFER 10948  
IN THE NAME OF B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
SECTIONS 1 & 12, T2N, R30E & R31E, WM  
UMATILLA COUNTY



**LEGEND**

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
- TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: LATITUDE 45.6746 LONGITUDE -119.0029
-  PORTABLE ALUMINUM PIPELINE



0 660 1320



SCALE IN FEET

RECEIVED

DEC 04 2017

OWRD



Renews 6/30/18

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DGV Consulting, PLLC  
PHONE (509) 627-8717  
dalevconsulting@gmail.com  
Date: Oct 10, 2017

**REIMBURSEMENT AUTHORITY TRANSFER**

**T-10948**

**CERTIFICATE 95219 (cf-80564) issued 8-28-2020**

**CERTIFICATE 95220 (cf-83483) issued 8-28-2020**

Completion Checklist for Claims of Beneficial Use for POST JULY 1, 2004 Claims

CERT - full extent - 2 cents

Application #	WRD Reviewer
Transfer # T-10948	Claim Logged YES
Date Received 12-4-2017	Oversized Map # N/A
CWRE Name Dale Van Schoiack	

- Map Review: Sarah Liljefelt - Schroeder - Agent
- Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
  - Application & permit #: or transfer # (OAR 690-014-0100(1))
  - Disclaimer (OAR 690-014-0170(5))
  - North arrow (OAR 690-310-0050(2)(c))
  - CWRE stamp and signature (OAR 690-014 & 310-0050)
  - Appropriate scale (1" = 1320', 1" = 400', or the original full-size scale of the county assessor map) (014 & 310)
  - Township, range, section, and tax lot numbers (OAR 690-310-0050(4))
  - Source illustrated if surface water (OAR 690-014-0170(3))
  - Point(s) of diversion or appropriation (illustrated) (OAR 690-014(4) & 690-310-0050)
  - Point(s) of diversion or appropriation (coordinates) (OAR 690-014(4) & 690-310-0050)
  - Conveyance structures illustrated (pump, pipelines, ditches, etc.) (OAR 690-310-0050)
  - Description of the location, in relation to the point of diversion or appropriation, of any fish screens, by-pass devices, and measuring devices required (OAR 690-014-0170(4))
  - Place of use (1/4 1/4, or projected 1/4 1/4 lines within DLCs, or Gov Lots; if irrigation, # of acres in each subdivision; if for domestic or human consumption, location of dwelling or spigot) (OAR 690-310-0050, 690-014, 690-380-6010)
- TFO issued 3-21-2011 Δ P ODD Δ POU  
 C Date = 10-1-2017 extended to 10-1-2017  
 cert 80564 - 0.655 cfs for IR of 26.2 acres  
 cert 83483 - 0.135 cfs for IR of 5.4 acres
- 7-18-2020 see email w/ draft revised CWRE map
- COBU - PoD on Umatilla River - 0.790 cfs for IR of 31.6 acres

Report Review:

- On form or format provided by the Department (OAR 690-014-0100(1))
- Application & permit #: or transfer # (OAR 690-014)
- Ownership information (OAR 690-014)
- Date of survey (OAR 690-014)
- Person interviewed (OAR 690-014)
- County (OAR 690-014) UMATILLA
- Description of conveyances system (from POD to POU) (OAR 690-014-0100)
- Source(s) of water (OAR 690-014-0100) Umatilla River
- Place of use location (OAR 690-014-0100)
- Type of use (OAR 690-014-0100)
- Extent of use (OAR 690-014-0100)
- Rate and Duty (OAR 690-014-0100)
- MA Diversion rate for each use (OAR 690-014-0100)
- MA Diversion works description (pump make, serial model, capacity, and description) (OAR 690-014-0100)
- MA System capacity (OAR 690-014-0100)
- MA Calculated capacity of system (required) Q<sub>pump</sub> = 0.91 cfs calc
- MA Measured amount of use (optional)
- MA Permit/Transfer Final Order Conditions (OAR 690-014-0100)
- MA Time limits
- MA Initial water level measurements
- MA Annual static water level measurements
- MA Measurement, recording, and reporting
- MA Meter/measuring device install TFM or OSMD
- MA Water use reporting required - COBU included Fish Screen Inspection Form
- MA Fish screening and/or by-pass Lo screen meets QDFW criteria
- MA Pump test (ground water) Lo fish passage/bypass structure NOT required
- MA Other
- Conditions from Extension Final Order and/or Water Management Conservation Plan
- FO issued 10-17-2016 - extended C Date to 10-1-2017 no additional conditions
- CWRE stamp and signature (OAR 690-014-0100)
- Signature(s) of permittee of transfer holder (OAR 690-014-0100)

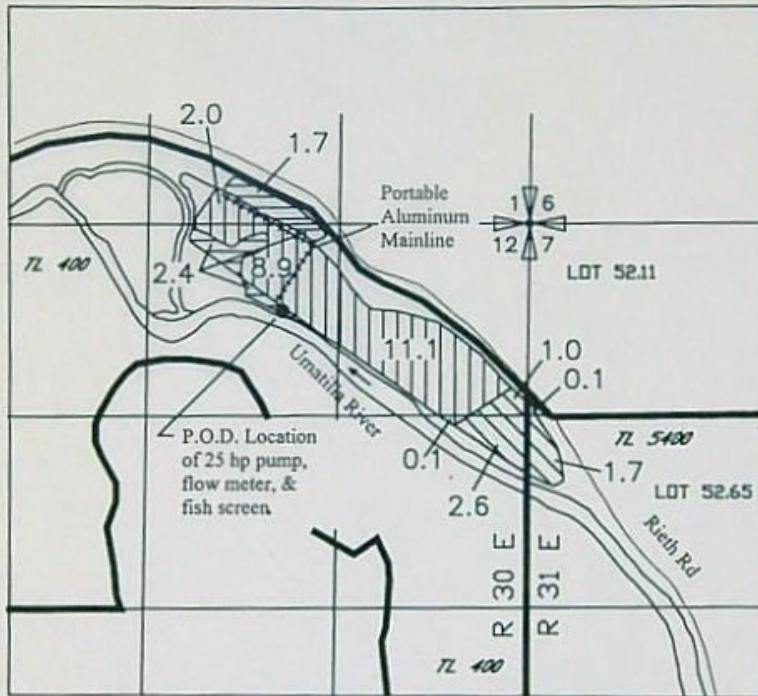


REVISED (7/21/20)  
 CLAIM OF BENEFICIAL USE MAP  
 FOR TRANSFER 10948  
 IN THE NAME OF B & G RESOURCES  
 c/o KENNETH E. GUSTAFSON  
 SECTIONS 1 & 12, T2N, R30E & R31E, WM  
 UMATILLA COUNTY






RECEIVED

JUL 24 2020

OWRD



LEGEND

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
- TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: 540 FT SOUTH AND 1660 FEET WEST FROM THE NE CORNER OF SEC 12
-  PORTABLE ALUMINUM PIPELINE



0 660 1320



SCALE IN FEET



*Renewal 6/30/22*

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DGV Consulting, PLLC  
 PHONE (509) 627-8717  
 dalevconsulting@gmail.com  
 Date: July 21, 2020

From: Rachael Reynolds <rachael.reynolds@umatillacounty.net>  
 Sent: Monday, July 20, 2020 3:09 PM  
 To: KAVANAGH Kerry L + WRD  
 Subject: Re: Property in Umatilla County - Sections 1 & 12, T2N R30E, W.M. and Section 7, T2N R31E, W.M.

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2020

July 20, 2020 3:06:45 pm

Account#	150320	Tax Status	ASSESSABLE
Map #	2131000005400	Acct Status	ACTIVE
Code - Tax #	1622-150321 1627-150320	Subtype	NORMAL
Legal Descr	See Record		
Mailing Name	B & Q RESOURCES INC	Deed Reference #	(SOURCE ID: 242-535)
Agent		Sales Date/Price	09-20-1993 / \$35,000.00
In Care Of		Appraiser	FFE, TERRY
Mailing Address	1825 SE ST ANDREWS DR PORTLAND, OR 97202		
Prop Class	550	MA	SA
RMV Class	550	06	90
		NH	Unit
		000	150320-1

Code Area		RMV	MAV	Value Summary AV	RMV Exception	CPR %
1622	Land	70,070	26,650	26,105	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		70,070	26,650	26,105		0
1627	Land	4,500	570	911	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		4,500	570	911		0
Grand Total		74,570	27,220	29,016		0

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2020

July 20, 2020 3:08:14 pm

Account# 150322  
 Map# 2N30120000400  
 Code - Tax # 1617-150320  
 1622-150325  
 1627-150322  
 1629-150328

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name B & G RESOURCES INC  
 Agent  
 In Care Of  
 Mailing Address 1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Deed Reference# (SOURCE ID: 242-535)  
 Sales Date/Price 09-20-1993 / \$35,000.00  
 Appraiser FIFE, TERRY

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 90 000 150322-1

Code Area		RMV	MLV	Value Summary AV	RMV Exception	CPR %
1617	Land	3,560	50	1,252	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		3,560	50	1,252		0
1622	Land	42,070	15,130	15,608	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		42,070	15,130	15,608		0
1627	Land	600	70	139	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		600	70	139		0
1629	Land	177,890	43,960	42,235	Land	0
	Impr.	0	0	0	Impr.	0
Code Area Total		177,890	43,960	42,235		0
Grand Total		224,200	59,210	59,434		0

On Thu, Jul 16, 2020 at 1:52 PM KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov> wrote:

Hello,

I am preparing a certificate of water right. I need to confirm the current ownership of lands involved in the water right.

Please provide the name and mailing address for the following parcels:

2N 30 12 00400

2N 31 05400

Thank you in advance for your assistance!

Kerry

**Kerry Kavanagh**

Certificate Reimbursement Authority Program Coordinator

Certificate Section, Water Rights Services Division



725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927

[kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov) | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



**Rachael Reynolds**

Umatilla County | Deputy Director of Assessment & Taxation  
216 SE 4th Street | Pendleton, OR 97801

Office: (541) 278-6234 | Fax: (541) 278-6375

Webpage: <http://www.umatillacounty.net/at>

Please Be Aware - Documents such as emails, letters, maps, reports, etc. sent from or received by Umatilla County are subject to Oregon Public Records law and are NOT CONFIDENTIAL. This includes materials that may contain sensitive data or other information, and Umatilla County will not be held liable for its distribution.



be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Application Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	- not specified

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Type of change	Acres
2 N	30 E	WM	1	SW SE	POU & POD	4.1
2 N	30 E	WM	1	SW SE	POD only	2.0
2 N	30 E	WM	12	NE NE	POD only	11.1
2 N	30 E	WM	12	NW NE	POD only	8.9
2 N	30 E	WM	12	SE NE	POD only	0.1

3. Certificate 80564 does not describe the location of the point of diversion with coordinates and measured distances. However, information is available from Certificate 83483, which together with Certificate 80564, describes the water use perfected under Permit S-16393 from the Umatilla River indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

4. Transfer Application T-10948 proposes to change the place of use for the 4.1 acres described above to:

**Proposed Place of Use:**

*Δ POU*

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	30 E	WM	1	SW SE	0.5
2 N	30 E	WM	12	NE NE	0.3
2 N	30 E	WM	12	NW NE	3.3

5. Transfer application T-10948 also proposes to change the point of diversion for the entire water right described above downstream approximately 2400 feet to:

**Proposed Place of Use:**

*Δ POD*

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

6. The second right to be transferred is as follows:

**Certificate:** 83483 in the name of KENNETH E. GUSTAFSON (perfected under Permit S-16393)

**Use:** IRRIGATION 5.4 ACRES

**Priority Date:** JULY 3, 1945

**Rate:** 0.135 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
2 N	30 E	WM	12	NE NE	--	1.0
2 N	30 E	WM	12	SE NE	--	2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

- Transfer application T-10948 proposes to change the point of diversion for the above described water right downstream approximately 2400 feet to:

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

POD only

- Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 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.
- On December 9, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10948 to the agent on behalf of the applicant. The draft Preliminary Determination set forth a deadline of January 10, 2011, for the applicant to respond. The agent, on behalf of 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.
- On January 20, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10948 and mailed a copy to the applicant. Additionally,

notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 25, 2011, and in the East Oregonian newspaper on January 29, February 5 and February 12, 2011, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

12. Water has been used within the last five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10948.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.

***Conclusions of Law***

The changes in points of diversion and place of use proposed in Transfer Application T-10948 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The changes in points of diversion and place of use proposed in application T-10948 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80564 and 83483 and any related decree.
3. Water right Certificates 80564 and 83483 are cancelled.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. Before water use 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. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.

7. 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, 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.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use 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 changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

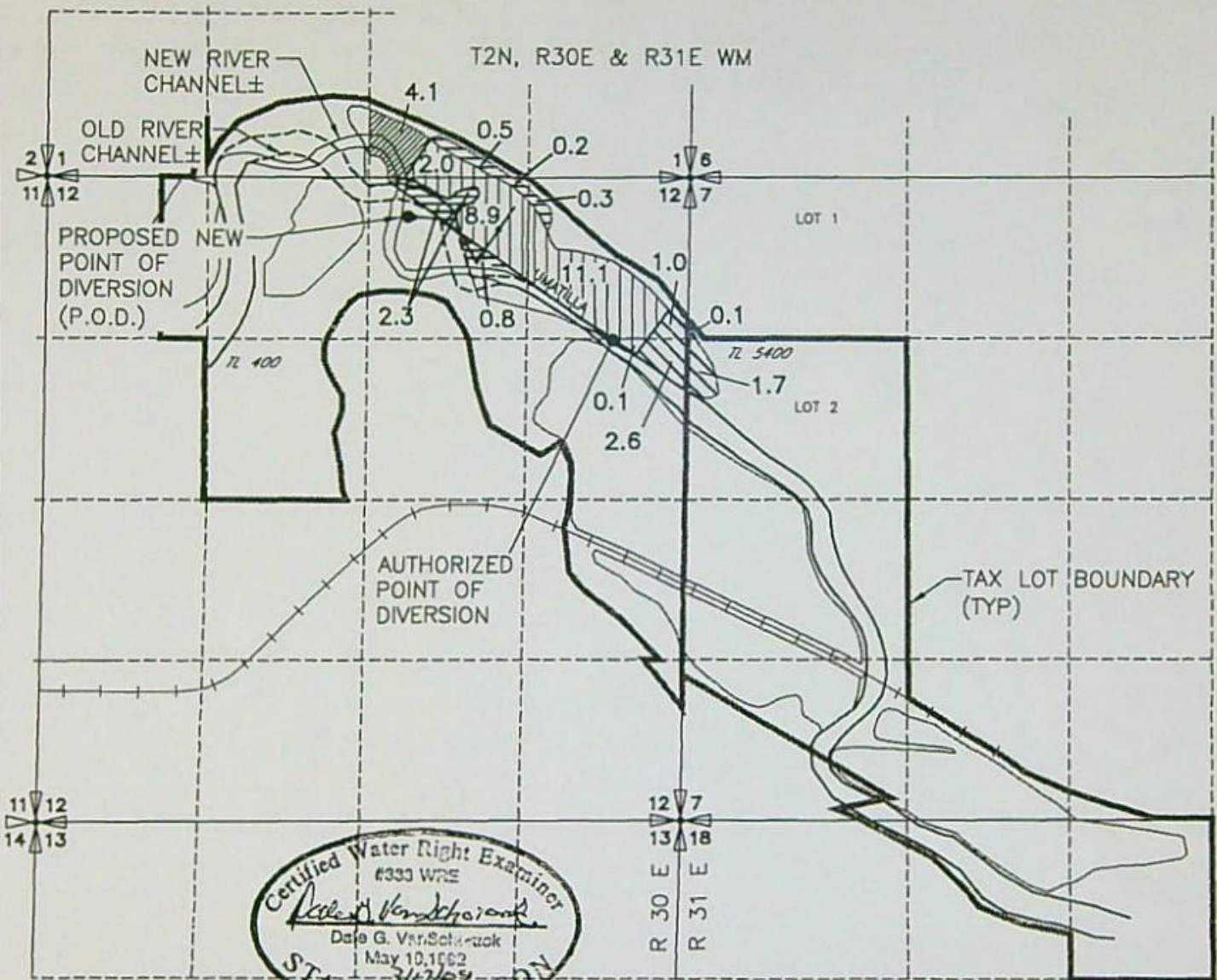
Dated at Salem, Oregon this 21 day of March, 2011.

  
Dwight French, Water Right Services Division Administrator for  
PHILLIP C. WARD, DIRECTOR

This Final Order was prepared by Susan Douthit. If you have questions about the information in this document you may reach me at 503-986-0858 or Susan.M.Douthit@wrds.state.or.us.

Mailing Date: MAR 23 2011

**B&G RESOURCES TRANSFER APPLICATION  
MAP FOR CERT 80564 & 83483  
C/O KENNETH E. GUSTAFSON**



Certified Water Right Examiner  
 #333 WRE  
*Robert Van Schoyck*  
 Dale G. Van Schoyck  
 May 10, 1992  
 3/17/09  
 STATE OF OREGON  
 Expires 6/30/10

**AUTHORIZED POINT OF DIVERSION**  
 P.O.D. 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.

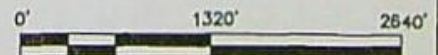
**PROPOSED CHANGE IN POINT OF DIVERSION (BOTH CERTIFICATES)**  
 P.O.D. 320 FEET SOUTH AND 2310 FEET WEST FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.

- 4.1 AC CERT 80564 WATER RIGHT INVOLVED IN RIVER CHANGING CHANNEL AND TO BE TRANSFERRED TO NEW LOCATION
- 5.4 AC CERT 83483 CHANGE IN P.O.D.
- 22.1 AC CERT 80564 CHANGE IN P.O.D.
- 4.1 AC CERT 80564 AREA RECEIVING WATER RIGHTS AND CHANGE IN P.O.D.

T 10948

**RECEIVED**

AUG 26 2009



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

**WATER RESOURCES DEPT  
SALEM, OREGON**

1st eng. cert

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

NEED

1) coordinates of POD  
in distance El bearing  
OR number Sect N/S  
& E/W from corner

waters of the UMATILLA RIVER and McKAY  
application R-7526 and Permit R-584,  
R, for IRRIGATION OF 26.2 ACRES.

Permit 16393. The date of priority is  
later to which this right is entitled is  
beneficially used and shall not exceed  
its equivalent in case of rotation,  
from the source.

and as follows:

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount  
secured under any other right existing for the same lands, is limited  
to ONE-FORTIETH of one cubic foot per second per acre, or its  
equivalent for each acre irrigated and shall be further limited to a  
diversion of not to exceed 4.5 acre-feet for each acre irrigated  
during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be  
ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336,  
or successor contract, with the Bureau of Reclamation.



1st eng. cert

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE¼ NE¼, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

A description of the **place of use** to which this right is appurtenant is as follows:

SW~~¼~~ SE~~¼~~ 6.1 ACRES  
SECTION 1

NE~~¼~~ NE~~¼~~ 11.1 ACRES  
NW~~¼~~ NE~~¼~~ 8.9 ACRES  
SE~~¼~~ NE~~¼~~ 0.1 ACRE

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 2 0 2004, approving Transfer Application 8718.

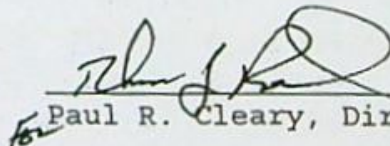
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

**The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.**

WITNESS the signature of the Water Resources

JAN 2 0 2004

Director, affixed \_\_\_\_\_.







  
\_\_\_\_\_  
Paul R. Cleary, Director

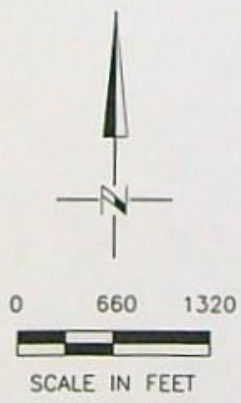
Recorded in State Record of Water Right Certificates numbered 80564.

**CLAIM OF BENEFICIAL USE MAP**  
**FOR TRANSFER 10948**  
**IN THE NAME OF B & G RESOURCES**  
**c/o KENNETH E. GUSTAFSON**  
**SECTIONS 1 & 12, T2N, R30E & R31E, WM**  
**UMATILLA COUNTY**



**LEGEND**

-  4.1 AC OF ORIGINATING CERT 80564 TRANSFERRED TO A NEW LOCATION AND PROVIDED WITH NEW POD
-  22.1 AC OF ORIGINATING CERT 80564 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  5.4 AC OF ORIGINATING CERT 83483 WATER RIGHT THAT ONLY INVOLVED A CHANGE IN P.O.D.
-  TL 5400 TAX LOT (TYP)
-  P.O.D. LOCATION: LATITUDE 45.6746 LONGITUDE -119.0029
-  PORTABLE ALUMINUM PIPELINE



**RECEIVED**

DEC 04 2017

**OWRD**



*Renews 6/30/18*

*NEED co-ordinates*

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DGV Consulting, PLLC  
 PHONE (509) 627-8717  
 dalevconsulting@gmail.com  
 Date: Oct 10, 2017

2<sup>nd</sup> org. cert

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND, OR 97239

confirms the right to use the waters of UMATILLA RIVER AND MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 5.4 ACRES.

This right was perfected under Permit 16393. The date of priority is July 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.135 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE 1/4 NE 1/4, SECTION 12, T 2 N, R 30 E, W.M.; 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

A description of the place of use to which this right is appurtenant is as follows:

NE 1/4 NE 1/4            1.0 ACRE  
SE 1/4 NE 1/4            2.6 ACRES

SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

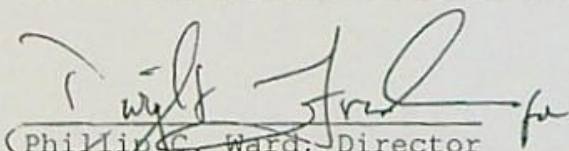
LOT 1 (NW 1/4 NW 1/4)    0.1 ACRE  
LOT 2 (SW 1/4 NW 1/4)    1.7 ACRES

SECTION 7  
TOWNSHIP 2 NORTH, RANGE 31 EAST, W.M.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered January 20, 2004, approving Transfer Application 8718, and together with Certificate 80564, supersedes Certificate 76631, State Record of Water Right Certificates.

Issued     AUG 24 2007    

  
Philip C. Ward, Director  
Water Resources Department

Recorded in State Record of Water Right Certificates Number 83483.

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

In the Matter of Application for Extension    )    **FINAL ORDER APPROVING AN**  
of Time for Transfer Application T-10948,    )    **EXTENSION OF TIME**  
Umatilla County                                )    

**Applicant**

Kenneth E. Gustafson  
B&G Resources, Inc.  
1825 SE St. Andrews Drive  
Portland, OR 97202

**Authority**

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time for the completion of changes authorized under water right transfer applications.

**Findings of Fact**

1. On September 30, 2016, the Department received an application for extension of time for Transfer Application T-10948.
2. The Department issued an order approving Transfer Application T-10948 on March 21, 2011. The order was recorded in Special Order Volume 83, Pages 839-843. The order set a transfer completion date of October 1, 2012.
3. The Department issued an order approving an extension of time for T-10948 on September 13, 2013. The order was recorded in Special Order Volume 91 Pages 320-321. The order extended the completion date to October 1, 2014.
4. The Department issued a second order approving an extension of time for T-10948 on February 10, 2015. The order was recorded in Special Order Volume 95 Pages 37-38. The order extended the completion date to October 1, 2015.
5. The Department issued a third order approving an extension of time for T-10948 on October 27, 2015. The order was recorded in Special Order Volume 98 Pages 155-156. The order extended the completion date to October 1, 2016.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

6. The applicant has completed installation of a new point of diversion, fish screen and totalizing flow meter. Water has been applied to beneficial use on all but one acre of the authorized place of use. An earth mover operator has been hired to prepare the last acre for application of water to beneficial use.
7. To fully complete the change, the applicant needs to prepare the last acre within the authorized place of use and apply water to beneficial use.
8. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2017.

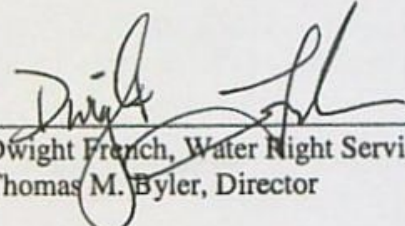
**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10948.

**Now, therefore, it is ORDERED:**

The time for completion of the changes in place of use authorized by Transfer Application T-10948 shall be extended to October 1, 2017.

Dated at Salem, Oregon this 17 day of October, 2016.

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director

Mailing date: OCT 21 2016

**From:** KAVANAGH Kerry L \* WRD  
**Sent:** Wednesday, July 29, 2020 11:27 AM  
**To:** dalevconsulting@gmail.com  
**Cc:** KAVANAGH Kerry L \* WRD  
**Subject:** RE: App T-10948 - Cert RA Project R12708-21 for B & G Resources

Hi Dale,

I'm in the office today, 7/29/2020.

I have not received the revised COBU map yet in the US Mail.

I am wondering if you could send me an electronic version of the revised COBU map so that I can send certificates and COBU map to our data techs for data entry/mapping.

Thank you,  
Kerry

**Kerry Kavanagh**

Certificate Reimbursement Authority Program Coordinator  
Certificate Section, Water Rights Services Division  
725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927  
[kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov) | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

---

**From:** dalevconsulting@gmail.com <dalevconsulting@gmail.com>  
**Sent:** Tuesday, July 21, 2020 4:15 PM  
**To:** CLARK Gerald E \* WRD <Gerald.E.Clark@oregon.gov>  
**Cc:** KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Subject:** RE: App T-10948 - Cert RA Project R12708-21 for B & G Resources

Gerry please disregard my earlier email.

I spent some more time going through my project file for this COBU and found that the coordinates that I used on the original COBU Map were taken from the ODFW fish screen report. At the time, I decided to use those coordinates because this is one of those areas where the bank of the river is very susceptible to movement with spring runoff. During my site visit in September of 2017 it was evident that the POD was being moved to follow the river bank.

I went back through my file and have established the POD location to be 540' south and 1660' west of the NE corner of Section 12. I have updated the revised COBU Map to move the POD location (dot) and change the Legend Location to be 540' south and 1660' west of the NE corner of Section 12.

I am mailing Kerry an updated revised mylar map (it is dated 7/21/20) showing the above revisions.



Regards,  
Dale

---

**From:** [dalevconsulting@gmail.com](mailto:dalevconsulting@gmail.com) <[dalevconsulting@gmail.com](mailto:dalevconsulting@gmail.com)>  
**Sent:** Tuesday, July 21, 2020 2:34 PM  
**To:** 'CLARK Gerald E \* WRD' <[Gerald.E.Clark@oregon.gov](mailto:Gerald.E.Clark@oregon.gov)>  
**Cc:** 'KAVANAGH Kerry L \* WRD' <[Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)>  
**Subject:** RE: App T-10948 - Cert RA Project R12708-21 for B & G Resources

Hi Gerry,  
The coordinate distances are correct. I have the dot representing the POD on the map in the wrong place. I have already mailed the revised mylar. When you get it please discard it.

I will update the POD dot location on the map, prepare a sealed mylar and mail the updated revised map this afternoon.  
Dale

---

**From:** CLARK Gerald E \* WRD <[Gerald.E.Clark@oregon.gov](mailto:Gerald.E.Clark@oregon.gov)>  
**Sent:** Tuesday, July 21, 2020 10:14 AM  
**To:** [dalevconsulting@gmail.com](mailto:dalevconsulting@gmail.com)  
**Cc:** KAVANAGH Kerry L \* WRD <[Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)>  
**Subject:** App T-10948 - Cert RA Project R12708-21 for B & G Resources

Dale,

I was reviewing the certificate documents that Kerry prepared for the above project. Based on my review of the most recent Claim map, I believe that the coordinates for the point of diversion may be in error. It appears to me that the distance west from the section corner is somewhere in the neighborhood of 2100 to 2200 feet.

Could you please check that measurement and update the map if necessary?

Please let me know if you have any additional questions.

Thanks for your help on this project. Have a great day!

Gerry

*Gerry Clark*  
**Oregon Water Resources Department**  
Program Analyst, Certificate Section, Water Right Services Division  
725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-986-0811

KAVANAGH Kerry L \* WRD

---

**From:** CLARK Gerald E \* WRD  
**Sent:** Wednesday, July 22, 2020 6:01 AM  
**To:** dalevconsulting@gmail.com  
**Cc:** KAVANAGH Kerry L \* WRD  
**Subject:** Re: App T-10948 - Cert RA Project R12708-21 for B & G Resources

Dale,

Thanks for looking into this.

Have a great day!

Gerry

Sent from my iPad

On Jul 21, 2020, at 4:15 PM, "dalevconsulting@gmail.com" <dalevconsulting@gmail.com> wrote:

Gerry please disregard my earlier email.

I spent some more time going through my project file for this COBU and found that the coordinates that I used on the original COBU Map were taken from the ODFW fish screen report. At the time, I decided to use those coordinates because this is one of those areas where the bank of the river is very susceptible to movement with spring runoff. During my site visit in September of 2017 it was evident that the POD was being moved to follow the river bank.

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Regards,  
Dale

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**Cc:** KAVANAGH Kerry L \* WRD <[Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)>  
**Subject:** App T-10948 - Cert RA Project R12708-21 for B & G Resources

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Please let me know if you have any additional questions.

Thanks for your help on this project. Have a great day!

Gerry

*Gerry Clark*

**Oregon Water Resources Department**

Program Analyst, Certificate Section, Water Right Services Division

725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-986-0811

KAVANAGH Kerry L \* WRD

---

**From:** KAVANAGH Kerry L \* WRD  
**Sent:** Wednesday, July 01, 2020 10:10 AM  
**To:** ken@kengus.onmicrosoft.com; counsel@water-law.com  
**Cc:** KAVANAGH Kerry L \* WRD  
**Subject:** Certificate RA Agreement R12708-21 for B & G Resources involving transfer application T-10948  
**Attachments:** RA contract executed\_T-10948.pdf; RA contract receipt\_T-10948.pdf

Hello Ken and Sarah,

Attached are copies of the fully executed Applicant's Agreement signed by the required parties and a receipt for the monies paid for these expedited services. The agreement details the terms and conditions that a work order was issued for the expedited services you requested.

If you have any questions, please call me.

Thanks,  
Kerry

**Kerry Kavanagh**

Certificate Reimbursement Authority Program Coordinator  
Certificate Section, Water Rights Services Division  
725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927  
[kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov) | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



OREGON  
WATER  
RESOURCES  
DEPARTMENT

OREGON WATER RESOURCES DEPARTMENT  
CERTIFICATE REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT

Contract Number: R12708-21

This Agreement is between the Oregon Water Resources Department, hereafter OWRD, and B and G Resources, hereafter Applicant, hereafter known together as the parties.

**OWRD Information**

Project Contact: Kerry Kavanagh  
Reimbursement Authority  
Oregon Water Resources Department  
725 Summer Street NE  
Salem, OR 97301-1271  
Phone: 503-986-0927  
Email: [Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)

**Applicant's Information**

Name: Ken Gustafson  
Company: B and G Resources  
Address: 1825 SE St. Andrews Dr  
Portland, OR 97202  
Phone: 503-310-2302  
Email\*: [ken@kengus.onmicrosoft.com](mailto:ken@kengus.onmicrosoft.com)

**Applicant's Representative**

Name: Sarah Liljefelt  
Title: Representative  
Company: Schroeder Law Offices  
Address: 1915 NE Cesar E Chavez Blvd  
Portland, OR 97212  
Phone: 503-281-4100  
Email\*: [counsel@water-law.com](mailto:counsel@water-law.com)

\*By providing an Email address, consent is given to receive all correspondence electronically. (Paper copies of the certificate and final order documents will also be mailed.)

- Purpose.** The purpose of this Agreement is to expedite the processing of the Claim of Beneficial Use. (Transfer Application Number: T-10948)
- Authority.** ORS 536.055 authorizes the OWRD 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.
- Restrictions.** B and G Resources 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.
- 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 has been received by OWRD.
- Consideration.** B and G Resources shall pay OWRD in advance for actual costs incurred by OWRD. B and G Resources agree to pay the full amount of \$1929 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. The costs stated in this Agreement do not include the cost of processing and filing fees.
- Confidentiality.** B and G Resources agree that any information under this Agreement will be subject to the Oregon Public Records Act.
- Indemnity.** Applicant shall defend, save, hold harmless, and indemnify OWRD and their officers, employees, and agents from and against all claims, damages, liabilities, costs and expenses of any nature resulting from or arising out of the performance of the Agreement or of Applicant or its representatives, officers, employees, contractors, agents or subcontractors 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.

RECEIVED

JUN 25 2020

OWRD

PCA 47126



OREGON  
WATER  
RESOURCES  
DEPARTMENT

OREGON WATER RESOURCES DEPARTMENT  
CERTIFICATE REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT

Contract Number: R12708-21

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**OWRD Information**

Project Contact: Kerry Kavanagh  
Reimbursement Authority  
Oregon Water Resources Department  
725 Summer Street NE  
Salem, OR 97301-1271  
Phone: 503-986-0927  
Email: [Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)

**Applicant's Information**

Name: Ken Gustafson  
Company: B and G Resources  
Address: 1825 SE St. Andrews Dr  
Portland, OR 97202  
Phone: 503-310-2302  
Email\*: [ken@kengus.onmicrosoft.com](mailto:ken@kengus.onmicrosoft.com)

**Applicant's Representative**

Name: Sarah Liljefelt  
Title: Representative  
Company: Schroeder Law Offices  
Address: 1915 NE Cesar E Chavez Blvd  
Portland, OR 97212  
Phone: 503-281-4100  
Email\*: [counsel@water-law.com](mailto:counsel@water-law.com)

\*By providing an Email address, consent is given to receive all correspondence electronically. (Paper copies of the certificate and final order documents will also be mailed.)

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3. **Restrictions.** B and G Resources 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.
4. **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 has been received by OWRD.
5. **Consideration.** B and G Resources shall pay OWRD in advance for actual costs incurred by OWRD. B and G Resources agree to pay the full amount of \$1929 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. The costs stated in this Agreement do not include the statutory application processing and filing fees.
6. **Confidentiality.** B and G Resources agree 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.
7. **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.

PCA 47126

8. **Termination.** Applicant may request to terminate this agreement only in writing at any time during the process. The Applicant agrees to pay for the work done by the Reimbursement Authority personnel up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance after paying the Reimbursement Authority personnel for the work done.
9. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certifies that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
10. **Duration of Estimate.** The Estimate of Time to complete the work is no later than one hundred and twenty days (120) days once this Agreement has been fully executed and payment of the estimated cost deposited. However, this estimate is contingent on the Applicant's expeditious resolution of any deficiency and may be affected by the Department's work load. This Estimate of Time may become null and void after thirty (30) days from the date the Applicant's Agreement is mailed. 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.
11. **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.
12. **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.
13. **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.
14. **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.

Applicant: *Sarah Liljefel*  
 Name: Sarah Liljefel  
 Title: Agent for B and G Resources c/o Ken Gustafson  
 Company: Schroeder Law Offices  
 Date: June 23, 2020

For OWRD: *K Kavanagh*  
 Name: Kerry Kavanagh  
 Water Right Services Division  
 Date: 7-1-2020

Mail signed Agreement to:

Kerry Kavanagh  
 Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, OR 97301-1271

PCA 47126

Laura A. Schroeder  
Oregon, Idaho,  
Nevada, Washington & Utah

Therese A. Ure  
Oregon & Nevada

Sarah R. Liljefelt  
Oregon,  
California & Utah



**SCHROEDER**  
LAW OFFICES, P.C.

William F. Schroeder  
(1928 - 2015)

Wyatt E. Rolfe  
Of Counsel  
Oregon & Washington

James Browitt  
Of Counsel  
Idaho & Washington

June 23, 2020

**VIA U.S. MAIL**

RECEIVED

JUN 25 2020

Oregon Water Resources Department  
Certificate Reimbursement Authority Program  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

OWRD

**RE: Certificate Reimbursement Authority Applicant's Agreement  
Transfer T-10948; Contract No. R12708-21**

To Whom it May Concern:

Enclosed please find the Certificate Reimbursement Authority Applicant's Agreement for Transfer T-10948 (Contract No. R12708-21). Also enclosed is a check in the amount of \$1,929.00 as advance payment of the estimated cost.

Please contact our office at (503) 281-4100 with any questions or if anything further is needed to commence work.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

A handwritten signature in blue ink, appearing to read 'Sarah R. Liljefelt', written in a cursive style.

Sarah R. Liljefelt

SRL:rsh

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

10615 Double R Boulevard, Suite 100, Reno, Nevada 89521 (775) 786-8800

www.water-law.com counsel@water-law.com



WATER RESOURCES DEPARTMENT

RECEIPT # 132889

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

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

RECEIVED FROM: B + G Resources Inc. APPLICATION \_\_\_\_\_  
 BY: \_\_\_\_\_ PERMIT \_\_\_\_\_  
 CASH:  CHECK # 1806 OTHER: (IDENTIFY) \_\_\_\_\_ TRANSFER T-10948  
 TOTAL REC'D \$1,929.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47126 R 12708-21 \$ \_\_\_\_\_  
0413 OTHER: (IDENTIFY) Cert. Reimbursement Auth. \$ 1,929.00  
 0243 \_\_\_\_\_ 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 (FWWRD) \_\_\_\_\_ \$ \_\_\_\_\_  
 0231 HYDRO LICENSE FEE (FWWRD) \_\_\_\_\_ \$ \_\_\_\_\_  
 HYDRO APPLICATION \_\_\_\_\_ \$ \_\_\_\_\_

TREASURY OTHER / RDX

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

RECEIPT: **132889** DATE: 6-25-2020 BY: [Signature]

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal



OREGON  
WATER  
RESOURCES  
DEPARTMENT

OREGON WATER RESOURCES DEPARTMENT  
CERTIFICATE REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT  
Contract Number: R12708-21

This Agreement is between the Oregon Water Resources Department, hereafter OWRD, and B and G Resources, hereafter Applicant, hereafter known together as the parties.

**OWRD Information**

Project Contact: Kerry Kavanagh  
Reimbursement Authority  
Oregon Water Resources Department  
725 Summer Street NE  
Salem, OR 97301-1271  
Phone: 503-986-0927  
Email: [Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)

**Applicant's Information**

Name: Ken Gustafson  
Company: B and G Resources  
Address: 1825 SE St. Andrews Dr  
Portland, OR 97202  
Phone: 503-310-2302  
Email\*: [ken@kengus.onmicrosoft.com](mailto:ken@kengus.onmicrosoft.com)

**Applicant's Representative**

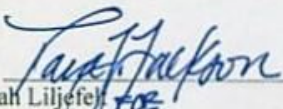
Name: Sarah Liljefelt  
Title: Representative  
Company: Schroeder Law Offices  
Address: 1915 NE Cesar E Chavez Blvd  
Portland, OR 97212  
Phone: 503-281-4100  
Email\*: [counsel@water-law.com](mailto:counsel@water-law.com)


\*By providing an Email address, consent is given to receive all correspondence electronically. (Paper copies of the certificate and final order documents will also be mailed.)

1. **Purpose.** The purpose of this Agreement is to expedite the processing of the Claim of Beneficial Use. (Transfer Application Number: T-10948)
2. **Authority.** ORS 536.055 authorizes the OWRD 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.
3. **Restrictions.** B and G Resources 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.
4. **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 has been received by OWRD.
5. **Consideration.** B and G Resources shall pay OWRD in advance for actual costs incurred by OWRD. B and G Resources agree to pay the full amount of **\$1929** 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. The costs stated in this Agreement do not include the statutory application processing and filing fees.
6. **Confidentiality.** B and G Resources agree 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.
7. **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.

PCA 47126

8. **Termination.** Applicant may request to terminate this agreement only in writing at any time during the process. The Applicant agrees to pay for the work done by the Reimbursement Authority personnel up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance after paying the Reimbursement Authority personnel for the work done.
9. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certifies that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
10. **Duration of Estimate.** The Estimate of Time to complete the work is no later than one hundred and twenty days (120) days once this Agreement has been fully executed and payment of the estimated cost deposited. However, this estimate is contingent on the Applicant's expeditious resolution of any deficiency and may be affected by the Department's work load. This Estimate of Time may become null and void after thirty (30) days from the date the Applicant's Agreement is mailed. 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.
11. **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.
12. **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.
13. **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.
14. **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.

Applicant:   
 Name: Sarah Liljefel  
 Title: Agent for B and G Resources c/o Ken Gustafson  
 Company: Schroeder Law Offices  
 Date: June 23, 2020

For OWRD:   
 Name: Kerry Kavanagh  
 Water Right Services Division  
 Date: 7-1-2020

Mail signed Agreement to:

Kerry Kavanagh  
 Oregon Water Resources Department  
 725 Summer Street NE, Suite A  
 Salem, OR 97301-1271

PCA 47126

Laura A. Schroeder  
Oregon, Idaho,  
Nevada, Washington & Utah

Therese A. Ure  
Oregon & Nevada

Sarah R. Liljefelt  
Oregon,  
California & Utah



**SCHROEDER**  
LAW OFFICES, P.C.

William F. Schroeder  
(1928 - 2015)

Wyatt E. Rolfe  
Of Counsel  
Oregon & Washington

James Browitt  
Of Counsel  
Idaho & Washington

June 23, 2020

*VIA U.S. MAIL*

RECEIVED

Oregon Water Resources Department  
Certificate Reimbursement Authority Program  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

JUN 25 2020

OWRD

**RE: Certificate Reimbursement Authority Applicant's Agreement  
Transfer T-10948; Contract No. R12708-21**

To Whom it May Concern:

Enclosed please find the Certificate Reimbursement Authority Applicant's Agreement for Transfer T-10948 (Contract No. R12708-21). Also enclosed is a check in the amount of \$1,929.00 as advance payment of the estimated cost.

Please contact our office at (503) 281-4100 with any questions or if anything further is needed to commence work.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

Sarah R. Liljefelt

SRL:rsh

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

10615 Double R Boulevard, Suite 100, Reno, Nevada 89521 (775) 786-8800

www.water-law.com counsel@water-law.com

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **132889**

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

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

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

RECEIVED FROM: B & G Resources Inc.  
 BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	<u>T-10948</u>

CASH:  CHECK # X 1806 OTHER: (IDENTIFY)

TOTAL REC'D \$ 1,929.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES 47126 R 12708-21 \$ \_\_\_\_\_  
0413 OTHER: (IDENTIFY) Cert. Reimbursement Auth. \$ 1,929.00

0243 Use \_\_\_\_\_ 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 \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **132889**

DATE: 6-25-2020 BY: [Signature]

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **132889**

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

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

RECEIVED FROM: B & G Resources Inc. APPLICATION \_\_\_\_\_  
 BY: \_\_\_\_\_ PERMIT \_\_\_\_\_  
 TRANSFER 7-10948

CASH:  CHECK # 1806 OTHER: (IDENTIFY)  \_\_\_\_\_  
 TOTAL REC'D \$ 1,929.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES 47126 \$ \_\_\_\_\_  
 OTHER: (IDENTIFY) Cert. Reimbursement Acct \$ 1,929.00  
DA13 R 12708-21

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:**

		<b>EXAM FEE</b>		<b>RECORD FEE</b>
0201	SURFACE WATER	\$	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

**WELL CONSTRUCTION**

		<b>EXAM FEE</b>		<b>LICENSE FEE</b>
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 \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **132889** DATED 10-25-2020 BY: [Signature]

KAVANAGH Kerry L \* WRD

---

**From:** KAVANAGH Kerry L \* WRD  
**Sent:** Monday, June 08, 2020 11:47 AM  
**To:** HAGE Trisha \* WRD  
**Cc:** KAVANAGH Kerry L \* WRD  
**Subject:** RE: Certificate Request

Hi Trisha,

Vicki Z had already changed the certificate RA project number to R12708-21 for this one.

Kerry

---

**From:** HAGE Trisha \* WRD <Trisha.Hage@oregon.gov>  
**Sent:** Monday, June 08, 2020 11:44 AM  
**To:** KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>  
**Subject:** FW: Certificate Request

Hi Kerry,

I was having a round day last Tuesday this certificate number was sent wrong too sorry. It should have been R12708-21

Thanks,

Trisha

---

**From:** HAGE Trisha \* WRD  
**Sent:** Tuesday, June 02, 2020 11:41 AM  
**To:** ZIELINSKI Vicki J \* WRD <Vicki.J.Zielinski@oregon.gov>  
**Cc:** HALL Kimberly D \* WRD <Kimberly.D.Hall@oregon.gov>; KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>; SUMPTION Mishelle K \* WRD <Mishelle.K.Sumption@oregon.gov>; PHILLIPS Samantha J \* WRD <Samantha.J.Phillips@oregon.gov>; SNYDER Lisa J \* WRD <Lisa.J.Snyder@oregon.gov>  
**Subject:** RE: Certificate Request

Hi Vicki,

Please use R120708-21 and PCA 47126.

Thanks,

Trisha

---

**From:** ZIELINSKI Vicki J \* WRD <Vicki.J.Zielinski@oregon.gov>  
**Sent:** Tuesday, June 02, 2020 9:49 AM  
**To:** HAGE Trisha \* WRD <Trisha.Hage@oregon.gov>  
**Cc:** HALL Kimberly D \* WRD <Kimberly.D.Hall@oregon.gov>; KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>; SUMPTION Mishelle K \* WRD <Mishelle.K.Sumption@oregon.gov>; PHILLIPS Samantha J \* WRD <Samantha.J.Phillips@oregon.gov>; SNYDER Lisa J \* WRD <Lisa.J.Snyder@oregon.gov>  
**Subject:** Certificate Request

Hello,

Applicant: B and G Resources c/o Ken Gustafson

Application: T-10948

Receipt: 132531

Thank you!

Vicki J. Zielinski

Receptionist, Administrative Services Division

725 Summer St NE Suite A | Salem OR 97301 | Phone 503-986-0928



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



**KAVANAGH Kerry L \* WRD**

---

**From:** KAVANAGH Kerry L \* WRD  
**Sent:** Monday, June 08, 2020 11:05 AM  
**To:** ken@kengus.onmicrosoft.com; counsel@water-law.com  
**Cc:** KAVANAGH Kerry L \* WRD  
**Subject:** Certificate RA Estimate R12708-21 for B and Resources c/o Ken Gustafson involving transfer application T-10948  
**Attachments:** RA estimate request\_T-10948.pdf; RA estimate receipt\_T-10948.pdf; RA contract\_T-10948.pdf

Hello Ken and Sarah,

Please find the attached estimate and agreement to review the claim of beneficial use. If the proposed agreement is acceptable to you, please return a signed copy to our office along with the payment of the estimated cost to review the claim of beneficial use.

If you have any questions, please call me today, June 8, 2020, until 4:15 pm or you may send me an email at [kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov)

Thanks,  
Kerry

***Kerry Kavanagh***

Certificate Reimbursement Authority Program Coordinator  
Certificate Section, Water Rights Services Division  
725 Summer St NE Suite A | Salem OR 97301 | 503.986.0927  
[kerry.l.kavanagh@oregon.gov](mailto:kerry.l.kavanagh@oregon.gov) | <https://www.oregon.gov/OWRD>



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



OREGON  
WATER  
RESOURCES  
DEPARTMENT

OREGON WATER RESOURCES DEPARTMENT  
CERTIFICATE REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT  
Contract Number: R12708-21

This Agreement is between the Oregon Water Resources Department, hereafter OWRD, and B and G Resources, hereafter Applicant, hereafter known together as the parties.

**OWRD Information**

Project Contact: Kerry Kavanagh  
Reimbursement Authority  
Oregon Water Resources Department  
725 Summer Street NE  
Salem, OR 97301-1271  
Phone: 503-986-0927  
Email: [Kerry.L.Kavanagh@oregon.gov](mailto:Kerry.L.Kavanagh@oregon.gov)

**Applicant's Information**

Name: Ken Gustafson  
Company: B and G Resources  
Address: 1825 SE St. Andrews Dr  
Portland, OR 97202  
Phone: 503-310-2302  
Email\*: [ken@kengus.onmicrosoft.com](mailto:ken@kengus.onmicrosoft.com)

**Applicant's Representative**

Name: Sarah Liljefelt  
Title: Representative  
Company: Schroeder Law Offices  
Address: 1915 NE Cesar E Chavez Blvd  
Portland, OR 97212  
Phone: 503-281-4100  
Email\*: [counsel@water-law.com](mailto:counsel@water-law.com)

\*By providing an Email address, consent is given to receive all correspondence electronically. (Paper copies of the certificate and final order documents will also be mailed.)

- 1. Purpose.** The purpose of this Agreement is to expedite the processing of the Claim of Beneficial Use. (Transfer Application Number: T-10948)
- 2. Authority.** ORS 536.055 authorizes the OWRD 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.
- 3. Restrictions.** B and G Resources 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.
- 4. 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 has been received by OWRD.
- 5. Consideration.** B and G Resources shall pay OWRD in advance for actual costs incurred by OWRD. B and G Resources agree to pay the full amount of ~~\$1929~~ 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. The costs stated in this Agreement do not include the statutory application processing and filing fees.
- 6. Confidentiality.** B and G Resources agree 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.
- 7. 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.

PCA 47126

8. **Termination.** Applicant may request to terminate this agreement only in writing at any time during the process. The Applicant agrees to pay for the work done by the Reimbursement Authority personnel up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance after paying the Reimbursement Authority personnel for the work done.
9. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certifies that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
10. **Duration of Estimate.** The Estimate of Time to complete the work is no later than one hundred and twenty days (120) days once this Agreement has been fully executed and payment of the estimated cost deposited. However, this estimate is contingent on the Applicant's expeditious resolution of any deficiency and may be affected by the Department's work load. This Estimate of Time may become null and void after thirty (30) days from the date the Applicant's Agreement is mailed. 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.
11. **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.
12. **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.
13. **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.
14. **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.

Applicant: \_\_\_\_\_  
Name: Sarah Liljefelt  
Title: Agent for B and G Resources c/o Ken Gustafson  
Company: Schroeder Law Offices  
Date: \_\_\_\_\_

For OWRD: \_\_\_\_\_  
Name: Kerry Kavanagh  
Water Right Services Division  
Date: \_\_\_\_\_

Mail signed Agreement to:

**Kerry Kavanagh**  
**Oregon Water Resources Department**  
**725 Summer Street NE, Suite A**  
**Salem, OR 97301-1271**

PCA 47126



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

ORS 536.055 authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement.

The purpose of this application is to obtain estimates of the cost and time required to process a Certificate Request. A separate estimate application is required for each application and/or transfer number. There is a non-refundable application fee of \$125.00 per request.

<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
<input checked="" type="checkbox"/>	Certificate Request	Application Number _____ Permit Number _____ Transfer Number/Permit Amendment (if applicable) T-10948

	<u>Applicant Information</u>	<u>Applicant's Representative/Contact</u>
Name:	B and G Resources c/o Ken Gustafson	Schroeder Law Offices
Address:	1825 SE St. Andrews Dr. Portland, OR 97202	1915 NE Cesar E Chavez Blvd Portland, OR 97212
Phone:	503-310-2302	503-281-4100
Fax:	_____	_____
E-Mail Address:	ken@kengus.onmicrosoft.com	counsel@water-law.com

I certify that I (check one):

- I have previously filed a Claim of Beneficial Use  
 I am attaching the Claim of Beneficial Use with this request and have included the appropriate claim fee.

I understand the following:

- That upon receipt of my non-refundable application fee in the amount of **\$ 125.00**, OWRD will, within fourteen (14) days, notify me in writing of the estimates of cost 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 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 Claim of Beneficial Use 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  
Certificate 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: Sarah Liljefelt

*Sarah Liljefelt*

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

RECEIVED

MAY 18 2020

OWRD

**OWRD USE ONLY: Reimbursement Authority Number: R12 708-21**

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **132531**

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

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

RECEIVED FROM: Schroeder Law Offices  
 BY: P.C.

APPLICATION	
PERMIT	
TRANSFER	<u>T-10948</u>

CASH:  CHECK # 129020 OTHER: (IDENTIFY)

TOTAL REC'D \$ 125.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	<u>47126</u>		\$
0413 OTHER:	(IDENTIFY) <u>R-12, 708-21</u>		\$ <u>125.00</u>
		<u>Cert. Reimbursement Authority</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 (FWWRD)		\$
0231	HYDRO LICENSE FEE (FWWRD)		\$
	HYDRO APPLICATION		\$

**TREASURY OTHER / RDX**

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

RECEIPT: **132531**

DATED: 5-18-2020 BY: [Signature]

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

**KAVANAGH Kerry L \* WRD**

---

**From:** HAGE Trisha \* WRD  
**Sent:** Tuesday, June 02, 2020 11:41 AM  
**To:** ZIELINSKI Vicki J \* WRD  
**Cc:** HALL Kimberly D \* WRD; KAVANAGH Kerry L \* WRD; SUMPTION Michelle K \* WRD; PHILLIPS Samantha J \* WRD; SNYDER Lisa J \* WRD  
**Subject:** RE: Certificate Request

Hi Vicki,

Please use R120708-21 and PCA 47126.

Thanks,  
Trisha

---

**From:** ZIELINSKI Vicki J \* WRD <Vicki.J.Zielinski@oregon.gov>  
**Sent:** Tuesday, June 02, 2020 9:49 AM  
**To:** HAGE Trisha \* WRD <Trisha.Hage@oregon.gov>  
**Cc:** HALL Kimberly D \* WRD <Kimberly.D.Hall@oregon.gov>; KAVANAGH Kerry L \* WRD <Kerry.L.Kavanagh@oregon.gov>; SUMPTION Michelle K \* WRD <Michelle.K.Sumption@oregon.gov>; PHILLIPS Samantha J \* WRD <Samantha.J.Phillips@oregon.gov>; SNYDER Lisa J \* WRD <Lisa.J.Snyder@oregon.gov>  
**Subject:** Certificate Request

Hello,

**Applicant:** B and G Resources c/o Ken Gustafson

**Application:** T-10948

**Receipt:** 132531

Thank you!

Vicki J. Zielinski

Receptionist, Administrative Services Division  
725 Summer St NE Suite A | Salem OR 97301 | Phone 503-986-0928



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



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

*ORS 536.055 authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement.*

*The purpose of this application is to obtain estimates of the cost and time required to process a Certificate Request. A separate estimate application is required for each application and/or transfer number. There is a non-refundable application fee of \$125.00 per request.*

<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
<input checked="" type="checkbox"/>	Certificate Request	Application Number _____ Permit Number _____ Transfer Number/Permit Amendment (if applicable) <u>T-10948</u>

	<u>Applicant Information</u>	<u>Applicant's Representative/Contact</u>
Name:	<u>B and G Resources c/o Ken Gustafson</u>	<u>Schroeder Law Offices</u>
Address:	<u>1825 SE St. Andrews Dr.</u> <u>Portland, OR 97202</u>	<u>1915 NE Cesar E Chavez Blvd</u> <u>Portland, OR 97212</u>
Phone:	<u>503-310-2302</u>	<u>503-281-4100</u>
Fax:	_____	_____
E-Mail Address:	<u>ken@kengus.onmicrosoft.com</u>	<u>counsel@water-law.com</u>

I certify that I (check one):

- have previously filed a Claim of Beneficial Use
- am attaching the Claim of Beneficial Use with this request and have included the appropriate claim fee.

I understand the following:

- That upon receipt of my non-refundable application fee in the amount of **\$ 125.00**, OWRD will, within fourteen (14) days, notify me in writing of the estimates of cost 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 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 Claim of Beneficial Use 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  
Certificate 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: Sarah Liljefelt

*Sarah Liljefelt*

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

**RECEIVED**

**MAY 18 2020**

**OWRD**

**OWRD USE ONLY: Reimbursement Authority Number: R12 708-21**

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

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

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

RECEIPT # **132531**

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

RECEIVED FROM: Schroeder Law Offices,  
 BY: P.C.

APPLICATION	
PERMIT	
TRANSFER	T-10948

CASH:  CHECK # 29020 OTHER: (IDENTIFY)

TOTAL REC'D \$ 125.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407	COPIES	<u>47126</u>		\$
<u>0413</u>	OTHER:	(IDENTIFY) <u>Cert. Reimbursement Authority</u>	<u>R-12, 708-21</u>	\$ <u>125.00</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		\$
<b>WATER RIGHTS:</b>		<b>EXAM FEE</b>	<b>RECORD FEE</b>
0201	SURFACE WATER	\$	0202 \$
0203	GROUND WATER	\$	0204 \$
0205	TRANSFER	\$	
<b>WELL CONSTRUCTION</b>		<b>EXAM FEE</b>	<b>LICENSE FEE</b>
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 \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **132531**

DATED: 5-18-2020 [Signature]



STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **132531**

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

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

RECEIVED FROM: Schroeder Law Offices,

BY: P.C.

APPLICATION

PERMIT

TRANSFER T-10948

CASH:  CHECK #  29020 OTHER: (IDENTIFY)

TOTAL REC'D \$ 125.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES 47126

OTHER: 0413

(IDENTIFY) Ret. 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 \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **132531**

DATED: 5-18-2020 BY: [Signature]

170.00 Oregon Water Resources Department  
05/14/2020 Reimbursement Authority App.  
T-10948

REIMBURSE

125.00

125.00

RECEIVED

MAY 18 2020

OWRD

05/14/2020

29020

Gross:

125.00

Ded:

0.00 Net:

125.00

Laura A. Schroeder  
Oregon, Idaho,  
Nevada, Washington & Utah

Therese A. Ure  
Oregon & Nevada

Sarah R. Liljefelt  
Oregon,  
California & Utah



**SCHROEDER**  
LAW OFFICES, P.C.

William F. Schroeder  
(1928 - 2015)

Wyatt E. Rolfe  
Of Counsel  
Oregon & Washington

James Browitt  
Of Counsel  
Idaho & Washington

May 14, 2020

RECEIVED

MAY 18 2020

OWRD

VIA U.S. MAIL

Oregon Water Resources Department  
Certificate Reimbursement Authority Program  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

**RE: Certificate Reimbursement Authority Estimate Application  
Transfer T-10948**

To Whom It May Concern:

Enclosed please find the Certificate Reimbursement Authority Estimate Application for Transfer T-10948, and our firm check No. 29020 in the amount of \$125.00 constituting payment of the application fee.

Please contact our office at (503) 281-4100 with any questions or if anything further is needed to complete this application.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

Sarah R. Liljefelt

SRL:rsh

Enclosures

cc: Client

Portland OR  
office

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97232

10615 Double R Boulevard, Suite 100, Reno, Nevada 89521

www.water-law.com counsel@water-law.com

Laura A. Schroeder  
Oregon, Idaho,  
Nevada, Washington & Utah

Therese A. Ure  
Oregon & Nevada

Sarah R. Liljefelt  
Oregon,  
California & Utah



**SCHROEDER**  
LAW OFFICES, P.C.

William F. Schroeder  
(1928 - 2015)

Wyatt E. Rolfe  
Of Counsel  
Oregon & Washington

James Browitt  
Of Counsel  
Idaho & Washington

May 14, 2020

RECEIVED

MAY 18 2020

OWRD

VIA U.S. MAIL

Oregon Water Resources Department  
Certificate Reimbursement Authority Program  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

**RE: Certificate Reimbursement Authority Estimate Application  
Transfer T-10948**

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Please contact our office at (503) 281-4100 with any questions or if anything further is needed to complete this application.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

Sarah R. Liljefelt

SRL:rsh

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

10615 Double R Boulevard, Suite 100, Reno, Nevada 89521 (775) 786-8800

www.water-law.com counsel@water-law.com



# Oregon

Kate Brown, 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.wrd.state.or.us](http://www.wrd.state.or.us)

October 18, 2016

KENNETH G. GUSTAFSON  
5200 SW MACADAM SUITE 470  
PORTLAND, OR 97201

Reference: File T-10948

We have received your application for extension of the time limit to make complete application of water under T-10948. We also have your check in the amount of \$575.00. A copy of receipt number 121479 is enclosed.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to 10/1/2017. The order approving the extension was entered 10/17/2016, at Volume 103, Page 133.

The time allowed to complete the transfer is specified in the final order. You should give particular attention to the time limit. The water right for any portion of the authorized change in character of use or change in place of use not carried out within the time allowed will be lost.

You are required to hire a Certified Water Rights Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized in the extension final order, whichever occurs first.

If you have any questions, please contact the transfer section at 503-986-0808.

Sincerely,

Marissa Andrews

Water Right Services Support

Transfers and Conservation Section

cc: Gregory M. Silbernagel, Watermaster Dist. #5 (via email)  
Landowners (other or receiving)  
Irrigation District

Enclosure



**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE STATE OF OREGON**

In the Matter of Application for Extension )  
of Time for Transfer Application T-10948, ) **FINAL ORDER APPROVING AN**  
Umatilla County ) **EXTENSION OF TIME**

**Applicant**

Kenneth E. Gustafson  
B&G Resources, Inc.  
1825 SE St. Andrews Drive  
Portland, OR 97202

**Authority**

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time for the completion of changes authorized under water right transfer applications.

**Findings of Fact**

1. On September 30, 2016, the Department received an application for extension of time for Transfer Application T-10948.
2. The Department issued an order approving Transfer Application T-10948 on March 21, 2011. The order was recorded in Special Order Volume 83, Pages 839-843. The order set a transfer completion date of October 1, 2012.
3. The Department issued an order approving an extension of time for T-10948 on September 13, 2013. The order was recorded in Special Order Volume 91 Pages 320-321. The order extended the completion date to October 1, 2014.
4. The Department issued a second order approving an extension of time for T-10948 on February 10, 2015. The order was recorded in Special Order Volume 95 Pages 37-38. The order extended the completion date to October 1, 2015.
5. The Department issued a third order approving an extension of time for T-10948 on October 27, 2015. The order was recorded in Special Order Volume 98 Pages 155-156. The order extended the completion date to October 1, 2016.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

6. The applicant has completed installation of a new point of diversion, fish screen and totalizing flow meter. Water has been applied to beneficial use on all but one acre of the authorized place of use. An earth mover operator has been hired to prepare the last acre for application of water to beneficial use.
7. To fully complete the change, the applicant needs to prepare the last acre within the authorized place of use and apply water to beneficial use.
8. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2017.

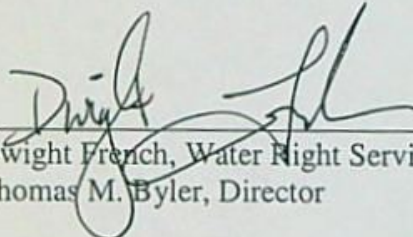
**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10948.

**Now, therefore, it is ORDERED:**

The time for completion of the changes in place of use authorized by Transfer Application T-10948 shall be extended to October 1, 2017.

Dated at Salem, Oregon this 17 day of October, 2016.

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, Director

Mailing date: OCT 21 2016



Transfer T-10948

APPLICATION FOR EXTENSION OF TIME  
FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at [http://www.oregon.gov/owrd/pubs/docs/forms/transfer\\_extension\\_criteriareview.pdf](http://www.oregon.gov/owrd/pubs/docs/forms/transfer_extension_criteriareview.pdf)

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Kenneth E. Gustafson, B&G Resources, Inc.

(Name of Applicant)

of 1825 SE St. Andrews Dr., Portland,  
(Mailing Address) (City)

state of Oregon, 97202, 503-310-2302  
(Zip Code) (Phone Number)

do hereby make application for an extension of time within which to complete a change in:  
point of diversion and place of use

of water under the terms of an order of the Water Resources Director entered on March 21, 2011, approving Transfer T-10948, in the name of B&G Resources, Inc. c/o Kenneth E. Gustafson, for 1) Certificate 80564: changing the place of use for 4.1 acres in T2N R30E Sec. 1 and 12 WM and moving the point of diversion downstream approximately 2400 feet, and 2) Certificate 83483: moving the point of diversion downstream approximately 2400 feet.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expired on October 1, 2016:

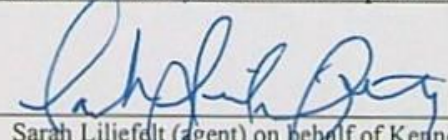
A totalizing flow meter and a fish screen were installed at the new point of diversion. ODFW inspected and approved the fish screen and determined that fish passage is not required. Water was applied to beneficial use on all but one acre of the transferred acreage. An earth mover operator has been hired to prepare the last acre for beneficial use, but they have been unable to complete the work as of submission of this application. Actual use of the portion of the water developed under T-10948 continued during the last extension period.

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:  
One acre of the transferred acreage must be planted and irrigated. This work requires an earth mover operator to prepare the field for planting. The earth mover operator has been hired; however, the operator has not been able to complete the work as of submission of this application.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because I hired an earth mover operator to prepare the last acre within the place of use for planting and irrigating; however, the operator is unable to complete the necessary field preparation prior to October 1, 2016.

And request that the time for completion be extended to October 1, 2017, and the claim of beneficial use shall be submitted within one year after completion.

  
\_\_\_\_\_  
Sarah Liljefelt (agent) on behalf of Kenneth E. Gustafson  
(Signature of applicant)

RECEIVED BY OWRD

SEP 30 2016

SALEM, OR



In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at <http://www.oregon.gov/OWRD/> or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

RECEIVED BY OWRC  
SEP 30 2015  
SALEM, OR

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

RECEIPT # **121479**

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

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

RECEIVED FROM: B+G Resources Inc. APPLICATION \_\_\_\_\_  
 BY: \_\_\_\_\_ PERMIT \_\_\_\_\_  
 TRANSFER T-10948

CASH:  CHECK:# 1749 OTHER: (IDENTIFY)  \_\_\_\_\_  
 TOTAL REC'D \$ 575.00

**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 46110

0407 COPY & TAPE FEES \$ \_\_\_\_\_  
 0410 RESEARCH FEES \$ \_\_\_\_\_  
 0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
 TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_  
 0240 EXTENSION OF TIME \$ 575.00

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**

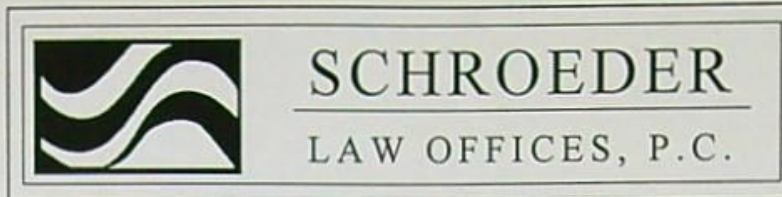
FUND \_\_\_\_\_ TITLE \_\_\_\_\_  
 OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_  
 DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **121479** DATED: 9-30-16 BY: CW

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

Therese A. Ure  
Licensed in Oregon  
and Nevada

William F. Schroeder  
(1928 - 2015)



Sarah R. Liljefelt  
Licensed in Oregon & California

Wyatt E. Rolfe  
Of Counsel  
Licensed in Oregon & Washington

James Browitt  
Of Counsel  
Licensed in Idaho & Washington

September 27, 2016

**VIA U.S. MAIL**

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

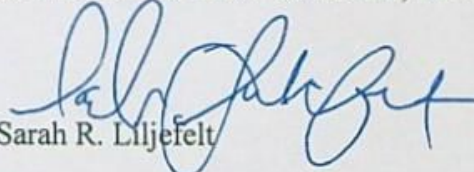
**RE: Application for Extension of Time for Transfer T-10948**

To Whom It May Concern:

Enclosed for filing on behalf of Kenneth E. Gustafson and B & G Resources Inc., please find an Application for Extension of Time for Transfer T-10948 and a check for the \$575.00 filing fee.

Thank you for your assistance with this matter. Please contact our office with any questions or concerns.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

  
Sarah R. Liljefelt

SRL:imt  
Enclosures

cc: Client

RECEIVED BY OWRD

SEP 30 2016

SALEM, OR

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

www.water-law.com counsel@water-law.com



# Oregon

Kate Brown, 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.wrd.state.or.us](http://www.wrd.state.or.us)

November 2, 2015

B&G RESOURCES INC  
KENNETH G. GUSTAFSON  
5200 SW MACADAM SUITE 470  
PORTLAND, OR 97201

Reference: File T-10948

We have received your application for extension of the time limit to make complete application of water under T-10948. We also have your check in the amount of \$575.00. A copy of receipt number 117572 is enclosed.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to October 1, 2016. The order approving the extension was entered October 27, 2015, at Volume 98, Page 155-156.

The time allowed to complete the transfer is specified in the final order. You should give particular attention to the time limit. The water right for any portion of the authorized change in character of use or change in place of use not carried out within the time allowed will be lost.

You are required to hire a Certified Water Rights Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized in the extension final order, whichever occurs first.

If you have any questions, please contact the transfer section at 503-986-0808.

Sincerely,

Bethanie Williamson  
Water Right Services Support  
Transfers and Conservation Section

cc: Gregory M. Silbernagel, Watermaster Dist. #5 (via email)  
Schroeder Law Offices PC

Enclosure

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Application for Extension )  
of Time for Transfer Application T-10948, )  
Umatilla County )

FINAL ORDER APPROVING AN  
EXTENSION OF TIME

**Applicant**

B&G Resources, Inc  
Kenneth E Gustafson  
5200 SW Macadam Ave, Suite 470  
Portland, OR 97239

**Authority**

OAR 690-380-6020 establish an application process and criteria for the review of extensions of time for the completion of changes authorized under water right transfers.

**Findings of Fact**

1. On October 1, 2015, the Department received an application for extension of time for Transfer Application T-10948.
2. The Department issued an order approving Transfer Application T-10948 on March 21, 2011. The order was recorded in Special Order Volume 83 Pages 839-843. The order set a transfer completion date of October 1, 2012.
3. The Department issued an order approving an extension of time for T-10948 on September 13, 2013. The order was recorded in Special Order Volume 91 Pages 320-321. The order extended the completion date to October 1, 2014.
4. The Department issued a second order approving an extension of time for T-10948 on February 10, 2015. The order was recorded in Special Order Volume 95 Pages 37-38. The order extended the completion date to October 1, 2015.
5. The applicant has installed the totalizing flow meter and has had the fish screen approved. Furthermore, water has been applied to beneficial use on all but one acre of the approved transferred acreage.
6. To fully complete the change, the landowner needs to develop and irrigate the remaining acre.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

7. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2016.

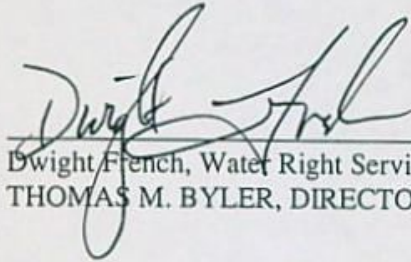
**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10948.

**Now, therefore, it is ORDERED:**

The time for completion of the changes in place of use authorized by T-10948 shall be extended to October 1, 2016.

Dated at Salem, Oregon this 27 day of October, 2015.



\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
THOMAS M. BYLER, DIRECTOR

Mailing date: NOV 03 2015

**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 # **117572**

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

RECEIVED FROM: **B = G Resources Inc.**

APPLICATION \_\_\_\_\_

BY: \_\_\_\_\_

PERMIT \_\_\_\_\_

TRANSFER **T-10948**

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

**1733**  \_\_\_\_\_

TOTAL REC'D \$ **575.00**

**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**

0407 COPY & TAPE FEES **46110** \$ \_\_\_\_\_

0410 RESEARCH FEES \$ \_\_\_\_\_

0408 MISC REVENUE: (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

TC162 DEPOSIT LIAB. (IDENTIFY) \_\_\_\_\_ \$ \_\_\_\_\_

0240 EXTENSION OF TIME \$ **575.00**

**WATER RIGHTS:**

0201 SURFACE WATER \$ \_\_\_\_\_ 0202 \$ \_\_\_\_\_

0203 GROUND WATER \$ \_\_\_\_\_ 0204 \$ \_\_\_\_\_

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

**WELL CONSTRUCTION**

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 (FWWRD) \$ \_\_\_\_\_

0231 HYDRO LICENSE FEE (FWWRD) \$ \_\_\_\_\_

HYDRO APPLICATION \$ \_\_\_\_\_

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_

OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_

DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **117572**

DATED: **10/1/15** BY: *Man...*



APPLICATION FOR EXTENSION OF TIME FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at http://www.oregon.gov/owrd/pubs/docs/forms/transfer\_extension\_criteriareview.pdf

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Kenneth E. Gustafson, B&G Resources, Inc.

(Name of Applicant)

of 5200 SW Macadam Ave, Suite 470, Portland

(Mailing Address)

(City)

state of Oregon, 97239, 503-221-5117

(Zip Code)

(Phone Number)

do hereby make application for an extension of time within which to complete a change in:

point of diversion and place of use

of water under the terms of an order of the Water Resources Director entered on March 21, 2011, approving Transfer T-10948, in the name of B&G Resources, Inc. c/o Kenneth E. Gustafson, for 1) Certificate 80564: changing the place of use for 4.1 acres in T2N R30E Sec. 1 and 12 WM and moving the point of diversion downstream approximately 2400 feet, and 2) Certificate 83483: moving the point of diversion downstream approximately 2400 feet.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expired on October 1, 2015:

A totalizing flow meter and a fish screen were installed at the new point of diversion. ODFW inspected and approved the fish screen and determined that fish passage is not required. Water was applied to beneficial use on all but one acre of the transferred acreage. Reasonable efforts were made in 2014 and 2015 to hire an earth mover operator to prepare the last acre for beneficial use, but fire season monopolized the use of such equipment in both years. Actual use of the portion of the water developed under T-10948 continued during the last extension period.

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:

One acre of the transferred acreage must be planted and irrigated, including hiring an earth mover operator to prepare the field for planting.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because I was unable to hire an earth mover operator to prepare the last acre within the place of use for planting and irrigating due to early onset of fire season and the demands for such equipment for fighting fires. The monopolization of the necessary equipment could not have been anticipated or prevented. Additionally, unusually hot and dry weather conditions were not favorable for developing the last acre, and the necessary water was not available because my water use was regulated off by OWRD during the 2015 irrigation season.

And request that the time for completion be extended to October 1, 2016, and the claim of beneficial use shall be submitted within one year after completion.

Handwritten signature of Kenneth E. Gustafson

(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at http://www.oregon.gov/OWRD/ or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO: Water Resources Department 725 Summer Street NE, Suite A Salem, OR 97301-1271

RECEIVED BY OWRD

OCT 01 2015

SALEM, OR



Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

Therese A. Ure  
Licensed in Oregon  
and Nevada

William F. Schroeder  
Of Counsel to the Firm



**SCHROEDER**  
LAW OFFICES, P.C.

Sarah R. Liljefelt  
Licensed in Oregon & California

Wyatt E. Rolfe  
Of Counsel  
Licensed in Oregon & Washington

Matthew J. Curti  
Licensed in Nevada & California

September 30, 2015

**VIA US EXPRESS MAIL**

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

**RE: Application for Extension of Time for Transfer T-10948**

To Whom It May Concern:

Enclosed for filing on behalf of Kenneth E. Gustafson and B & G Resources Inc., please find an Application for Extension of Time for Transfer of Water Right for Transfer T-10948 and a check for the \$575.00 filing fee.

Thank you for your assistance with this matter. Please contact our office with any questions of concerns.

Very truly yours,  
SCHROEDER LAW OFFICES, P.C.

Katie Elder  
Paralegal

KME:srl

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

www.water-law.com counsel@water-law.com

(P0317163, 0071.00 KME)

RECEIVED BY OWRD

ACT 01 2015

SALEM, OR

**BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON**

In the Matter of Extension of Time            )     FINAL ORDER APPROVING AN  
Application for Transfer T-10948,            )     EXTENSION OF TIME  
Umatilla County                                )

**Authority**

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time for the completion of changes authorized under water right transfers.

**Transfer Applicant**

B & G Resources, Inc.  
c/o Kenneth E. Gustafson  
5200 SW Macadam Ave., Suite 470  
Portland, OR 97239

**Agent**

Schroeder Law Offices, PC  
Cortney D. Duke  
1915 NE Cesar E. Chavez Blvd.  
Portland, OR 97212

**Findings of Fact**

1. On October 1, 2014, the Department received an application for extension of time for water right Transfer Application T-10948 from Kenneth E. Gustafson, on behalf of B & G Resources, Inc.
2. The Water Resources Department issued an order on March 21, 2011 approving Transfer Application T-10948 in the name of B & G Resources. The order was recorded in Special Order Volume 83, at Pages 839 – 843. The order set a transfer completion date of October 1, 2012.
3. On August 28, 2013, the Department received an application for extension of time for water right transfer application T-10948.
4. The Water Resources Department issued an order approving the extension of time for water right Transfer Application T-10948 on September 13, 2013. The order was recorded in Special Order Volume 91, at Pages 320-321. The order set the completion date of October 1, 2014.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

5. The applicant has completed the installation of a totalizing flow meter and has had the fish screen approved. Furthermore, water has been applied to beneficial use on all but one acre of the approved transferred acreage.
6. The applicant was unable to procure equipment needed to develop the remaining acre due to equipment shortages caused by an early fire season.
7. To fully complete the change, it will be necessary for the applicant to develop and irrigate the remaining acre.
8. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2015.

**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10948 and the requested time is reasonable.

**Now, therefore, it is ORDERED:**

The time for completion of beneficial use authorized by T-10948 shall be extended to October 1, 2015.

Dated at Salem, Oregon this 10 day of February, 2015

  
\_\_\_\_\_  
Dwight French, Water Right Services Administrator, for  
Thomas M. Byler, DIRECTOR

Mailing date: FEB 12 2015



APPLICATION FOR EXTENSION OF TIME FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at http://www.oregon.gov/owrd/pubs/docs/forms/transfer\_extension\_criteriareview.pdf

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Kenneth E. Gustafson, B&G Resources, Inc.

(Name of Applicant)

of 5200 SW Macadam Ave, Suite 470,

(Mailing Address)

Portland

(City)

state of Oregon.

97239,

(Zip Code)

503-221-5117

(Phone Number)

do hereby make application for an extension of time within which to complete a change in:

point of diversion and place of use

of water under the terms of an order of the Water Resources Director entered on March 21, 2011, approving Transfer T-10948, in the name of B&G Resources, Inc. c/o Kenneth E. Gustafson, for 1) Certificate 80564: changing the place of use for 4.1 acres in T2N R30E Sec. 1 and 12 WM and moving the point of diversion downstream approximately 2400 feet, and 2) Certificate 83483: moving the point of diversion downstream approximately 2400 feet.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expires on October 1, 2014:

A totalizing flow meter and a fish screen were installed at the new point of diversion. ODFW inspected and approved the fish screen and determined that fish passage is not required. The ODFW Fish Screen Inspection Form is attached for reference. Water was applied to beneficial use on all but one acre of the transferred acreage. Reasonable efforts were made in 2014 to hire an earth mover operator to prepare the last acre for beneficial use, but fire season monopolized the use of such equipment in 2014. Actual use of the portion of the water developed under T-10948 continued during the last extension period.

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:

One acre of the transferred acreage must be planted and irrigated, including hiring an earth mover operator to prepare the field for planting.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because I was unable to hire an earth mover operator to prepare the last acre within the place of use for planting and irrigating due to the early onset of fire season and the demands for such equipment for fighting fires. The monopolization of the necessary equipment could not have been anticipated or prevented.

And request that the time for completion be extended to October 1, 2015, and the claim of beneficial use shall be submitted within one year after completion.

Handwritten signature of Kenneth E. Gustafson, Treas.

(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at http://www.oregon.gov/OWRD/ or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

RECEIVED

OCT 01 2014

WATER RESOURCES DEPT
SALEM, OREGON



# Oregon

John A. Kitzhaber, MD, 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.wrd.state.or.us](http://www.wrd.state.or.us)

February 12, 2015

B&G Resources Inc.  
c/o Kenneth E. Gustafson  
5200 SW Macadam Ave., Suite 470  
Portland, OR 97239

Reference: File T-10948

We have received your application for extension of the time limit to make complete application of water under T-10948. We also have your check in the amount of \$575.00. You have already received a copy of receipt number 113583.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to October 2, 2015. The order approving the extension was entered February 10, 2015, at Volume 95, Page 37-38.

If you have any questions, please contact the transfer section at 503-986-0808.

Sincerely,

Bethanie Williamson  
Water Right Services Support  
Transfers and Conservation Section

enclosure



Transfer T-10948

APPLICATION FOR EXTENSION OF TIME  
FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at [http://www.oregon.gov/owrd/pubs/docs/forms/transfer\\_extension\\_criteriareview.pdf](http://www.oregon.gov/owrd/pubs/docs/forms/transfer_extension_criteriareview.pdf)

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Kenneth E. Gustafson, B&G Resources, Inc.

(Name of Applicant)

of 5200 SW Macadam Ave, Suite 470,

(Mailing Address)

Portland

(City)

state of Oregon,

97239,

(Zip Code)

503-221-5117

(Phone Number)

do hereby make application for an extension of time within which to complete a change in:

point of diversion and place of use

of water under the terms of an order of the Water Resources Director entered on March 21, 2011, approving Transfer T-10948, in the name of B&G Resources, Inc. c/o Kenneth E. Gustafson, for 1) Certificate 80564: changing the place of use for 4.1 acres in T2N R30E Sec. 1 and 12 WM and moving the point of diversion downstream approximately 2400 feet, and 2) Certificate 83483: moving the point of diversion downstream approximately 2400 feet.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expires on October 1, 2014:

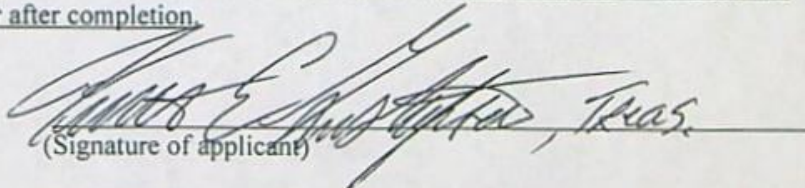
A totalizing flow meter and a fish screen were installed at the new point of diversion. ODFW inspected and approved the fish screen and determined that fish passage is not required. The ODFW Fish Screen Inspection Form is attached for reference. Water was applied to beneficial use on all but one acre of the transferred acreage. Reasonable efforts were made in 2014 to hire an earth mover operator to prepare the last acre for beneficial use, but fire season monopolized the use of such equipment in 2014. Actual use of the portion of the water developed under T-10948 continued during the last extension period.

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:

One acre of the transferred acreage must be planted and irrigated, including hiring an earth mover operator to prepare the field for planting.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because I was unable to hire an earth mover operator to prepare the last acre within the place of use for planting and irrigating due to the early onset of fire season and the demands for such equipment for fighting fires. The monopolization of the necessary equipment could not have been anticipated or prevented.

And request that the time for completion be extended to October 1, 2015, and the claim of beneficial use shall be submitted within one year after completion.

  
(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at <http://www.oregon.gov/OWRD/> or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

**RECEIVED**

OCT 01 2014

WATER RESOURCES DEPT  
SALEM, OREGON

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **113583**

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

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

RECEIVED FROM: B+G Resources Inc.  
 BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	T-10948

CASH:  CHECK # X1716 OTHER: (IDENTIFY)

TOTAL REC'D \$ 575.00

**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

0407 COPY & TAPE FEES \$ \_\_\_\_\_ *46110*  
 0410 RESEARCH FEES \$ \_\_\_\_\_  
 0408 MISC REVENUE: (IDENTIFY) \$ \_\_\_\_\_  
 TC162 DEPOSIT LIAB. (IDENTIFY) \$ \_\_\_\_\_  
 0240 EXTENSION OF TIME \$ 575.00 *Transfer*

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 \$ \_\_\_\_\_

**RECEIVED OVER THE COUNTER**

**TREASURY OTHER / RDX**

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

RECEIPT: **113583**

DATED: 10/1/14 BY: CHUNGSK

## Checklist for Transfer Extension Requests

- Has a final order approving the transfer application been issued (NOT a permit amendment)?
- Have appropriate fees been submitted?
- Is the Transfer Extension request filled out?
- Is the Transfer Extension request signed?



Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

Therese A. Ure  
Licensed in Oregon  
and Nevada

William F. Schroeder  
Of Counsel to the Firm



Sarah R. Liljefelt  
Licensed in Oregon & California

Wyatt E. Rolfe  
Of Counsel  
Licensed in Oregon & Washington

Matthew J. Curti  
Licensed in Nevada

Brian R. Sheets  
Licensed in Oregon

October 1, 2014

**VIA HAND DELIVERY**

Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

**RE: Application for Extension of Time for Transfer of Water Right: T-10948**

To Whom It May Concern:

Please find enclosed herein an *Application for Extension of Time for Transfer of Water Right: T-10948* in the name of Kenneth E. Gustafson, B&G Resources, Inc.

Also enclosed is the required application fee in the amount of \$575.

Please contact our office if you have any questions. Thank you for your assistance with this matter.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Sarah R. Liljefelt

DNC: srl

Enclosures

cc: Client

**RECEIVED**

OCT 01 2014

WATER RESOURCES DEPT  
SALEM, OREGON

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

www.water-law.com counsel@water-law.com

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Extension of Time            )     FINAL ORDER APPROVING AN  
Application for Transfer T-10948,            )     EXTENSION OF TIME  
Umatilla County                                )

**Authority**

OAR 690-380-6020 establishes an application process and criteria for the review of extensions of time for the completion of changes authorized under water right transfers.

**Transfer Applicant**

B & G Resources, Inc.  
c/o Kenneth E. Gustafson  
5200 SW Macadam Ave., Suite 470  
Portland, OR 97239

**Agent**

Schroeder Law Offices, PC  
Cortney D. Duke  
1915 NE Cesar E. Chavez Blvd.  
Portland, OR 97212

**Findings of Fact**

1. On August 28, 2013, the Department received an application for extension of time for water right transfer application T-10948 from Kenneth E. Gustafson, on behalf of B & G Resources, Inc..
2. The Water Resources Department issued an order approving Transfer Application T-10948 in the name of B & G Resources on March 21, 2011. The order was recorded in Special Order Volume 83, at Pages 839 – 843. The order set a transfer completion date of October 1, 2012.
3. The applicant has completed the installation of a totalizing flow meter and has had the fish screen approved. Furthermore, water has been applied to beneficial use on all but one acre of the approved transferred acreage.
4. To fully complete the change, it will be necessary for the applicant to plant and irrigated the remaining acre.
5. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2014.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

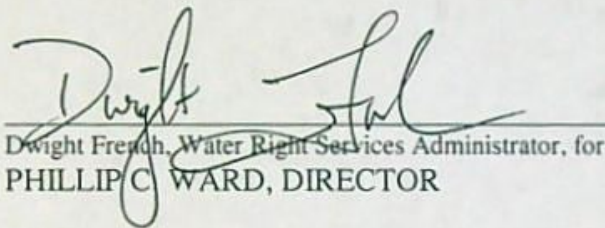
**Conclusions of Law**

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10948 and the requested time is reasonable.

**Now, therefore, it is ORDERED:**

The time for completion of beneficial use authorized by T-10948 shall be extended to October 1, 2014.

Dated at Salem, Oregon this 13 day of September, 2013

  
Dwight French, Water Right Services Administrator, for  
PHILLIP C. WARD, DIRECTOR

Mailing date: SEP 25 2013



# Oregon

John A. Kitzhaber, MD, 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.wrd.state.or.us](http://www.wrd.state.or.us)

September 17, 2013

B & G Resources, Inc.  
Attn – Kenneth E. Gustafson  
5200 SW Macadam Ave., Suite 470  
Portland, OR 97239

Schroeder Law Offices, PC  
Attn – Courtney D. Duke  
1915 NE Cesar E. Chavez Blvd.  
Portland, OR 97212

Reference: Transfer Application T-10948

We have received your application for extension of the time limit to make complete application of water under Transfer T-10948. We also have received your check in the amount of \$575.00. A copy of receipt number 109790 is enclosed.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to October 1, 2014. A copy of the order approving the extension is enclosed.

If you have any questions, please contact me via telephone at 503-986-0858 or via email at [Susan.M.Douthit@ wrd.state.or.us](mailto:Susan.M.Douthit@ wrd.state.or.us).

Sincerely,

Susan Douthit  
Transfers and Conservation Section

enclosure





Transfer T-10948

APPLICATION FOR EXTENSION OF TIME  
FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at [http://www.oregon.gov/owrd/pubs/docs/forms/transfer\\_extension\\_criteriareview.pdf](http://www.oregon.gov/owrd/pubs/docs/forms/transfer_extension_criteriareview.pdf)

To the WATER RESOURCES DIRECTOR OF OREGON:

I/We, Kenneth E. Gustafson, B&G Resources, Inc.

(Name of Applicant)

of 5200 SW Macadam Ave, Suite 470, Portland

(Mailing Address)

(City)

state of Oregon, 97239, 503-221-5117

(Zip Code)

(Phone Number)

do hereby make application for an extension of time within which to complete a change in:  
point of diversion and place of use

of water under the terms of an order of the Water Resources Director entered on March 21, 2011, approving Transfer T-10948, in the name of B&G Resources, Inc. c/o Kenneth E. Gustafson, for 1) Certificate 80564: changing the place of use for 4.1 acres in T2N R30E Sec. 1 and 12 WM and moving the point of diversion downstream approximately 2400 feet, and 2) Certificate 83483: moving the point of diversion downstream approximately 2400 feet.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time allowed, which expired on October 1, 2012:

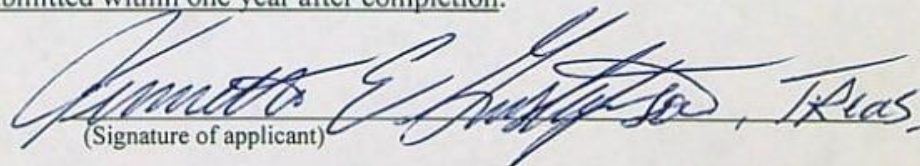
A totalizing flow meter and a fish screen were installed at the new point of diversion. ODFW inspected and approved the fish screen and determined that fish passage is not required. The ODFW Fish Screen Inspection Form is attached for reference. Water was applied to beneficial use on all but one acre of the transferred acreage.

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:  
One acre of the transferred acreage must be planted and irrigated.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed, because during the 2012 irrigation season my farmer unexpectedly passed away and my tractor broke down. Since that time I have hired a new farmer and repaired the tractor and am now ready and able to complete planting and irrigation of the remaining acre.

And request that the time for completion be extended to October 1, 2014, and the claim of beneficial use shall be submitted within one year after completion.

  
(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the Department's fee schedule at <http://www.oregon.gov/OWRD/> or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO: **RECEIVED BY OWRD**  
Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271

AUG 28 2013

SALEM, OR

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

Therese A. Ure  
Licensed in Oregon  
and Nevada

William F. Schroeder  
Of Counsel to the Firm



Sarah R. Liljefelt  
Licensed in Oregon  
and California

Wyatt E. Rolfe  
Of Counsel  
Licensed in Oregon  
Nevada and Washington

August 27, 2013

*VIA U.S. MAIL ONLY*

Oregon Water Resources Department  
Attn: Susan Douthit, Transfers Department  
725 Summer Street NE, Suite A  
Salem, OR 97301

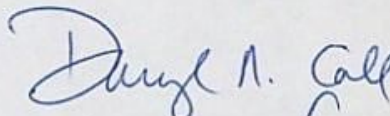
**RE: Application for Extension of Time for Transfer T-10948**

Dear Ms. Douthit:

Enclosed for submission is an Application for Extension of Time for Transfer of Water Right for T-10948. Also enclosed is a check for \$575.00 to cover the extension filing fee. Please contact our office if you have any questions.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

  
Sarah R. Liljefelt *for*

SRL:tjj

Enclosures

cc: Ken Gustafson

RECEIVED BY OWRD

AUG 28 2013

SALEM, OR

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

www.water-law.com counsel@water-law.com

**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

RECEIPT # **109790**

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

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

RECEIVED FROM: <u>B&amp;G Resources Inc.</u>	APPLICATION
BY: _____	PERMIT
	TRANSFER <u>T-10948</u>
CASH: <input type="checkbox"/> CHECK: # <u>1694</u> OTHER: (IDENTIFY) <input type="checkbox"/>	TOTAL REC'D <u>\$575.00</u>

<b>1083 TREASURY 4170 WRD MISC CASH ACCT</b>
0407 COPIES \$
OTHER: (IDENTIFY) \$
0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

<b>4270 WRD OPERATING ACCT</b>		
<b>MISCELLANEOUS</b>		
0407 COPY & TAPE FEES <u>46111</u>		\$
0410 RESEARCH FEES		\$
0408 MISC REVENUE: (IDENTIFY) _____		\$
TC162 DEPOSIT LIAB. (IDENTIFY) _____		\$
0240 EXTENSION OF TIME		<u>\$575.00</u>
<b>WATER RIGHTS:</b>		
0201 SURFACE WATER	EXAM FEE	RECORD FEE
0203 GROUND WATER	\$	0202 \$
0205 TRANSFER	\$	0204 \$
<b>WELL CONSTRUCTION</b>		
0218 WELL DRILL CONSTRUCTOR	EXAM FEE	LICENSE FEE
LANDOWNER'S PERMIT	\$	0219 \$
OTHER (IDENTIFY) _____		0220 \$

<b>0536 TREASURY 0437 WELL CONST. START FEE</b>		
0211 WELL CONST START FEE	\$	CARD #
0210 MONITORING WELLS	\$	CARD #
OTHER (IDENTIFY) _____		

<b>0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER</b>		
0233 POWER LICENSE FEE (FW/WRD)		\$
0231 HYDRO LICENSE FEE (FW/WRD)		\$
HYDRO APPLICATION		\$

<b>TREASURY</b>	<b>OTHER / RDX</b>
FUND _____	TITLE _____
OBJ. CODE _____	VENDOR # _____
DESCRIPTION _____	\$

RECEIPT: **109790**

DATED: 8-28-13 BY: FB Williamson

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



**SCHROEDER**  
LAW OFFICES, P.C.

Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

January 6, 2011

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

**VIA ELECTRONIC AND U.S. MAIL**

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301  
Email: [ken.d.dowden@state.or.us](mailto:ken.d.dowden@state.or.us)

**RE: Water Right Transfer Application T-10948**

Dear Mr. Dowden:

This firm represents B & G Resources, c/o Kenneth E. Gustafson, the applicant for the referenced transfer application. The applicant has received and reviewed the Draft Preliminary Determination recommending approval of T-10948 and hereby acknowledges agreement with the proposed action, terms and conditions therein. The applicant found no typographical errors and agrees that the transfer should be approved as proposed.

Enclosed herein, please find the report of land ownership prepared on January 4, 2011 to complete the transfer application file.

Upon issuance of the preliminary determination, the applicant will complete publication of notice of the transfer in a local newspaper of general circulation in the area of the water right as required.

Please note that this office's address has changed. The P.O. Box to which the Draft Preliminary Determination was sent is no longer operable. In order to ensure timely receipt of

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)



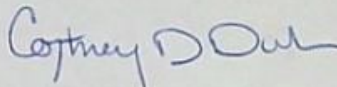
Ken Dowden  
January 6, 2011  
Page 2 of 2

documents, please send future correspondence to this office to: 1915 NE Cesar Chavez Blvd.,  
Portland, Oregon 97212.

Thank you for your immediate attention to these matters.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.



Cortney D. Duke

CDD:bmw

Enclosures

cc: Client

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2010

January 4, 2011 4:12:41 pm

Account # 150320  
 Map # 2N3100-00-05400  
 Code - Tax # 1622-150321  
 1627-150320

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name B & G RESOURCES INC

Deed Reference # 1993-2420535 (SOURCE ID: 242-535)

Agent

Sales Date/Price 09-20-1993 / \$35,000.00

In Care Of

Appraiser FIFE, TERRY

Mailing Address  
 1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 78 000 111444-1

Situs Address(s)		Situs City			
Value Summary					
Code Area		AV	RMV	RMV Exception	CPR %
1622	Land	20,919	69,930	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		20,919	69,930		0
1627	Land	679	8,430	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		679	8,430		0
Grand Total		21,598	78,360		0

Land Breakdown											
Code Area	ID#	RFD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Irr Class	Irr Size
1622	4	R		EFU	Farm Use Zoned	100	A	94.83	2-5		
1622	5	R		EFU	Farm Use Zoned	100	A	2.00	5-5		
1622	6	R		EFU	Farm Use Zoned	100	A	26.00	7-5		
1622	7	R		EFU	Farm Use Zoned	100	A	49.00	8-5		
Code Area Total								171.83			0.00
1627	1	R		EFU	Farm Use Zoned	100	A	3.00	5-5		
1627	2	R		EFU	Farm Use Zoned	100	A	21.00	7-5		
1627	3	R		EFU	Farm Use Zoned	100	A	12.00	8-5		
Code Area Total								36.00			0.00
Grand Total								207.83			0.00

Improvement Breakdown												
Code Area	Yr	Stat	Description			TD%	Total	Ex% MS Acct #			Trended	
Area	ID#	Built	Class					Sq. Ft.				RMV
Grand Total								0				0

Exemptions/Special Assessments/Potential Liability											
Code Area	Type										
1622		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES: 150321-1622, 150320-1627									
1627		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES: 150321-1622, 150320-1627									

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
 SALEM, OREGON

Account # 150320

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 4:13:11 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150321	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1622
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	268.82	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	274.02	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	265.55	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	250.81	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	197.95	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	200.64	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	194.25	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	207.32	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	196.42	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

**RECEIVED**  
JAN 07 2011  
WATER RESOURCES DEPT  
SALEM, OREGON

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 4:13:12 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150320	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1627 2N3100-00-05400
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	8.71	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	8.89	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	8.62	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	8.27	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	7.28	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	7.26	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	7.09	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	7.02	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	6.82	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

This map was prepared for Assessment & Taxation purposes only and was NOT prepared for use outside for legal, engineering or surveying purposes.

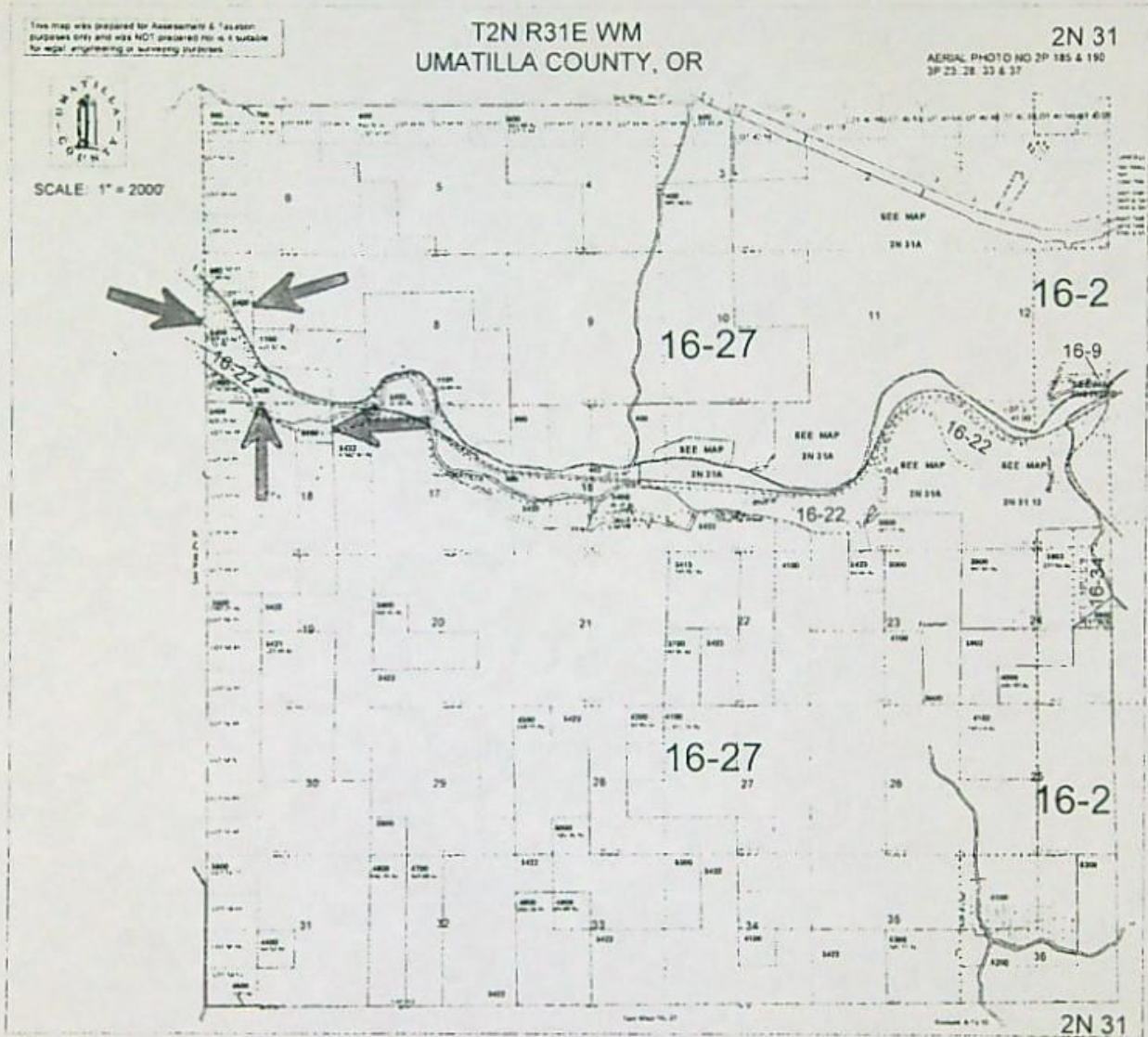
T2N R31E WM  
UMATILLA COUNTY, OR

2N 31

AERIAL PHOTO NO 2P 185 & 190  
3P 23, 28, 33 & 37



SCALE: 1" = 2000'



# AmeriTitle

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING CERTAIN PREMISES AND NO LIABILITY IS ASSUMED FOR VARIATIONS, IF ANY, IN DIMENSIONS AND LOCATIONS ASCERTAINED BY ACTUAL SURVEY.

RECEIVED

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2010

January 4, 2011 3:55:38 pm

Account # 150322  
 Map # 2N3012-00-00400  
 Code - Tax # 1617-150323  
 1622-150325  
 1627-150322  
 1629-150328

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name B & G RESOURCES INC

Deed Reference # 1993-2420535 (SOURCE ID: 242-535)

Agent

Sales Date/Price 09-20-1993 / \$35,000.00

In Care Of

Appraiser FIFE, TERRY

Mailing Address

1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 78 000 111445-1

Situs Address(s) Situs City

Value Summary					
Code Area		AV	RMV	RMV Exception	CPR %
1617	Land	63	1,250	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		63	1,250		0
1622	Land	11,692	45,350	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		11,692	45,350		0
1627	Land	103	2,030	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		103	2,030		0
1629	Land	31,405	89,020	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		31,405	89,020		0
Grand Total		43,263	137,650		0

Land Breakdown											
Code Area	ID#	RFD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Irr Class	Irr Size
1617	2	R		EFU	Farm Use Zoned	100	A	12.50	8-5		
Code Area Total								12.50			0.00
1622	2	R		EFU	Farm Use Zoned	100	A	39.00	2-5		
1622	3	R		EFU	Farm Use Zoned	100	A	14.95	3-5		
1622	4	R		EFU	Farm Use Zoned	100	A	37.70	7-5		
1622	5	R		EFU	Farm Use Zoned	100	A	29.95	8-5		
1622	6	R		EFU	Farm Use Zoned	100	A	14.90	L		
Code Area Total								136.50			0.00
1627	1	R		EFU	Farm Use Zoned	100	A	6.75	7-5		
Code Area Total								6.75			0.00
1629	2	R		EFU	Farm Use Zoned	100	A	32.00	1-C		
1629	3	R		EFU	Farm Use Zoned	100	A	7.17	2-5		
1629	4	R		EFU	Farm Use Zoned	100	A	47.40	8-5		
1629	5	R		EFU	Farm Use Zoned	100	A	5.13	L		
Code Area Total								91.70			0.00
Grand Total								247.45			0.00

Improvement Breakdown												
Code Area	Yr ID#	Stat Built	Class	Description	TD%	Total Sq. FL	Ex% MS	Acct #	Trended RMV			
Grand Total							0			0		

Exemptions/Special Assessments/Potential Liability											
Code Area	Type										

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
 SALEM, OREGON

Account # 150322

1617

**NOTATION(S):**

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1622

**NOTATION(S):**

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1627

**NOTATION(S):**

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1629

**NOTATION(S):**

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON



# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:57:59 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150323	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1617
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	0.85	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	0.86	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	0.82	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	0.79	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	0.65	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	0.65	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

## Tax Notations

Notation Code	Date Added	Description
NO WRITE OFF	11/16/2007	

RECEIVED

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:57:59 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150325	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1622
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	150.25	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	153.15	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	148.43	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	140.09	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	112.21	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	113.73	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	109.71	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	116.71	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	110.81	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

**RECEIVED**

JAN 07 2011

WATER RESOURCES DEPT  
SALEM, OREGON

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:58:00 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150322	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1627
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	1.27	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	1.25	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	1.23	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	1.21	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	0.89	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	0.91	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	0.92	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	0.91	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	0.90	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

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# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:58:00 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150328	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1629 2N3012-00-00400
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	412.73	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	421.79	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	406.08	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	397.06	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	381.65	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	375.13	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	366.72	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	354.40	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	339.95	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

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WATER RESOURCES DEPT  
SALEM, OREGON

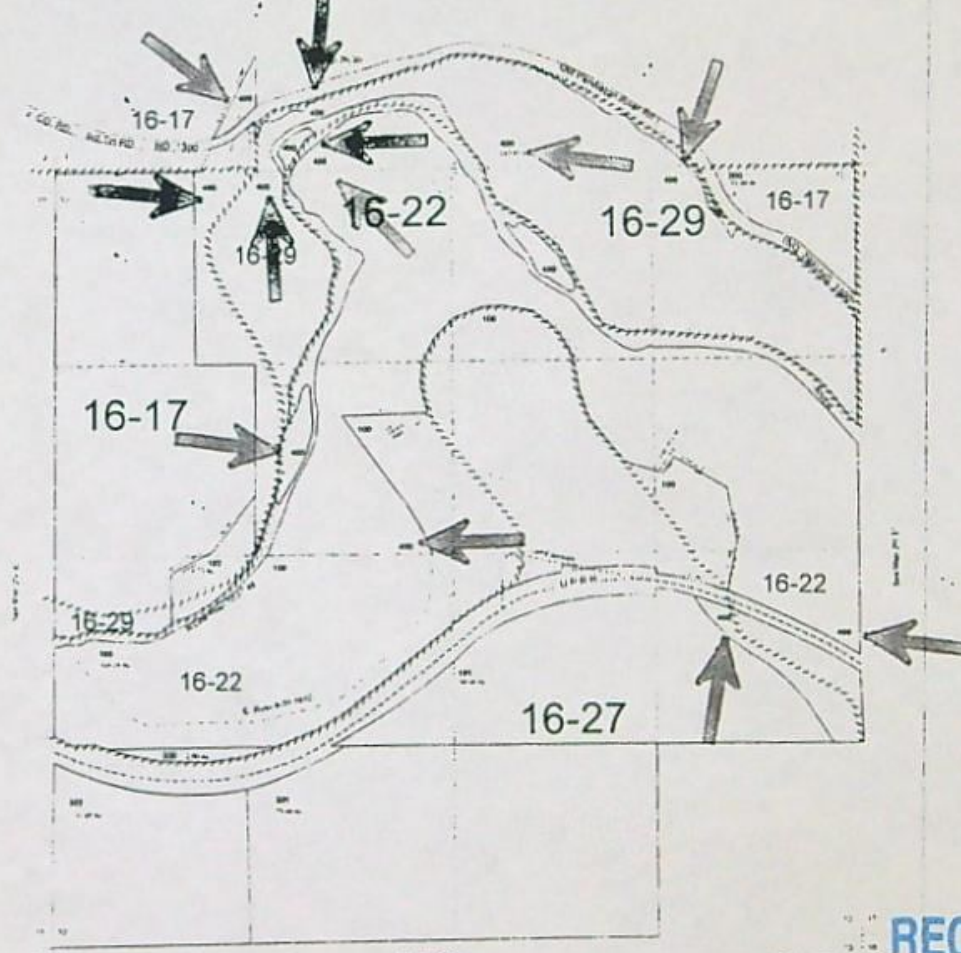
This map was prepared for assessment purposes

SEC 12 T2N R30E WM  
UMATILLA COUNTY

2N 30 12

AERIAL PHOTO NO. 2P-183

SCALE 1"=400'



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2N 30 12

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# AmeriTitle

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING CERTAIN PREMISES AND NO LIABILITY IS ASSUMED FOR VARIATIONS, IF ANY, IN DIMENSIONS AND LOCATIONS ASCERTAINED BY ACTUAL SURVEY.



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REEL 296 PAGE 0886

222533

AFTER RECORDING RETURN TO:

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

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

**STATUTORY BARGAIN AND SALE DEED**

Nomad Alfalfa, Inc., an Oregon corporation, and Gloria M. Lewis, an individual, jointly Grantor, conveys to B&G Resources, Inc., an Oregon corporation, Grantee, the following described real property:

The real property described in Exhibit "A" attached hereto, together with all appurtenances thereto, except this deed does not convey any mineral rights relating to the real property which is the subject of this deed.

The true consideration for this conveyance is \$20,000.

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.

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Executed this 28<sup>th</sup> day of August, 1996.

AUG 30 1996

UMATILLA COUNTY RECORDS

**GRANTOR:**

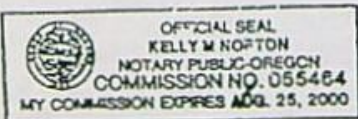
Nomad Alfalfa, Inc.  
an Oregon corporation

*Gloria M. Lewis, President*  
Gloria M. Lewis, President

*President*  
Gloria M. Lewis

STATE OF OREGON }  
County of Multnomah } ss.

This instrument was acknowledged before me this 28<sup>th</sup> day of August, 1996, by Gloria Lewis, President of Nomad Alfalfa, Inc., on behalf of the corporation.



*Kelly M. Norton*  
NOTARY PUBLIC FOR OREGON 08/25/00  
My Commission Expires:

(Acknowledgments continued on next page)

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WATER RESOURCES DEP  
SALEM, OREGON

1 - BARGAIN AND SALE DEED

8-30-96

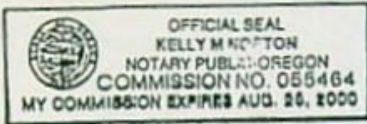
REEL 296 PAGE 0887

(Acknowledgments continued from next page)

STATE OF OREGON

County of Multnomah } ss.

This instrument was acknowledged before me this 28<sup>th</sup> day of August, 1996, by Gloria Lewis.



Kelly M. Norton  
 NOTARY PUBLIC FOR OREGON  
 My Commission Expires: 08/26/00

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WATER RESOURCES DEPT  
 SALEM, OREGON

2 - BARGAIN AND SALE DEED

8-30-96

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REEL 296 PAGE 0888

EXHIBIT A

All of those certain parcels of land heretofore acquired by Oregon-Washington Railroad and Navigation Company by Warranty Deed dated December 20, 1933, filed for record February 5, 1934, in Volume 147 of Deeds at Page 144 of the Records of Umatilla County, Oregon, being more particularly described in said deed as follows:

"Parcel One: An irregular shaped tract of land comprising a part of Sections One (1) and Twelve (12), of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and a part of Section Seven (7), of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of said Section One (1); thence north along the east line of said Section One (1), to the northeast corner of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) thereof; thence west along the north line of the south half of the southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section One (1), to the northwest corner of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ); thence south along the west line of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ), to an iron monument at a point six hundred eighty-nine (689) feet, more or less, north of the southwest corner thereof; thence south 19°57' west, seven hundred thirty-three (733) feet, more or less, to an iron monument at a point in the north line of said Section Twelve (12), two hundred fifty (250) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north line of said Section Twelve (12), to a point nine hundred forty (940) feet east of the northwest corner of said Section Twelve (12); thence south thirteen hundred twenty-four and five tenths (1324.5) feet, to a point in the south line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12), nine hundred forty (940) feet east of the southwest corner of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ); thence east along the south line of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the northwest corner of the southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence south along the west line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the southwest corner thereof; thence east along the south line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to

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EXHIBIT A

8-30-46



point in the center of the channel of the Umatilla River; thence northwesterly along the said center of the channel of the Umatilla River, to a point which is four hundred sixty-two (462) feet north and three hundred ninety-six (396) feet west of the center of said Section Twelve (12); thence northwesterly in a direct line six hundred twenty (620) feet; to a point on the left bank of said Umatilla River; thence east six hundred (600) feet to a point fifty (50) feet east of the center of the old railroad grade of Oregon-Washington Railroad & Navigation Company; thence along a circular curve to the right, with a radius of five hundred twenty-three and seven tenths (523.7) feet along the old right of way of said Oregon-Washington Railroad & Navigation Company to a point one hundred sixty-five (165) feet south of the south line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence southeasterly on the southwest side of and along said old right-of-way and terminating at a point forty (40) feet from the high water mark of The Furnish Ditch Company's reservoir, which point bears north five hundred sixty (560) feet from the southeast corner of the southwest quarter of the northeast quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence south 62°16' east fifty-two (52) feet; thence north 33°15' east one hundred forty (140) feet; thence south 59°23' east three hundred ninety-eight (398) feet; thence south 9°48' east three hundred sixty-three (363) feet; thence south 10°30' west three hundred seventeen (317) feet, more or less, to a point on the north boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); said point being three hundred ninety-three (393) feet, more or less, distant southeasterly, measured along said north boundary line of Oregon-Washington Railroad & Navigation Company's right of way, from the west boundary line of said northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ); thence southeasterly along the northerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as the same is now located through the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and through the southwest quarter (SW $\frac{1}{4}$ ) and the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, to a point on the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7), to the northeast corner thereof; thence west along the north boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), to the southeast corner of the northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the

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 SALEM, OREGON

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northeast corner of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7); thence West along the north boundary line of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the section line common to said Section Seven (7) and said Section Twelve (12); thence north along said section line to the southeast corner of said section one (1), the place of beginning; excepting therefrom all that part of the northeast quarter of the northeast quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12) and the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the South Half of the Southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section One (1), that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir; also except a piece or parcel of land, containing thirty-five (35) acres, more or less, being all that part of the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), that lies north of Oregon-Washington Railroad & Navigation Company's right of way and east of a line parallel to and forty (40) feet above the highwater line of The Furnish Ditch Company's Reservoir.

Parcel Two: A tract of land, containing two (2) acres, more or less, being all that part of the northeast quarter of the southwest quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, lying within The Furnish Ditch Company's Reservoir and extending back from said reservoir a distance of forty (40) feet above the highwater level in said reservoir.

Parcel Three: An irregular shaped tract of land comprising a part of the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section Twelve (12) of Township Two (2) North, Range Thirty (30) East, of the Willamette Meridian, and a part of Sections Seven (7) and Eighteen (18) of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence north along the east line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southerly boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence northwesterly along the southerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as same is now located through the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the west half of the southwest quarter (W $\frac{1}{2}$  SW $\frac{1}{4}$ ) of said Section Seven (7), and the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), to a point on the southwesterly boundary line of

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the old right of way of said Oregon-Washington Railroad & Navigation Company in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), distant fifty (50) feet southwesterly from, measured at right angles to, the center line of the old main track of said Oregon-Washington Railroad & Navigation Company as said old main track was formerly constructed and operated over and across the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) and the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence southeasterly along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the north boundary line of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north boundary line of said southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), following said southwesterly boundary line of the old right of way, to a point, distant one hundred (100) feet southwesterly from, measured at right angles to, the center line of said old main track; thence southeasterly, along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the section line common to said Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, and said Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian; thence south along the section line common to said Section Twelve (12) and said Section Seven (7) to the southwest corner of said Section Seven (7); thence east along the section line common to said Section Seven (7) and said Section Eighteen (18) to an iron monument at a point five hundred thirty-eight (538) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18); thence south 65°21' east five hundred ninety-two (592) feet, more or less, to an iron monument at a point on the east line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18), distant two hundred forty-seven (247) feet, more or less, south of the northeast corner thereof; thence continuing south 65°21' east, seven hundred ninety-seven and five tenths (797.5) feet; thence south 40°29' east, one hundred eighty-five (185) feet; thence south 52°17' east, five hundred (500) feet; thence south 79°35' east, eighty and nine tenths (80.9) feet, more or less, to a point in the west line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), distant ten hundred forty (1040) feet, more or less, south of the quarter section corner common to said Sections Seven (7) and Eighteen (18); thence south along the west line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southwest corner thereof; thence east along the south line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southeast corner thereof, the place of beginning; excepting therefrom, a piece or parcel of land, containing twenty-six (26) acres, more or less, being all that part of the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), Township 2 North,

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EXHIBIT A

REEL 296-10892

Range 31 East, Willamette Meridian, that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir as said Reservoir now exists.

Alternative Description of all Property Above Described

The tracts of land hereinbefore described are hereby further described for greater certainty as follows:

Parcel A: All that property in Section One (1), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Samuel Smith, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 58 on page 385 of Deed Records of said Umatilla County; also, all that property in said Section One (1) conveyed by Lee Hummell and Mary L. Hummell, his wife, to The Furnish Ditch Co. by deed dated April 21, 1913 and recorded in Book 82 at page 558 Deed Records of said County; also

All that property in Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, as conveyed by Matt Saari, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 59 at page 96 of Deed Records of said County; also all that property in said Section Twelve (12) as conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909 and recorded in Book 59 at page 88, Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Anna Holverson, wife of Herman Holverson, to The furnish Ditch Company by deed dated February 27, 1909, recorded in Book 59 at page 91, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915, recorded in Book 94 at page 4, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by James L. Smith and Hattie Smith, his wife, to The Furnish Ditch Company by deed dated December \_\_\_\_\_, 1913, filed for record on January 3, 1914 and recorded in Book 61 at page 406, Deed Records of said County; excepting therefrom the areas in said Section Twelve (12) conveyed by The Furnish Ditch Co. to Lee Hummell by deed dated May 12, 1915, and recorded in Book 91 at page 211, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by Furnish Ditch Company to J. A. Turnbow by deed dated August 31, 1912, and recorded in Book 81 at page 192, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by The Furnish

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REEL 296 PAGE 0893

Ditch Co. to J. A. Turnbow by deed dated December 8, 1914, and recorded in Book 90 at page 90, Deed Records of said County; also except in the area in said Section Twelve (12) and said Section One (1) conveyed by The Furnish Ditch Company to Christopher Stanull by deed dated June 21, 1916, and recorded in Book 95 at page 232, Deed Records of said County; and also except the areas in said Section Twelve (12) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268 of Deed Records of said County;

Parcel B: All that property in Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 88 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Anna Holverson, wife of Herman Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 91 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by W. M. Smith and Katie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909 and recorded in Book 59 on page 89 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. L. Smith and Hattie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909, and recorded in Book 59 on page 90 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. E. Perigo and Mollie E. Perigo, his wife, to The Furnish Ditch Company by deed dated September 2, 1919, and recorded in Book 106 at page 240 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915 and recorded in Book 94 on page 4, Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Inland Irrigation Co., Inc., to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 237 of Deed Records of said County; excepting therefrom the areas in said Section Seven (7); conveyed by The Furnish Ditch Company to

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WATER RESOURCES DEPT  
SALEM, OREGON

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REEL 296 PAGE 0894

J. E. Perigo by deed dated May 16, 1919 and recorded in Book 106 at page 247, Deed Records of said County; also except the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268, Deed Records of said County; also except the area in said Section Seven (7) conveyed by Furnish Ditch Company to Domatilla Gross by deed dated December 8, 1915, and recorded in Book 94 on page 583, Deed Records of said County.

Parcel C: All that property in Section Eighteen (18), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Inland Irrigation Co., Inc. to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239, Deed Records of said County; also

All that property in said Section Eighteen (18) conveyed by J. E. Smith Livestock Company to Furnish Ditch Company by deed dated November 14, 1913, and recorded at page 27 in Book 89, Deed Records of said County."

State of Oregon )  
County of Umatilla )  
This instrument was received and recorded on  
08-30-96 at 12:35  
in the record of document code type SE-BLS

Location 3296-0006  
Document number 1996-222533  
Fee 75.00

Office of County Records  
Received by [Signature]  
Records Officer

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WATER RESOURCES DEPT  
SALEM, OREGON

8-30-96



# Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

March 22, 2011

B & G RESOURCES  
KENNETH G. GUSTAFSON  
5200 SW MACADAM SUITE 470  
PORTLAND, OR 97201

REFERENCE: Transfer Application T-10948

Enclosed is a copy of the final order approving your water right transfer application.

The time allowed to complete the transfer is specified in the final order. YOU SHOULD GIVE PARTICULAR ATTENTION TO THE TIME LIMIT. The water right for any portion of the authorized change in character of use or change in place of use NOT carried out within the time allowed will be lost.

An extension of the time limit can be allowed only upon a showing that diligent effort has been made to complete the actual change(s) within the time allowed.

You are required to hire a Certified Water Rights Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized in the transfer final order, whichever occurs first.

If you have any questions related to the approval of this transfer, you may contact me by telephone at (503) 986-0883 or by e-mail at [Sarah.A.Henderson@wrp.state.or.us](mailto:Sarah.A.Henderson@wrp.state.or.us).

Sincerely,

Sarah Henderson  
Executive Support  
Field Services Division

cc: Watermaster Dist. #5  
Dale Van Schoiack, CWRE  
Courtney Duke, Agent  
Bureau of Reclamation

Enclosure



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application            )    FINAL ORDER APPROVING  
T-10948, Umatilla County                    )    CHANGES IN POINT OF DIVERSION  
  )    AND PLACE OF USE

**Authority**

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
5200 SW MACADAM AVE., SUITE 470  
PORTLAND, OR 97239

**Agent**

SCHROEDER LAW OFFICES, P.C.  
CORTNEY D. DUKE  
1915 NE CESAR E. CHAVEZ BLVD.  
PORTLAND, OR 97212

**Findings of Fact**

**Background**

1. On August 26, 2009, B & G Resources filed an application to change the point of diversion and place of use under Certificates 80564 and 83483. The Department assigned the transfer application number T-10948.
2. The first right to be transferred is as follows:  
**Certificate:** 80564 in the name of B & G RESOURCES, INC. (perfected under Permit S-16393)  
**Use:** IRRIGATION 26.2 ACRES  
**Priority Date:** JULY 3, 1945  
**Rate:** 0.655 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.



be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Application Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	- not specified

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Type of change	Acres
2 N	30 E	WM	1	SW SE	POU & POD	4.1
2 N	30 E	WM	1	SW SE	POD only	2.0
2 N	30 E	WM	12	NE NE	POD only	11.1
2 N	30 E	WM	12	NW NE	POD only	8.9
2 N	30 E	WM	12	SE NE	POD only	0.1

3. Certificate 80564 does not describe the location of the point of diversion with coordinates and measured distances. However, information is available from Certificate 83483, which together with Certificate 80564, describes the water use perfected under Permit S-16393 from the Umatilla River indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

4. Transfer Application T-10948 proposes to change the place of use for the 4.1 acres described above to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	30 E	WM	1	SW SE	0.5
2 N	30 E	WM	12	NE NE	0.3
2 N	30 E	WM	12	NW NE	3.3

5. Transfer application T-10948 also proposes to change the point of diversion for the entire water right described above downstream approximately 2400 feet to:

**Proposed Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

6. The second right to be transferred is as follows:

**Certificate:** 83483 in the name of KENNETH E. GUSTAFSON (perfected under Permit S-16393)

**Use:** IRRIGATION 5.4 ACRES

**Priority Date:** JULY 3, 1945

**Rate:** 0.135 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
2 N	30 E	WM	12	NE NE	--	1.0
2 N	30 E	WM	12	SE NE	--	2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

- Transfer application T-10948 proposes to change the point of diversion for the above described water right downstream approximately 2400 feet to:

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

- Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 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.
- On December 9, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10948 to the agent on behalf of the applicant. The draft Preliminary Determination set forth a deadline of January 10, 2011, for the applicant to respond. The agent, on behalf of 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.
- On January 20, 2011, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10948 and mailed a copy to the applicant. Additionally,

notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on January 25, 2011, and in the East Oregonian newspaper on January 29, February 5 and February 12, 2011, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

***Transfer Review Criteria [OAR 690-380-4010(2)]***

12. Water has been used within the last five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10948.
14. The proposed changes would not result in enlargement of the rights.
15. The proposed changes would not result in injury to other water rights.

***Conclusions of Law***

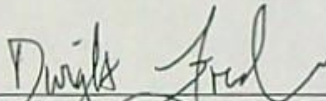
The changes in points of diversion and place of use proposed in Transfer Application T-10948 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

**Now, therefore, it is ORDERED:**

1. The changes in points of diversion and place of use proposed in application T-10948 are approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80564 and 83483 and any related decree.
3. Water right Certificates 80564 and 83483 are cancelled.
4. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.
5. The former place of use of the transferred right shall no longer receive water under the right.
6. Before water use 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. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.

7. 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, 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.
8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use 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 changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 21 day of March, 2011.

  
Dwight French, Water Right Services Division Administrator for  
PHILLIP C. WARD, DIRECTOR

This Final Order was prepared by Susan Douthit. If you have questions about the information in this document you may reach me at 503-986-0858 or Susan.M.Douthit@wrds.state.or.us.

Mailing Date: MAR 23 2011

Water Right Transfer Checklist

Ken Dowdon #1 / Guel

Transfer T-10948

Transfer Specialist: NC Region Drawer

Transfer Type: Regular

Applicant Name/Address: B & G Resources, Kenneth Gustafson, 5200 SW MacAdam Ave Ste 470, Portland, OR 97239

Agent Name/Address: Cortney Duke, Schroeder Law Offices PC, PO Box 12527, Portland, OR 97212

CWRE Name/Number: Dale VanSchoiack

Rec Landowner Name/Address: none

Irr. District Name/Address: BOR: Ryan Patterson 1150 N Curtis Rd Ste 100 Boise ID 83706

Affected Gov'ts Name/Address: none

Commentors: Name/Address: none

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	S 20936	S 16393	83483	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	S 20936	S 16393	80564	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions

Rec'd: 08/26/09	Proposed Action(s): POU POD HST APOD USE OTHER: pou/pod	
Fees Pd: 2000	WM District: 5	ODFW District: nc region district
Initial Notice: 09/08/09	WM Review sent: 09/04/09	ODFW Review sent: 09/04/09
Acknowledgement Letter Sent <input checked="" type="checkbox"/>	GW Review sent: none	

Processing Dates & Actions

Deficiency Contacts: \_\_\_\_\_

Newspaper Pub Affid Due: \_\_\_\_\_

not required

DPD Mailed: \_\_\_\_\_

Affid of Pub Rec'd: \_\_\_\_\_

ODFW contact sheet sent with DPD, or  N/A

Last Day Published: \_\_\_\_\_

PD Mailed: \_\_\_\_\_

Affidavit Reminder Sent: \_\_\_\_\_

PD Weekly Notice: \_\_\_\_\_

Reminder Deadline: \_\_\_\_\_

Preliminary Determination

Electronic Files uploaded

Preliminary Determination

PD Cover letter

Fee Refund Due

PD Notice

Remaining Rights

File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: _____	Reviewer: _____
Date: _____	Date: <u>3/21/11</u>	Date: <u>3/21/11</u>
Coordinator: _____	Coordinator: _____	Coordinator: _____
Date: _____	Date: _____	Date: _____
Comments/Special Issues:		

Special Order Volume: Vol 83 Pages 839 Final Order Signature Date: 3-21-11

Notice of FO email'd to processors Ken/Susan

Review Checklist

T-10948

Processor: NC Region Drawer

Application

- The type of change is clearly indicated.
- The application is appropriately signed.
- Appropriate fees were paid.  If overpayment, Refund Request to be sent with FO
- Land use form matches affected tax lots and is signed by proper official. (from ALL affected Govt's)
- Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- All required attachments received.

Water right subject to transfer

- Certificated right or Proof accepted "to the satisfaction...."
- The right been exercised according to terms & conditions of certificate.
- Delivery system has the capacity to fully divert the rate/duty of the right.
- No information in record that suggests forfeiture.
- No conflicts identified on the plat cards and plat card reports printed.
- Affidavits prepared for rights that need to be canceled or diminished. *NA*

Application Map

- The map has an original CWRE signature.
- The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- Metes and bounds for the POD's/POA's are properly described on the map.
- The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.
- Map acres match the tabulation on the certificate. *few small typos*
- Have final proof maps/deed maps for the rights.  Application map matches certificate FPS.
- Have necessary aerial photos. *NO*

Determining the "From" and "To" Lands (make working copy of application and certificates to mark on)

- Only the authorized POD's/POA's and POU's to be transferred are listed.
- Application & certificate tabulations match. (Mark on appl. and cert. copies and note corrections needed) *E-MAILED AGENT*
- Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4.

Ownership

- The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- Have current tax lot map. (If transfer application is several years old, contact assessor's office)
- The applicant is the owner of the "from" lands.
- All owners on the deed/ROLI have signed the application.
- If necessary, there is a notarized, signed statement of consent from landowners other than applicant.
- If necessary, there is a copy of written notification to each lien holder identified on ROLI.
- Agent has authorization to make decisions.

Evaluation (materials needed for peer reviewer in bold)

- |   |                                      |                                    |  |  |
|---|--------------------------------------|------------------------------------|--|--|
| <input type="checkbox"/> application complete | <input type="checkbox"/> map         | <input type="checkbox"/> FPS       | <input type="checkbox"/> evidence of use | <input type="checkbox"/> land-use form |
| <input type="checkbox"/> deed/ROLI            | <input type="checkbox"/> certificate | <input type="checkbox"/> fees paid | <input type="checkbox"/> well logs       | <input type="checkbox"/> plat card     |
| <input type="checkbox"/> audit                | <input type="checkbox"/> dpd         |                                    |  |  |

- Reviews/comments/conditions received?  Watermaster  ODFW  GW
- Headgate  When in the judgment  Prior to diverting  Existing and maintain
- Measuring Devices  When in the judgment  Prior to diverting  Existing and maintain
- Fish Screen Devices

Injury: Y N      Enlargement: Y N

Conditions to avoid enlargement/injury -



**APPLICATION**

PR	CW		PR	CW	
	<input checked="" type="checkbox"/>	Appropriately signed		<input checked="" type="checkbox"/>	Appropriate Fees Paid
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	All required Attachments Received	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Overpayment of Fees, Refund Request with FO
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Ditch Company, Irr. Dist. and/or BOR sent copies <i>N/A</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Land Use Form matches Tax Lots, is signed by proper official and is APPROVED

**WATER RIGHT SUBJECT TO TRANSFER**

PR	CW		PR	CW	
	<input checked="" type="checkbox"/>	The right been exercised according to terms & conditions of certificate.		<input checked="" type="checkbox"/>	Delivery system has the capacity to fully divert the rate/duty of the right.
	<input checked="" type="checkbox"/>	No information in record that suggests forfeiture.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	No conflicts identified on conflict report and report is printed.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Affidavits for rights to be canceled /diminished. <i>N/A</i>			

**APPLICATION MAP**

PR	CW		PR	CW	
	<input checked="" type="checkbox"/>	Original CWRE Signature		<input checked="" type="checkbox"/>	The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
	<input checked="" type="checkbox"/>	All authorized and proposed POD's/POA's and POU's shown and clearly labeled.		<input checked="" type="checkbox"/>	Metes and bounds for the POD's/POA's are properly described on the map.
	<input checked="" type="checkbox"/>	The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.		<input checked="" type="checkbox"/>	Application map acres match the tabulation on the certificate and FPS and/or Decree map
	<input type="checkbox"/>	Have necessary aerial photos, if applicable			

**DETERMINING THE "FROM" AND "TO" LANDS**

(Make working copy of application and certificates to mark on)

PR	CW		PR	CW	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Only the authorized POD's/POA's and POU's to be transferred are listed.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Application & certificate tabulations match. (Mark on appl. and cert. copies and note corrections needed)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Marked on certificate the quantity of water being transferred, cancelled, and remaining

**INJURY REVIEWS/COMMENTS/CONDITIONS**

PR	CW											
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	ODFW	<input checked="" type="checkbox"/>	Fish Screens	<input type="checkbox"/>	Other:						
<input type="checkbox"/>	<input type="checkbox"/>	Ground water										
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Watermaster	<input type="checkbox"/>	Headgate	<input type="checkbox"/>	When in the judgment	<input type="checkbox"/>	Prior to diverting	<input type="checkbox"/>	Existing and maintain		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	Measuring Devices	<input type="checkbox"/>	When in the judgment	<input checked="" type="checkbox"/>	Prior to diverting	<input type="checkbox"/>	Existing and maintain		
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Injury	<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No	<input type="checkbox"/>	Enlargement	<input type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Conditions to Avoid Enlargement/Injury										

**OWNERSHIP**

PR	CW		PR	CW	
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The deed/ROI matches the "from" lands.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	The applicant is the owner of the "from" lands.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	All owners on the deed/ROI have signed the application.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Have current tax lot map.
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If necessary, there is a notarized, signed statement of consent from landowners other than applicant. <i>N/A</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Agent has authorization to make decisions.

DPD		PD		FO		DETERMINATION / FINAL ORDER
PR	CW	PR	CW	PR	CW	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Format matches current template
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Spell checked?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Correct address?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Authorized "from lands" info matches Certificate(s)?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Authorized POD(s)/POA(s) matches Certificate(s)?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Proposed POD(s)/POA(s) matches transfer application and map?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Correct findings and conditions matching Watermaster review?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Correct findings and conditions matching Ground water review?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Correct findings and conditions matching ODFW recommendations?
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Hidden findings unveiled?

DPD		PD		COVER LETTER
PR	CW	PR	CW	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Format matches current template
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Spell checked?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Correct address?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Content matches determination?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Special findings/conditions described?

PR	CW	PD PUBLIC NOTICE/NEWSPAPER NOTICE
<input type="checkbox"/>	<input type="checkbox"/>	Format matches current template
<input type="checkbox"/>	<input type="checkbox"/>	Content matches PD info?
<input type="checkbox"/>	<input type="checkbox"/>	Spell checked?
<input type="checkbox"/>	<input type="checkbox"/>	Correct address?

PR	CW	REMAINING RIGHT CERTIFICATE
<input type="checkbox"/>	<input type="checkbox"/>	Table Format matches current template
<input type="checkbox"/>	<input type="checkbox"/>	Content format matches original certificate
<input type="checkbox"/>	<input type="checkbox"/>	Spell checked?
<input type="checkbox"/>	<input type="checkbox"/>	Name and address matches originating certificate?

None

PR	CW	
<input type="checkbox"/>	<input type="checkbox"/>	Determination and remaining acres combined match acres under originating certificate?

**COMMENTS**

**Preparation for Peer Review and Preliminary Determination**

- Electronic Files uploaded
- Preliminary Determination
- PD Notice
- Audit Sheet Printed
- PD Cover letter
- Fee Refund Memo
- Remaining Rights
- Workflow Updated



Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

February 28, 2011

*VIA U.S. PRIORITY MAIL*

Susan Douthit  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271

**RECEIVED**

MAR 01 2011

WATER RESOURCES DEPT  
SALEM, OREGON

**RE: Transfer Application T-10948  
Affidavit of Publication**

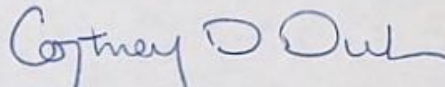
Dear Ms Douthit:

Enclosed herein please find an original Affidavit of Publication related to *Transfer Application T-10948*. As provided in the affidavit, Notice of Preliminary Determination for Water Right Transfer T-10948 was published in the East Oregonian on January 29, February 5, and February 12.

If you have any questions, please contact our office at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

  
Cortney D. Duke

CDD:bmw

Enclosures

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

www.water-law.com counsel@water-law.com

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

RECEIVED

MAR 01 2011

WATER RESOURCES DEPT  
SALEM, OREGON

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON  
County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the East Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

EO-5084 NOTICE OF PRELIMINARY DETERMINATION

a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 3 successive and consecutive issues in the following issues:

JANUARY 29, FEBRUARY 5, 12, 2011

Subscribed and sworn to before me on this, 24 day of

FEBRUARY 2011

Dayle Stinson

Stacey D Beaver  
Notary Public of Oregon



Legal Notices  
requirements of OR.S Chapter 540, OAR 690-380-2110 and 690-380-5000. Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing - protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is February 12, 2011. If no protests are filed, the Department will issue a final order consistent with the preliminary determination. January 29, February 5, 12, 2011

Legal Notices  
EO-5084  
NOTICE OF PRELIMINARY DETERMINATION  
for Water Right Transfer T-10948

T-10948 filed by Kenneth Gustafson of B & G Resources, 5200 SW Macadam Ave., Suite 470, Portland, OR 97239, proposes to change the point of diversion and place of use under two existing water rights. Certificates 83483 and 80564 (both with a priority date of July 3, 1945) allow the use of 1/40 th of one cubic foot per second per acre, limited to 4.5 acre-feet per each acre during the irrigation season, both from a diversion on the Umatilla River within the SE1/4 NE1/4, Sec 12, T2N, R30E, W.M., for irrigation in Sections 1 & 12, T2N, R30E, and Sec 7, T2N, R31E, W.M., W.M. The applicant proposes to change the place of use of a portion of Certificate 80564 and change the point of diversion for both rights downstream approximately 2400 feet to within the NW1/4 of the NE 1/4 Sec. 12, T2N, R30E, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the



# Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
FAX 503-986-0904

January 19, 2011

KENNETH G. GUSTAFSON  
B & G RESOURCES  
5200 SW MACADAM SUITE 470  
PORTLAND, OR 97201

SCHROEDER LAW OFFICES, PC  
CORTNEY D. DUKE  
1915 NE CESAR E CHAVEZ BLVD.  
PORTLAND, OR 97212

SUBJECT: Transfer Application T-10948

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10948. 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 with issuance of the Preliminary Determination. The notice initiates a 30-day period to file either a protest opposing the decision proposed by the Department or a standing statement supporting the Department's decision.

Because the new point of diversion is more than ¼ mile from the authorized point of diversion, the applicant is responsible for giving public notice of the transfer changes in a newspaper of general circulation in the area of the water right. The notice must be published for three consecutive weeks. We have prepared the notice for you (enclosed). The period for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place.

After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Please have the newspaper prepare and mail an original affidavit of publication to me at the address shown in the letterhead, by March 7, 2011.

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 do not hesitate to contact me at if I may be of assistance.

Sincerely,

Susan Douthit  
Field Services Division

cc: District 5 Watermaster  
Dale Van Schoiack, CWRE #333

encs

*Pd Noticed  
1-25-11*





# Oregon

John A. Kitzhaber, MD, Governor

## Water Resources Department

North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
503-986-0900  
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January 19, 2011

KENNETH G. GUSTAFSON  
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A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day 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.

Because the new point of diversion is more than  $\frac{1}{4}$  mile from the authorized point(s) of diversion, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place.

After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Please have the newspaper prepare and mail an original affidavit of publication to me at the address shown in the letterhead, by March 7, 2011.

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 do not hesitate to contact me at if I may be of assistance.

Sincerely,

Susan Douthit  
Field Services Division

cc: District 5 Watermaster  
Dale Van Schoiack, CWRE #333

encs



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10948, Umatilla County	)	PROPOSING APPROVAL CHANGE IN
	)	POINT OF DIVERSION AND PLACE
	)	OF USE

**Authority**

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
5200 SW MACADAM AVE., SUITE 470  
PORTLAND, OR 97239

**Agent**

SCHROEDER LAW OFFICES, P.C.  
CORTNEY D. DUKE  
1915 NE CESAR E. CHAVEZ BLVD.  
PORTLAND, OR 97212

**Findings of Fact**

**Background**

1. On August 26, 2009, B & G Resources filed an application to change the point of diversion and place of use under Certificates 80564 and 83483. The Department assigned the transfer application number T-10948.

2. The first right to be transferred is as follows:

**Certificate:** 80564 in the name of B & G RESOURCES, INC. (perfected under Permit S-16393)

**Use:** IRRIGATION 26.2 ACRES

**Priority Date:** JULY 3, 1945

**Rate:** 0.655 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.

be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Application Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	- not specified

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Type of change	Acres
2 N	30 E	WM	1	SW SE	POU & POD	4.1
2 N	30 E	WM	1	SW SE	POD only	2.0
2 N	30 E	WM	12	NE NE	POD only	11.1
2 N	30 E	WM	12	NW NE	POD only	8.9
2 N	30 E	WM	12	SE NE	POD only	0.1

3. Certificate 80564 does not describe the location of the point of diversion with coordinates and measured distances. However, information is available from Certificate 83483, which together with Certificate 80564, describes the water use perfected under Permit S-16393 from the Umatilla River indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

4. Transfer Application T-10948 proposes to change the place of use for the 4.1 acres described above to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	30 E	WM	1	SW SE	0.5
2 N	30 E	WM	12	NE NE	0.3
2 N	30 E	WM	12	NW NE	3.3

5. Transfer application T-10948 also proposes to change the point of diversion for the entire water right described above downstream approximately 2400 feet to:

**Proposed Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

6. The second right to be transferred is as follows:

**Certificate:** 83483 in the name of KENNETH E. GUSTAFSON (perfected under Permit S-16393)

**Use:** IRRIGATION 5.4 ACRES

**Priority Date:** JULY 3, 1945

**Rate:** 0.135 CUBIC FOOT PER SECOND

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
2 N	30 E	WM	12	NE NE	--	1.0
2 N	30 E	WM	12	SE NE	--	2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

- Transfer application T-10948 proposes to change the point of diversion for the above described water right downstream approximately 2400 feet to:

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

- Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 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.
- On December 9, 2010, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10948 to the agent on behalf of the applicant. The draft Preliminary Determination set forth a deadline of January 10, 2011, for the applicant to respond. The agent, on behalf of 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.

*Transfer Review Criteria [OAR 690-380-4010(2)]*

11. Water has been used within the last five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10948.
13. The proposed changes would not result in enlargement of the rights.
14. The proposed changes would not result in injury to other water rights.

*Determination and Proposed Action*

The changes in points of diversion and place of use proposed in Transfer Application T-10948 appear 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 application T-10948 is approved, the final order will include the following:*

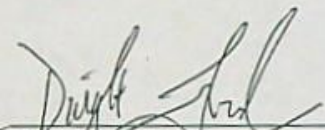
1. *The changes in points of diversion and place of use proposed in application T-10948 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80564 and 83483 and any related decree.*
3. *Water right Certificates 80564 and 83483 are cancelled.*
4. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *Before water use 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. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *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, 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.

8. The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use 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 changes and full beneficial use of the water.
9. When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.

Dated at Salem, Oregon this 20 day of January 2011.

  
Dwight French for  
PHILLIP C. WARD, DIRECTOR

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or [Ken.D.Dowden@wr.d.state.or.us](mailto:Ken.D.Dowden@wr.d.state.or.us).

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Salem, OR 97301-1266.

**Notice of Preliminary Determination for  
Water Right Transfer T-10948**

T-10948 filed by Kenneth Gustafson of B & G Resources, 5200 SW Macadam Ave., Suite 470, Portland, OR 97239, proposes to change the point of diversion and place of use under two existing water rights. Certificates 83483 and 80564 (both with a priority date of July 3, 1945) allow the use of  $1/40^{\text{th}}$  of one cubic foot per second per acre, limited to 4.5 acre-feet per each acre during the irrigation season, both from a diversion on the Umatilla River within the SE $1/4$  NE $1/4$ , Sec 12, T2N, R30E, W.M., for irrigation in Sections 1 & 12, T2N, R30E, and Sec 7, T2N, R31E, W.M., W.M. The applicant proposes to change the place of use of a portion of Certificate 80564 and change the point of diversion for both rights downstream approximately 2400 feet to within the NW $1/4$  of the NE $1/4$  Sec. 12, T2N, R30E, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540, OAR 690-380-2110 and 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is [DATE OF LAST PUBLICATION]. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.



Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271  
(503) 986-0900  
www.wrd.state.or.us

## Watermaster Review Form: Water Right Transfer

Transfer Application: T-10948

Review Due Date: 10-1-2009

Applicant Name: B & G Resources

Proposed Changes:  POU  POD  POA  USE  OTHER

Reviewer(s): Tony Justus

Date of Review: Sep. 17, 2009

1. Do you have information suggesting that the water rights may be subject to forfeiture?  
 Yes  No If "Yes", describe the information and indicate if you intend to file a cancellation affidavit or if you need additional time to determine if a cancellation affidavit should be filed: \_\_\_\_\_
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights?  Yes  No Generally characterize the frequency of any regulation or explain why regulation has not occurred:  
Umatilla River is regulated for insufficient flows much of the year.
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right?  If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:  
Adjacent to the Umatilla River. new pou will not significantly change return flow point.
4. Are there upstream water rights that would be affected by the proposed change?  
 Yes  No If "Yes", describe how the rights would be affected and list the rights most affected: \_\_\_\_\_
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach?  If you check the box, describe and, if possible, estimate the losses: \_\_\_\_\_
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?  
 Yes  No If "Yes", explain: \_\_\_\_\_
7. For POU changes, would the original place of use continue to receive water from the same source?  Yes  No  N/A If "Yes", explain: \_\_\_\_\_
8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?  Yes  No If "Yes", explain: \_\_\_\_\_
9. Are there other issues not identified through the above questions?  Yes  No If "Yes", explain: Errors in application-wrong 1/4, 1/4 identified a couple of times.
10. What alternatives may be available for addressing any issues identified above: fix the error.

11. Have headgate notices been issued for the source that serves the right?  Yes  No

12. The checked water control and measurement conditions should be included in the transfer:

Headgates: <input checked="" type="checkbox"/> NA	<input type="checkbox"/> Present and should be maintained.	<input type="checkbox"/> Should be required prior to diverting water.	<input type="checkbox"/> May be required in the future.
---	--	---	---

**Measurement Devices:**

*The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.*

Surface Water Diversion or Groundwater Point of Appropriation:

*The Director may require the water user to install a totalizing flow meter or other suitable measuring devices at each point of diversion/appropriation. If the Director notifies the water user to install totalizing flow meters or other measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the meters or measuring devices in good working order and shall allow the Watermaster access to the meters or measuring devices.*

*Water use measurement conditions: (if this condition is selected, also fill in the top sections of page 3)*  
*a. Before water use 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/appropriation.*  
*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.*

Reservoirs:

*The Director may require the water user to install staff gages or other suitable measuring devices that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style. Additionally, if the reservoir is located in-channel, weirs or other suitable measuring devices may be required upstream and downstream of the reservoir, and an adjustable outlet valve may be required. If the Director notifies the water user to install adjustable outlet valves, staff gages, weirs, or other suitable measuring devices, the water user shall install such devices specified by the Director within the period allowed in the notice. Once installed, the water user shall maintain the devices in good working order and shall allow the Watermaster access to the devices.*

*Water use measurement conditions: (if this condition is selected, also fill in the top sections of page 3)*  
*a. Before water use 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. Staff gages shall be United States Geological Survey style.*  
*b. Before water use 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.*

**\* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:**

- Weir
- Submerged Orifice
- Other: \_\_\_\_\_
- Parshall Flume
- Flow Restrictor

**Oregon Water Resources Department**

**Measurement Condition Information for the Applicant**  
(to be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-10948

A flowmeter will be required to be installed **prior to diversion of water** at the proposed point(s) of diversion or appropriation as a condition of this transfer.

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

Watermaster name: Tony Justus

District: 5

Address: 116 SE Dorian Ave.

City/State/Zip: Pendleton, OR. 97801

Phone: 541-278-5456

Email: Tony.G.JUSTUS@wrd.state.or.us

*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**:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
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 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-10948

**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

\_\_\_\_\_, tributary to \_\_\_\_\_.  
 (Stream)

Because, \_\_\_\_\_.

*(Please attach any available supporting information.)*

**Note:** This will prompt WRD to further evaluate and make a determination whether the transfer will injure an instream water right. (WRD is the agency that 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 WRD requests concurrence with injury to an instream water right.)

**B. Please check one of the following four boxes related to requiring a fish screen and/or by-pass device pursuant to ORS 540.525 or 540.532:**

1. The new Point of Diversion (POD) requires a fish screening and/or by-pass device and is currently equipped with an appropriate fish screening and/or by-pass device.

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

**Finding of Fact:** *The Oregon Department of Fish and Wildlife 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 currently equipped with an appropriate fish screening and/or by-pass device.*

**Condition:** *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*

2. The new Point of Diversion (POD) requires a fish screening and/or by-pass device prior to water being diverted. The diversion may be eligible for cost share assistance under ODFW's cost share program.

*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 screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion*

*Please return all 4 pages to: Transfers Section, Water Resources Department,  
 725 Summer St. NE, Suite A, Salem, OR 97301-1271*

The electronic version of this form is available at: <http://www1.wrd.state.or.us/msword/ODFWScreen.doc>.

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.

Condition: 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, 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.

3. The new Point of Diversion (POD) requires a fish screening and/or by-pass device. However, the diversion may be used for up to two years pending a determination of whether cost share assistance under ODFW's cost share program is available.

*If Option 3 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. Except in extraordinary circumstances, Option 3 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. 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 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. 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 screening and/or by-pass device. 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: Within two years after the date of this order, 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. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. Prior to submitting a Claim of Beneficial Use, 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.

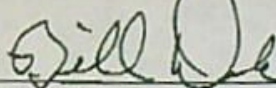
4. The new Point of Diversion (POD) does not currently require a fish screen and/or by-pass device, however, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices.

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future 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.

Condition: Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-

*pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*



\_\_\_\_\_  
Signature

Bill Duke

Printed Name

District Fish Biologist

Title

(541) 276-2344

Phone



**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-10948

**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 and/or fish by-pass devices are required as a condition of this transfer. The fish screen and/or by-pass device must meet ODFW's design, construction, operational and maintenance standards. Fish screening prevents fish from entering the diversion, while a by-pass device safely transports fish back to the body of water from which the fish were diverted.

Pursuant to ORS 498.306, cost share funds may be available to assist in the installation of fish screening and by-pass devices at diversions.

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

ODFW staff name: Mike Jensen

Address: P.O. Box 515

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 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: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_



# FAX TRANSMITTAL

## Oregon Department of Fish and Wildlife

John Day Watershed District Office  
73471 Mytinger Lane, Pendleton, OR 97801

TO: Ken

FAX NUMBER: 541-278-0287

From: Bill Duke

Phone Number: (541) 276-2344

Date: \_\_\_\_\_

Fax Number: (541) 276-4414

Pages To Follow: 4

*SCREENED VERSION*

Comments/Instructions: I did not send a

signed copy to Sara

*Sharks*  
*Bill*

Please circulate	Take necessary action	Prepare reply
For you information	Please Investigate	As you requested
For your signature	For your comments	Initial and return
Edit and return	Call me	Originals to follow



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

WORK COPY

# Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. TYPE OF TRANSFER APPLICATION

Please check one		Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars)  <input type="radio"/> Yes <input type="radio"/> No
<input checked="" type="checkbox"/> Permanent Transfer <input type="checkbox"/> Temporary Transfer (1 to 5 yrs.) • total number of years: _____ (begin year: _____) (end year: _____)	<input type="checkbox"/> Instream Transfer <input type="checkbox"/> Permanent <input type="checkbox"/> Time-Limited <input type="checkbox"/> Drought Transfer <input type="checkbox"/> Other	

## 2. APPLICANT INFORMATION

Applicant: B & G Resources c/o Kenneth G. Gustafson **RECEIVED**  
First Last  
 Mailing Address: 5200 SW MacAdam Ave., Suite 470 **AUG 26 2009**  
Portland Oregon 97239 **WATER RESOURCES DEPT**  
City State Zip **SALEM, OREGON**  
 Phone: \_\_\_\_\_  
Home Work Other  
 Fax: \_\_\_\_\_ Email Address: \_\_\_\_\_

## 3. AGENT INFORMATION

Agent: Schroeder Law Offices, P.C. c/o Cortney D. Duke  
First Last  
 Mailing Address: P.O. Box 12527  
Portland Oregon 97212  
City State Zip  
 Phone: \_\_\_\_\_  
Home Work Other  
 Fax: 503-281-4600 Email Address: c.duke@water-law.com

• If an agent is listed above, please check one of the following:

- Please send all correspondence to Agent. Send copies of correspondence to Applicant; or
- Please send all correspondence to Applicant. Send copies of correspondence to Agent.

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4. PROPOSED CHANGE(S) TO WATER RIGHT(S)

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

	Application / Decree	Permit / Previous Transfer	Certificate
1.		T-8718	83483 ✓
2.			80564 ✓
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

- Place of Use       Point of Diversion (POD)       Additional Point of Diversion
- Character of Use       Point of Appropriation (POA, or well)       Additional POA
- Instream Transfer       Surface Water POD to Ground Water POA
- Substitution of Supplemental Groundwater right for Primary Surface water right
- Historic POD change       Other

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- Reason(s) for change(s): The banks of the Umatilla River have naturally changed, making a portion of the place of use and the authorized POD inaccessible. ✓

5. WATER DELIVERY SYSTEM

- Describe the **current** water delivery system **or** the system that **was in place** at some time **within the last 5 years**. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

*The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.*

The system uses a 20 hp electrical pump and 1/2 mile of wheellines.

- System capacity: 0.78 cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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6. EVIDENCE OF BENEFICIAL WATER USE

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
  - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
  - ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
  - ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
  - ▶ If the right has **not** been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

7. AFFECTED DISTRICTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district?  Yes  No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer?  Yes  No
- Is 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?  Yes  No

*If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:*

See contract 14-06-100-1336 with the Bureau of Reclamation.

Address: 1150 N. Curtis Road, Suite 100, Boise, ID 83706-1234

Contact: Ryan M. Patterson

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8. LOCAL GOVERNMENTS

- List the name and mailing address of all local governments (i.e., each county, city, municipal corporation, or tribal government within whose jurisdiction water will be diverted, conveyed or used).

Umatilla County

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9. LAND OWNERSHIP

- Does the applicant own the lands FROM which the right is being transferred?  Yes  No

If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners (for Permanent Transfers see Section 12(c)):

Names of Current Landowner(s): N/A  
First Last

Address: \_\_\_\_\_  
City State Zip

- Does the applicant own the lands TO which the right is being transferred?  
 Yes  No  N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

If "No", provide the following information:

Names of Receiving Landowner(s): \_\_\_\_\_  
First Last

Address: \_\_\_\_\_  
City State Zip

- Check one of the following:
  - The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
  - The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.
  - N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

10. Other Remarks (optional)

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11. ATTACHMENTS

Check each of the following attachments included with this application.
The application will be returned if all required attachments are not included.

Supplemental Form A -
Description of Proposed Change(s) to a Water Right

A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

Supplemental Form B -
Evidence of Use Affidavit(s)

At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
The Evidence of Use Affidavit must be accompanied by supporting documentation.

Map

Water Right Transfer
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.

Temporary Transfer or Historical POD Change
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

Water Well Report(s)/Well Log(s): N/A

The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

Land Use Information For Proposed Changes:

For Instream Transfers:
Notice of the intent to file an instream transfer application has been provided to each affected local government along the proposed reach, and copies of the notices are enclosed. (For instream transfers a Land Use Information Form is not required.)

For All Other Transfers:
Land Use Information Form is enclosed; or
All of the following criteria are met, therefore a Land Use Information Form is not required:
1 In EFU zone or irrigation district,
2 Change in place of use only,
3 No structural changes needed, including diversion works, delivery facilities, other structures, and
4 Irrigation only.

Fees:

Amount enclosed: \$ 2,000.00
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.

Instream Water Right Transfers, also include:

Supplemental Form C -
Instream Water Right Transfer

Complete this form to describe the desired nature and attributes for the proposed instream water right.

Temporary Transfers, also include:

Recorded Deed:

The applicant must submit a copy of the current deed of record for the land from which the authorized place of use or point of diversion/appropriation is being moved.

Affidavit of Consent:

If the applicant is NOT the owner of record for the land from which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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**Before submitting your application to the Department, be sure you have:**

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

**12. SIGNATURES**

▪ Check one of the following, as appropriate, and sign the application in the signature box below:

In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

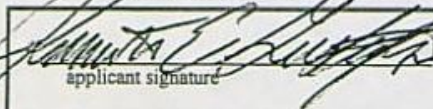
I (we) affirm that interest in the water right has been conveyed to someone other than the landowner, and documents, including a water right conveyance agreement, report of ownership and lien information, and any required lienholder notification are enclosed, demonstrating that I am (we are) authorized to pursue the transfer. I (we) understand that we may be required to provide additional information upon receipt of the draft Preliminary Determination.

I (we) affirm that 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. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.

I (we) affirm that this is a temporary transfer and a copy of the deed for the "from" land (and affidavits of consent from any other landowners, if applicable) is enclosed.

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

 applicant signature	Kenneth E. Gustafson name and title if applicable (print) VP, Res.	8/21/09 date
_____	_____	_____
applicant signature	name and title if applicable (print)	date

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**Water Right Transfer Supplemental Form A**  
**DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 80564

**1. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead</u> of the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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## 2. CURRENT WATER RIGHT INFORMATION

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

<input checked="" type="checkbox"/> Certificated Right	80564 <small>Certificate Number</small>	16393 <small>Permit Number or Decree Name</small>
<input type="checkbox"/> Adjudicated, Non-certificated Right	<small>Name of Decree</small>	<small>Page Number</small>
<input type="checkbox"/> Permit for which Proof has been Approved	<small>Permit Number</small>	<small>Date Claim of Beneficial Use Submitted</small>
<input type="checkbox"/> Transferred Right for which Proof has been Filed	<small>Previous Transfer Number</small>	<small>Date Claim of Beneficial Use Submitted</small>

- Name on Permit, Certificate, or Decree: B&G Resources, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

Tributary to: Columbia River

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?

Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

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▪ Certificate Number or other identifying number: 80564

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**  
(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12

*not on cert*

- Does the water right being transferred involve a ground water source(s)?  
 Yes      No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

- A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

*or*

- B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**  
Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
T 10948									

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SALEM, OREGON

REC'D DEC 03 2010

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

December 3, 2010

VIA ELECTRONIC AND U.S. MAIL

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
Email: [dowdenkd@wrđ.state.or.us](mailto:dowdenkd@wrđ.state.or.us)

RE: Water Right Transfer Application T-10948  
Updates to Supplemental Forms A and B

Dear Mr. Dowden:

Pursuant to our conversation on Monday, November 15, 2010, our office has enclosed an Updated Water Right Transfer Supplemental Form A and an Updated Water Right Transfer Supplemental Form B with the required proof of use documentation.

If there are any further changes necessary or if you have any questions, please contact our office at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke

CDD:bmw

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)

CONCERNING  
C# 80504  
TIPOS

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Certificate Number or other identifying number: 80564

Will the ENTIRE water right be affected by this transfer?  Yes  No

If "Yes", the remainder of this page does not need to be completed. Go on to the next page.

If "No", the following information must be provided only for those places of use that are involved in the transfer (i.e., list only the portion of the water right to be affected by the change.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Place of Use to be Affected:**

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

Source and Priority Date	Township	Range	Mer	Sec	Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Linville River & McKay Reservoir July 3, 1945	2N	30E	W.M.	1	SW SE		4.1

NEW ↗



CCU DEC 03 2010

Certificate Number or other identifying number: 80564

**3. PROPOSED CHANGES TO THE WATER RIGHT**

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

**Location of Proposed Point(s) of Diversion or Appropriation:**

(i.e., the "TO" point(s) of diversion or appropriation)  N/A - Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	1/4 Sec	Tax Lot, D.C. or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		320 Feet South & 2310 Feet West from NE Corner Sec. 12
					NEW ↗		

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

**Construction of Proposed Point(s) of Appropriation or Well(s)**

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well (OWRD Well Log ID No. or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

▪ Certificate Number or other identifying number: 80564

**3. PROPOSED CHANGES TO THE WATER RIGHT**

*Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.*

**Location of Proposed Point(s) of Diversion or Appropriation:**

*(i.e., the "TO" point(s) of diversion or appropriation)*

N/A - Instream Water Right Transfer

**(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)**

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	N SW NE		320 Feet South & 2310 Feet West from NE Corner Sec. 12
					NW NE		

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

*If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)*

*If "No", describe the anticipated construction for the proposed well(s) in the following table:*

**Construction of Proposed Point(s) of Appropriation or Well(s)**

*Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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SALEM, OREGON



▪ Certificate Number or other identifying number: 80564

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands)  N/A - Instream Water Right Transfer  
(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Umatilla River McKay Reservoir	2N	30E	W.M.	1	SE SW		0.5 ✓
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		3.3 ✓
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NE NE		0.3 ✓

Remarks: This transfer is for a change in point of diversion for the entire right and a change in place of use for 4.1 acres. The transfer is required due to the natural, gradual change of the banks of the Umatilla River.

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**Water Right Transfer Supplemental Form A**  
**DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 83483 ✓

**1. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead</u> of the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Substitution (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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 SALEM, OREGON

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**2. CURRENT WATER RIGHT INFORMATION**

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

<input checked="" type="checkbox"/> Certificated Right	<u>83483</u> Certificate Number	<u>16393</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: Kenneth E. Gustafson
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: N/A - Use is irrigation and will not change.
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

Tributary to: Columbia River

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?  
 Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

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▪ Certificate Number or other identifying number: 83483

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12 ✓

- Does the water right being transferred involve a ground water source(s)?  
 Yes       No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 83483

Will the ENTIRE water right be affected by this transfer?  Yes  No

If "Yes", the remainder of this page does not need to be completed. Go on to the next page.

If "No", the following information must be provided only for those places of use that are involved in the transfer (i.e., list only the portion of the water right to be affected by the change.) Attach additional pages as necessary.

*Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.*

**Location of Existing Authorized Place of Use to be Affected:**

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

Source and Priority Date	Township	Range	Mer	Sec	$\frac{1}{4}$ $\frac{1}{4}$ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)

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SALEM, OREGON

▪ Certificate Number or other identifying number: 83483

**3. PROPOSED CHANGES TO THE WATER RIGHT**

*Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.*

**Location of Proposed Point(s) of Diversion or Appropriation:**

*(i.e., the "TO" point(s) of diversion or appropriation)*

N/A - Instream Water Right Transfer

*(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)*

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		320 Feet South & 2310 Feet West from NE Corner, Sec. 12

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

*If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)*

*If "No", describe the anticipated construction for the proposed well(s) in the following table:*

**Construction of Proposed Point(s) of Appropriation or Well(s)**

*Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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SALEM, OREGON

▪ Certificate Number or other identifying number: 83483

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands)  N/A - Instream Water Right Transfer  
 (NOTE: Complete this table only if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)

T 10948

REFERENCED TO C#83483 PORTION

Remarks: This transfer application is for a change in point of diversion only. The transfer is required due to the natural, gradual change of the banks of the Umatilla River. No new place of use is sought.

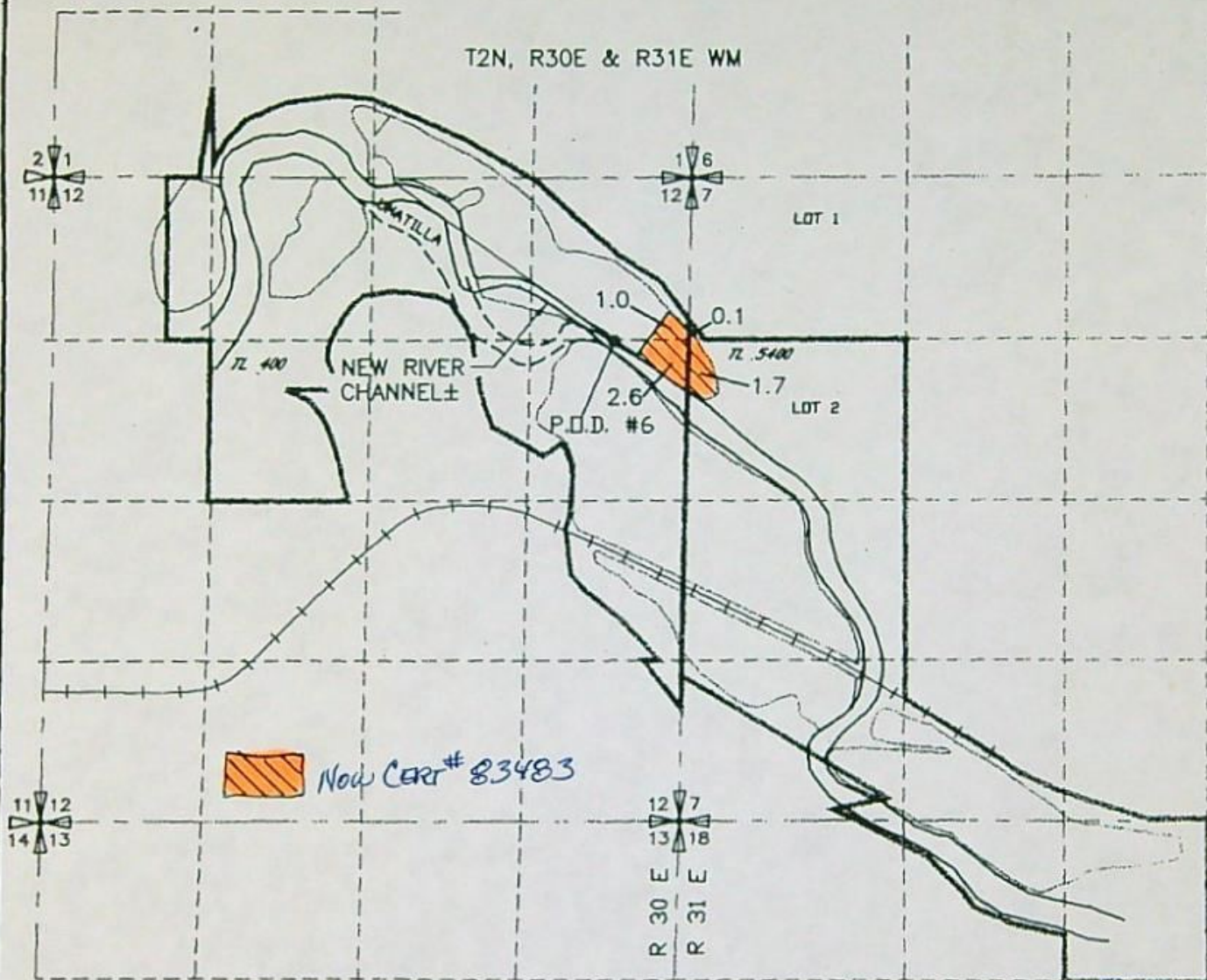
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 AUG 26 2009


FINAL PROOF MAP  
 FOR TRANSFER T-8718  
 B&G RESOURCES  
 C/O KENNETH E. GUSTAFSON


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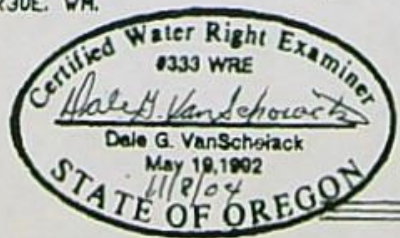
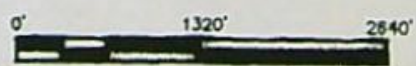
WATER RESOURCES DEPT  
 SALEM, OREGON



 Now Cert # 83483


 5.4 AC AREA IRRIGATED  
 TL 5400 TAX LOT

AUTHORIZED POINTS OF DIVERSION  
 P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST  
 FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.



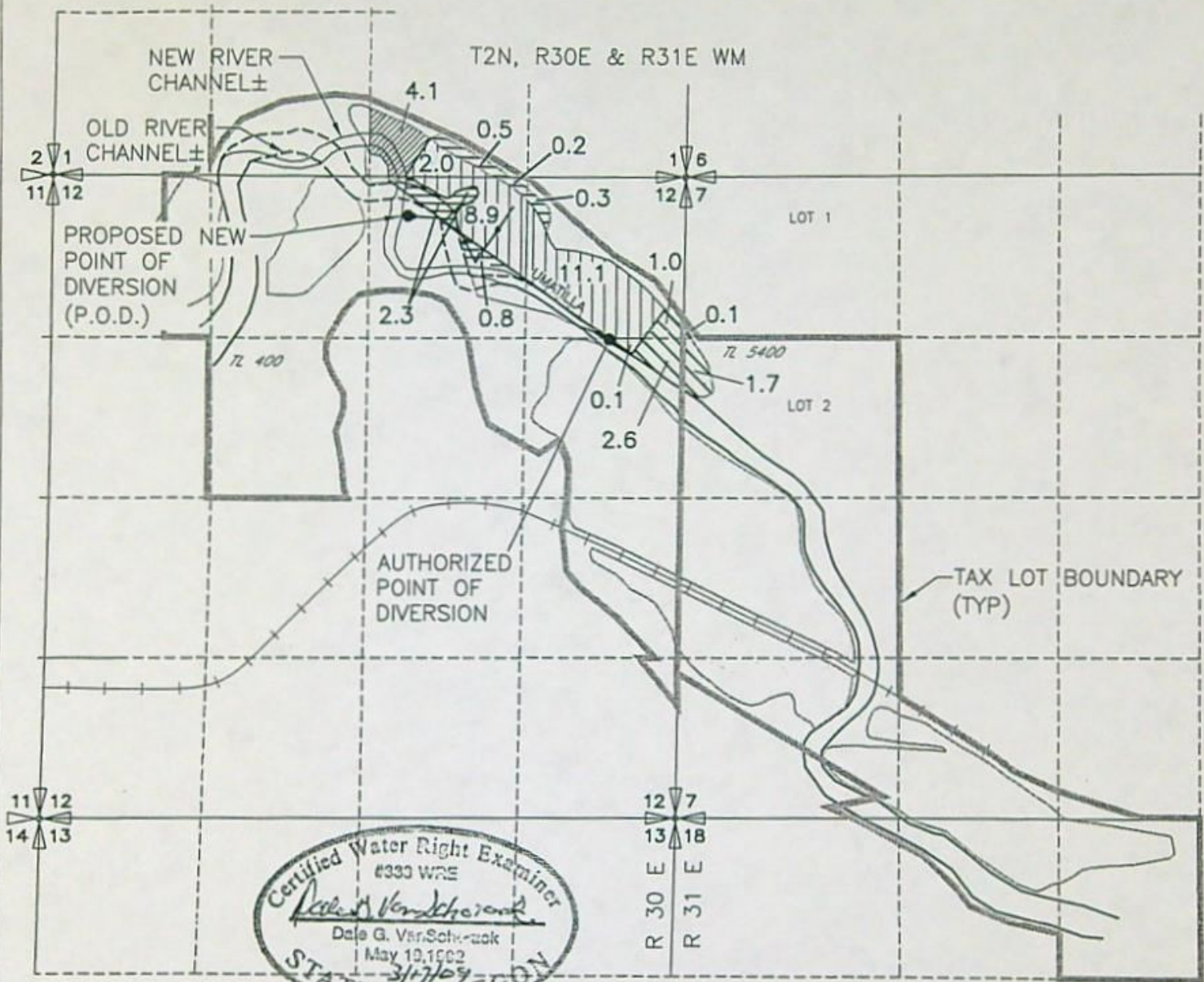
NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DRAWING: H:\CAD\AG\3522\032\3522032FP6776.dwg  
 PRINTED BY: RogerW on 11/08/04 06:30 AM

 **B&G** Consultants, Inc.  
 A Tetra Tech Company







**B&G RESOURCES TRANSFER APPLICATION  
MAP FOR CERT 80564 & 83483  
C/O KENNETH E. GUSTAFSON**





**AUTHORIZED POINT OF DIVERSION**  
P.O.D. 1330 FEET SOUTH AND 610 FEET WEST FROM  
THE NE CORNER SECTION 12, T 2 N, R30E. WM.

**PROPOSED CHANGE IN POINT OF DIVERSION (BOTH  
CERTIFICATES)**  
P.O.D. 320 FEET SOUTH AND 2310 FEET WEST  
FROM THE NE CORNER SECTION 12, T 2 N, R30E.  
WM.

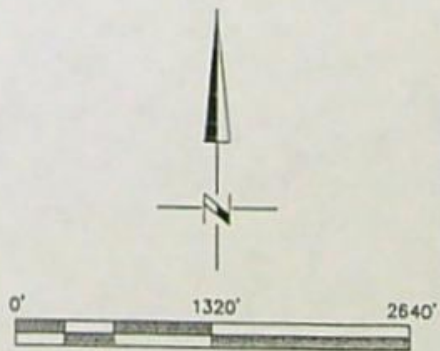
-  4.1 AC CERT 80564 WATER RIGHT INVOLVED  
IN RIVER CHANGING CHANNEL AND TO BE  
TRANSFERRED TO NEW LOCATION
-  5.4 AC CERT 83483  
CHANGE IN P.O.D.
-  22.1 AC CERT 80564  
CHANGE IN P.O.D.
-  4.1 AC CERT 80564 AREA  
RECEIVING WATER RIGHTS AND  
CHANGE IN P.O.D.

T2 5400 TAX LOT

T 10948

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NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION  
OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION  
RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DRAWING: F:\30-08-016 - Porfily Water Rights Consulting\--00 Misc Engineering\Cod\1210822170KENY TRAP.dwg  
PRINTED BY: rwillard on 03/17/09 01:51 PM

**WATER RESOURCES DEPT  
SALEM, OREGON**

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND, OR 97239

confirms the right to use the waters of UMATILLA RIVER AND MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 5.4 ACRES.

This right was perfected under Permit 16393. The date of priority is July 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.135 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE 1/4 NE 1/4, SECTION 12, T 2 N, R 30 E, W.M.; 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

T-8718.RA

Certificate Number 83483

A description of the place of use to which this right is appurtenant is as follows:

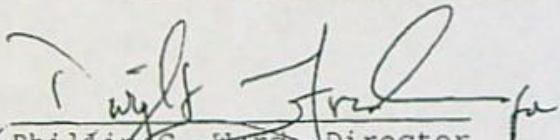
NE 1/4 NE 1/4            1.0 ACRE  
SE 1/4 NE 1/4            2.6 ACRES  
SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

LOT 1 (NW 1/4 NW 1/4)    0.1 ACRE  
LOT 2 (SW 1/4 NW 1/4)    1.7 ACRES  
SECTION 7  
TOWNSHIP 2 NORTH, RANGE 31 EAST, W.M.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered January 20, 2004, approving Transfer Application 8718, and together with Certificate 80564, supersedes Certificate 76631, State Record of Water Right Certificates.

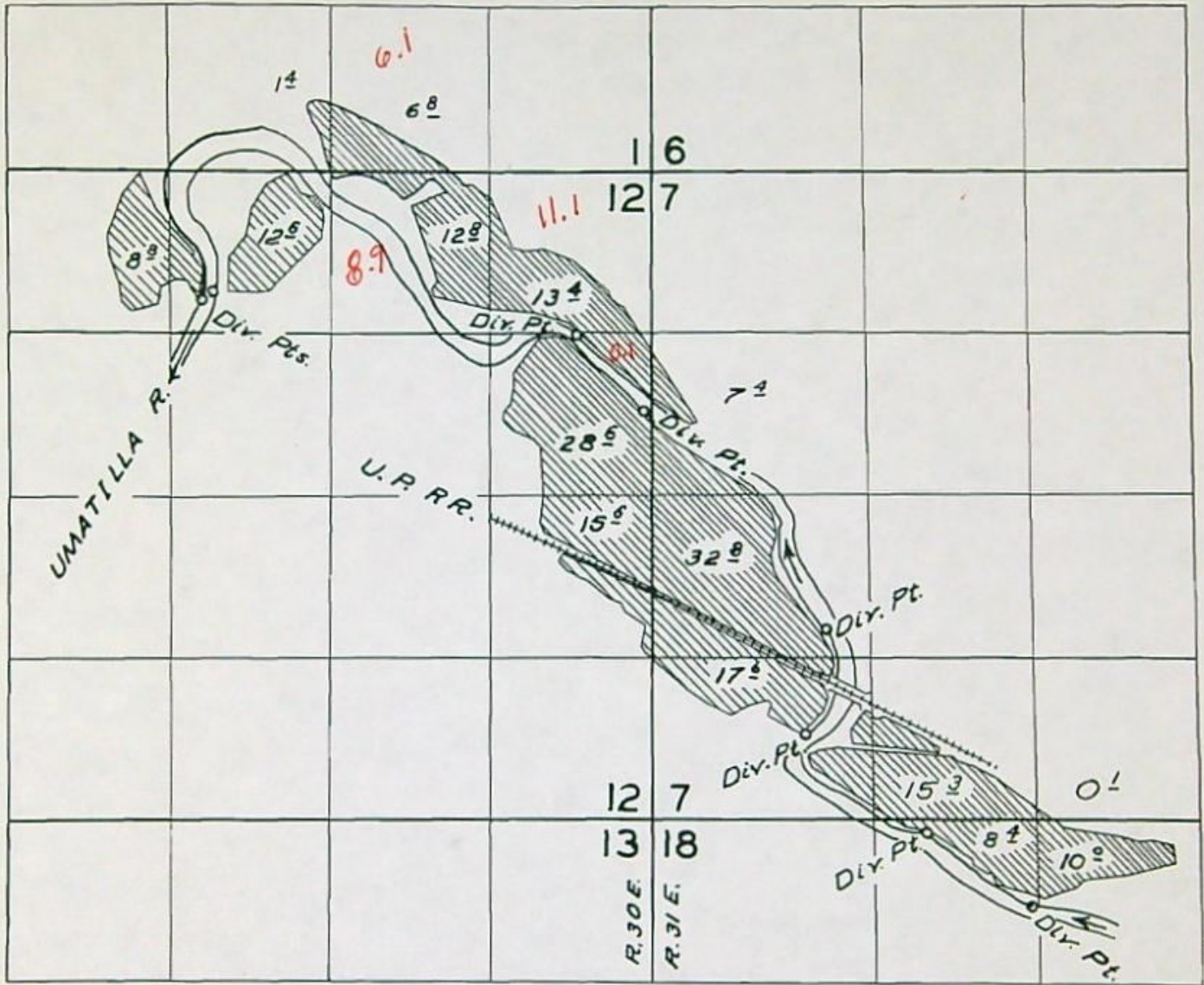
Issued     AUG 24 2007    

  
Philip C. Ward, Director  
Water Resources Department

Recorded in State Record of Water Right Certificates Number 83483.

T-8718.RA

T. 2 N. R. 30 & 31 E. W. M.



FINAL PROOF SURVEY  
UNDER

Application No. 20,936 Permit No. 16,393.  
IN NAME OF

*E. E. Burlingham & Sons*

Surveyed May 30, 1958, by C. O. Bartels  
July 16, 1960, by R. H. Jackson

NZ-2P-184  
1957-X *[Signature]*

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and McKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE¼ NE¼, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

A description of the place of use to which this right is appurtenant is as follows:

SW~~¼~~ SE~~¼~~ 6.1 ACRES -4.1  
SECTION 1

NE~~¼~~ NE~~¼~~ 11.1 ACRES  
NW~~¼~~ NE~~¼~~ 8.9 ACRES  
SE~~¼~~ NE~~¼~~ 0.1 ACRE

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 2 0 2004, approving Transfer Application 8718.

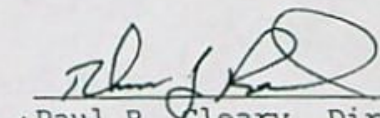
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

JAN 2 0 2004

Director, affixed \_\_\_\_\_.

  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 80564.

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE~~X~~ NE~~X~~, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

NO RR

A description of the place of use to which this right is appurtenant is as follows:

SW¼ SE¼ 6.1 ACRES <sup>T-10948</sup> -4.1 ΔPOD & ΔPOD  
SECTION 1 (2.0 ΔPOD)

NE¼ NE¼ 11.1 ACRES ΔPOD only  
NW¼ NE¼ 8.9 ACRES ΔPOD ONLY  
SE¼ NE¼ 0.1 ACRE ΔPOD ONLY

SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 20 2004, approving Transfer Application 8718.

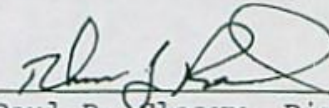
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

JAN 20 2004

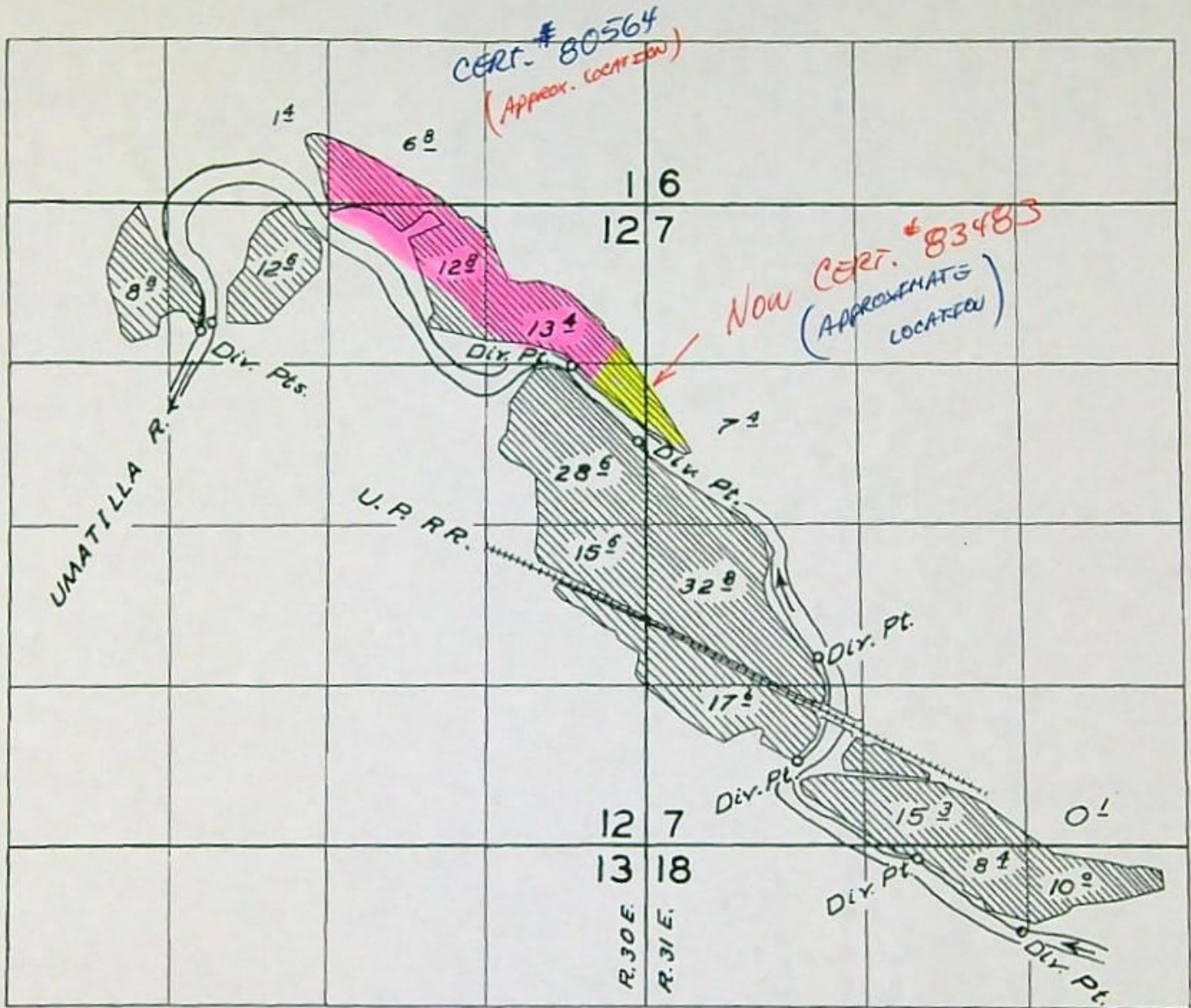
Director, affixed \_\_\_\_\_.

  
for Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 80564.



T. 2 N. R. 30 & 31 E. W. M.



**FINAL PROOF SURVEY**  
UNDER

Application No. 20,936 Permit No. 16393.  
IN NAME OF

*E. E. Burlingham & Sons*

Surveyed May 30, 1958, by C. O. Bartels  
July 16, 1960, by R. H. Jackson

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and McKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE¼ NE¼, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

*NO RR*

A description of the place of use to which this right is appurtenant is as follows:

SW¼ SE¼ 6.1 ACRES  
SECTION 1

NE¼ NE¼ 11.1 ACRES  
NW¼ NE¼ 8.9 ACRES  
SE¼ NE¼ 0.1 ACRE

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 20 2004, approving Transfer Application 8718.

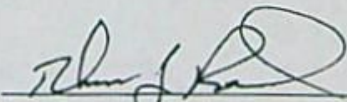
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

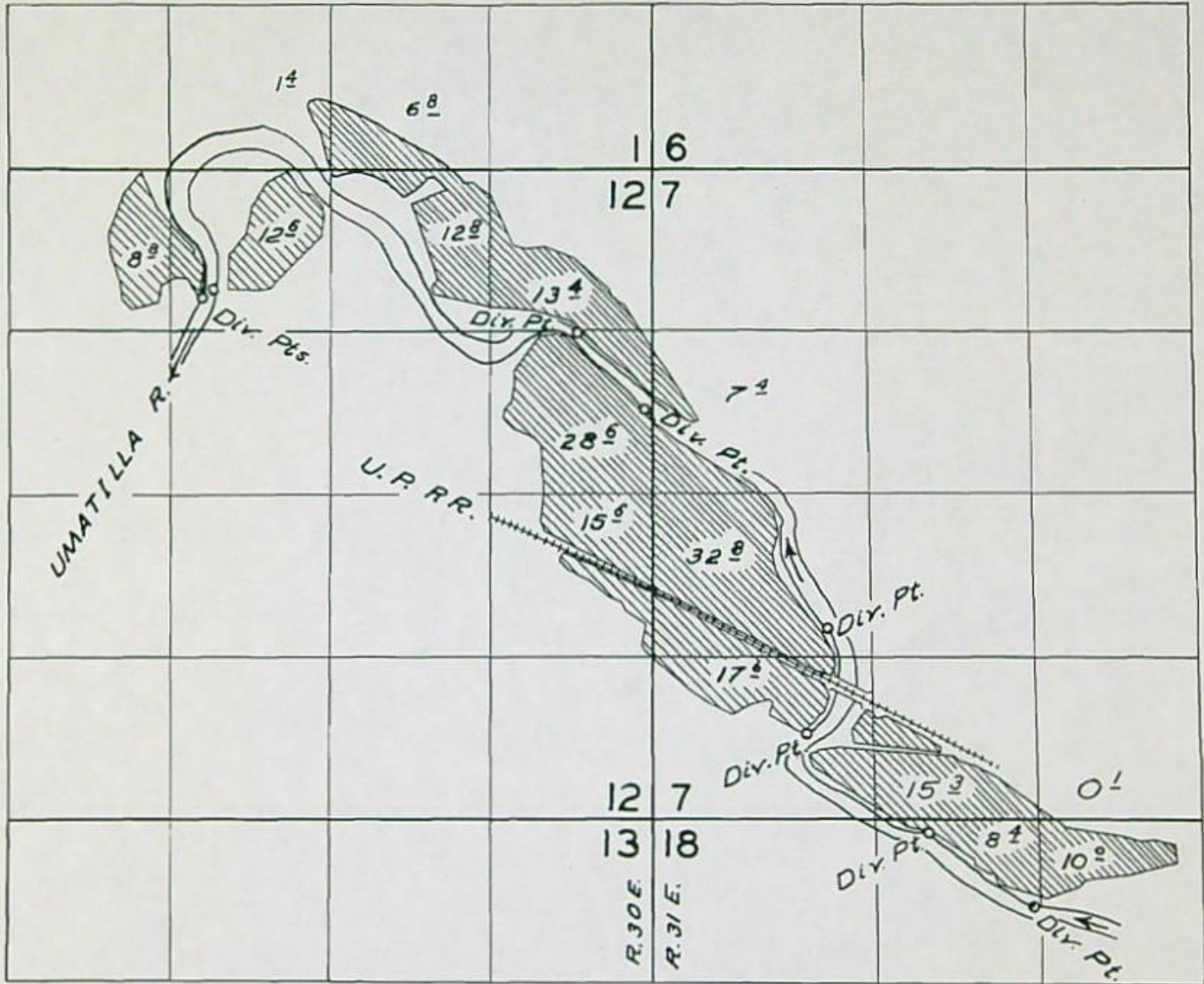
JAN 20 2004

Director, affixed \_\_\_\_\_.

  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 80564.

T. 2 N. R. 30 & 31 E. W. M.



FINAL PROOF SURVEY  
UNDER

Application No. 20,936 Permit No. 16,393.  
IN NAME OF

*E. E. Burlingham & Sons*

Surveyed May 30, 1958, by C. O. Bartels  
July 16, 1960, by R. H. Jackson

NZ-2P-184  
1957-2 *[Signature]*

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and CAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND, OR 97239

confirms the right to use the waters of UMATILLA RIVER AND MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 5.4 ACRES.

This right was perfected under Permit 16393. The date of priority is July 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.135 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE 1/4 NE 1/4, SECTION 12, T 2 N, R 30 E, W.M.; 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

T-8718.RA

Certificate Number 83483

NO RR

A description of the place of use to which this right is appurtenant is as follows:

*T-10940*

NE 1/4 NE 1/4 1.0 ACRE *Δ POD ONLY*  
SE 1/4 NE 1/4 2.6 ACRES *Δ POD ONLY*

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

LOT 1 (NW 1/4 NW 1/4) 0.1 ACRE *Δ POD ONLY*  
LOT 2 (SW 1/4 NW 1/4) 1.7 ACRES *Δ POD ONLY*

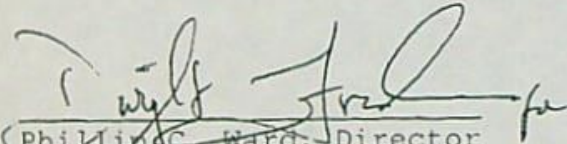
SECTION 7

TOWNSHIP 2 NORTH, RANGE 31 EAST, W.M.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered January 20, 2004, approving Transfer Application 8718, and together with Certificate 80564, supersedes Certificate 76631, State Record of Water Right Certificates.

Issued AUG 24 2007

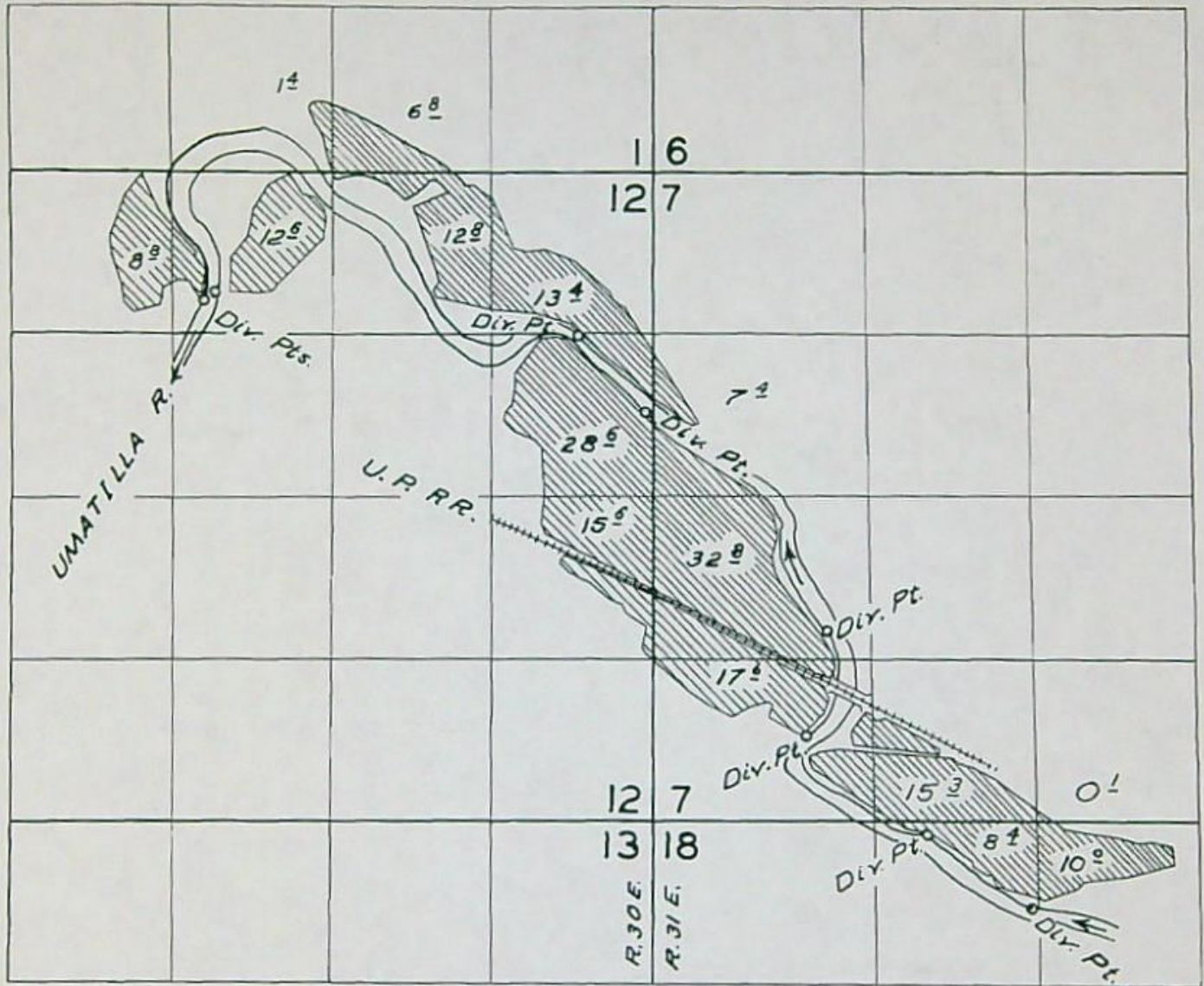
  
Phillip C. Ward, Director  
Water Resources Department

Recorded in State Record of Water Right Certificates Number 83483.

T-8718.RA

*919 014*

T. 2 N. R. 30 & 31 E. W. M.



FINAL PROOF SURVEY  
UNDER

Application No. 20936 Permit No. 16393  
IN NAME OF

*E. E. Burlingham & Sons*

Surveyed May 30, 1958, by C. O. Bartels  
July 16, 1960, by R. H. Jackson

NZ-2P-184  
1957-2

STATE OF OREGON

COUNTY OF UMATILLA

ORDER APPROVING A CHANGE IN PLACE OF USE

Pursuant to ORS 550.510 through 540.530, after notice was given and no objections were filed, and finding that no injury to existing water rights would result, this order approves, as conditioned or limited herein, TRANSFER 8718 submitted by

KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND, OREGON 97201.

The right to be modified, as evidenced by a PORTION of Certificate 76631 was perfected under Permit 16393 with a date of priority of JULY 3, 1945. The right allows the use of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application R-7526 and Permit Number R-584, tributary to the COLUMBIA RIVER, for the IRRIGATION OF 5.4 ACRES. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.135 cubic foot per second, if available at the authorized point of diversion; SE¼ NE¼, SECTION 12, T 2 N, R 30 E, W.M.; or its equivalent in case of rotation, measured at the point of diversion from the source.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2).

Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005, you may either petition for judicial review or petition the Director for reconsideration of this order.



The amount of water used for irrigation, together with the amount secured under any other right existing on the same lands, shall be limited to a diversion of ONE-FORTIETH of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet per acre for each irrigated during the irrigation season of each year.

The use shall conform to any reasonable rotation system ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

The authorized place of use is as follows:

NE¼ NE¼ 1.60 ACRES  
NW¼ NE¼ 3.80 ACRES  
SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

The right to use water for the above purpose is restricted to beneficial use on the lands or place of use described.

The applicant proposes to CHANGE THE PLACE OF USE to:

NE¼ NE¼ 1.00 ACRE  
NW¼ NE¼ 2.40 ACRES  
SE¼ NE¼ 2.00 ACRES  
SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

THIS CHANGE TO AN EXISTING WATER RIGHT MAY BE MADE PROVIDED THE FOLLOWING CONDITIONS ARE MET BY THE WATER USER:

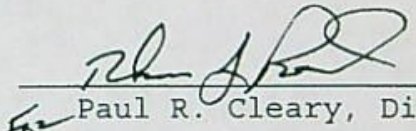
1. The proposed change shall be completed on or before October 1, 2005.
2. The former place of use shall no longer be irrigated as part of this water right.

3. When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Certificate 76631 is canceled. A new certificate will be issued to confirm that portion of the right NOT involved in this transfer. When satisfactory proof of the completed change is received, a new certificate confirming this water right will be issued.

WITNESS the signature of the Water Resources

Director, affixed JAN 20 2004.

  
For Paul R. Cleary, Director

WATER RIGHT TRANSFER MAP  
FOR  
KENNETH E GUSTAFSON  
UNDER PERMIT 16393

T-8718  
**RECEIVED**

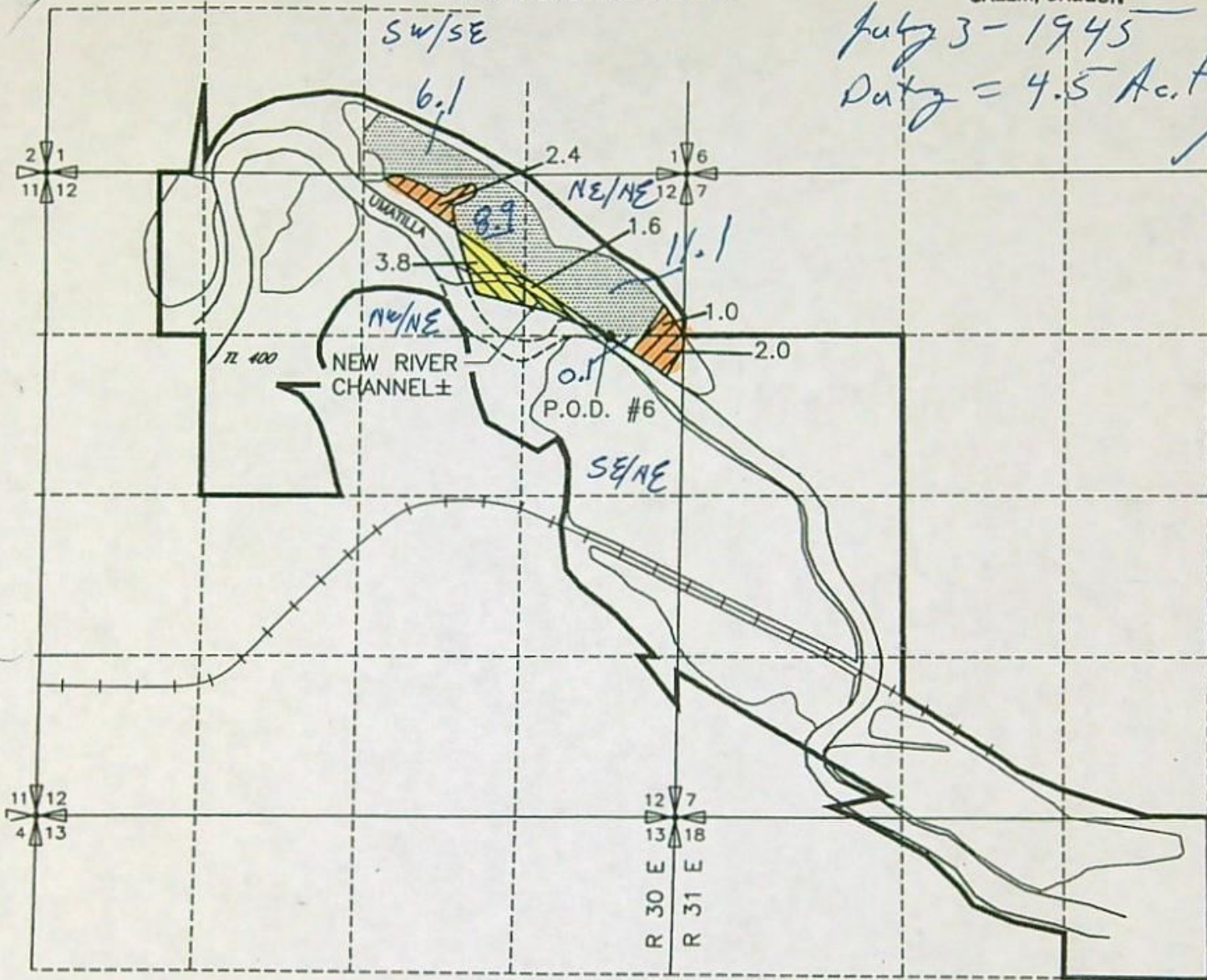
MAR 15 2001

WATER RESOURCES DEPT.  
SALEM, OREGON

*B+G*

T 2 N, R 30 E. AND 31 E. WM

*July 3 - 1945*  
*Duty = 4.5 Ac. FV/AC*

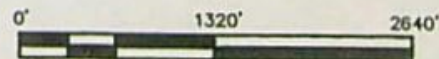


-  FROM
-  TO
-  AREA REMAINING OF PERMIT 16393 NOT INVOLVED IN THIS TRANSFER

AUTHORIZED POINTS OF DIVERSION

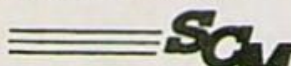
P.O.D. #6 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.

Certified Water Right Examiner  
#333 WRE  
*Dale G. VanScholack*  
Dale G. VanScholack  
May 19, 1992  
1/14/01  
STATE OF OREGON



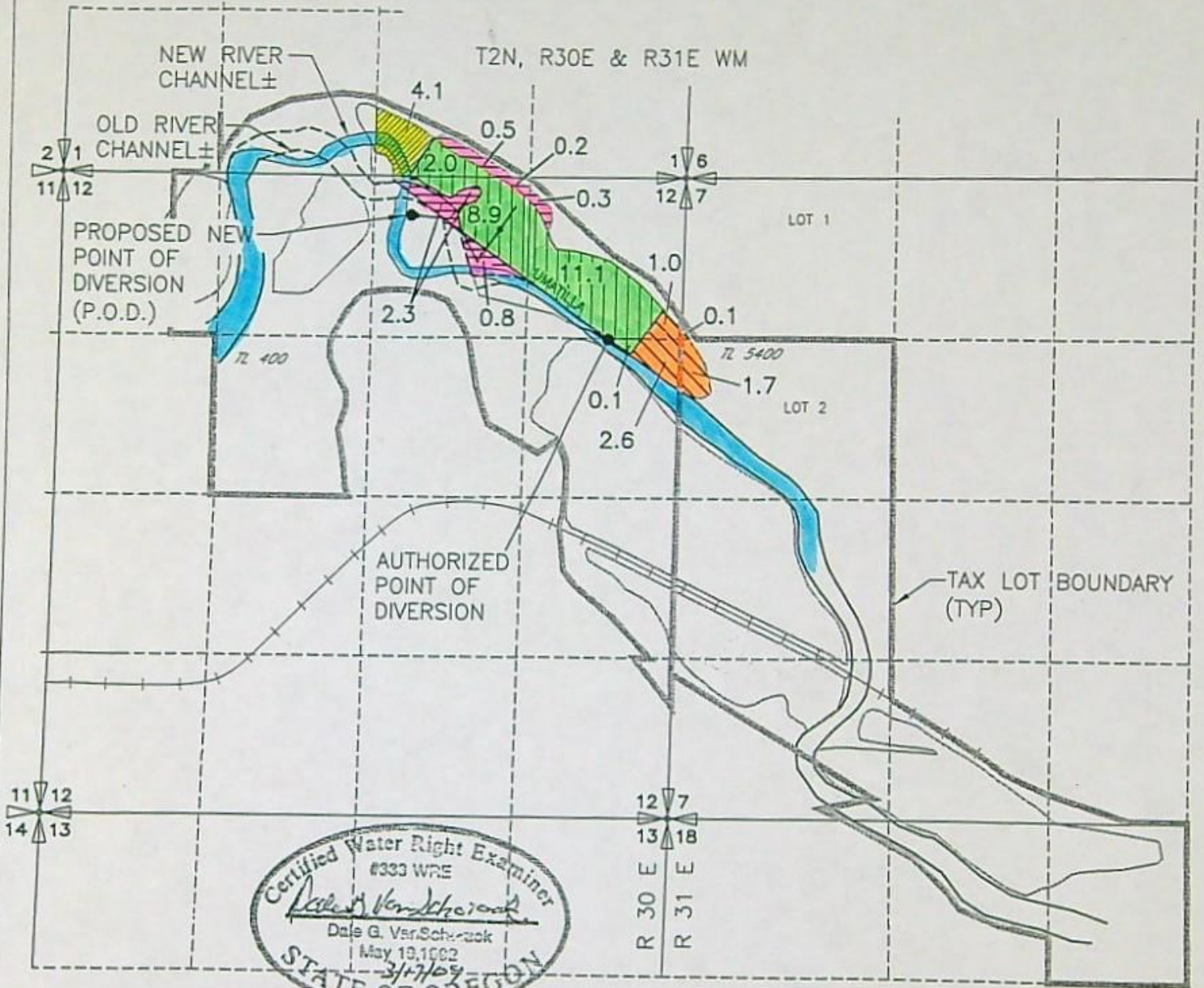
NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.132  
3522GUTR.DWG  
01/15/01



Architects & Engineers  
Kennelick WA 99336





B&G RESOURCES TRANSFER APPLICATION  
 MAP FOR CERT 80564 & 83483  
 C/O KENNETH E. GUSTAFSON



Certified Water Right Examiner  
 #333 WRE  
*Dale G. VanSchwarzok*  
 Dale G. VanSchwarzok  
 May 19, 1982  
 3/17/09  
 STATE OF OREGON  
 Expires 6/30/10

AUTHORIZED POINT OF DIVERSION  
 P.O.D. 1330 FEET SOUTH AND 610 FEET WEST FROM  
 THE NE CORNER SECTION 12, T 2 N, R30E. WM.

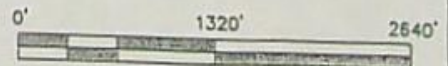
PROPOSED CHANGE IN POINT OF DIVERSION (BOTH  
 CERTIFICATES)  
 P.O.D. 320 FEET SOUTH AND 2310 FEET WEST  
 FROM THE NE CORNER SECTION 12, T 2 N, R30E.  
 WM.

-  4.1 AC CERT 80564 WATER RIGHT INVOLVED IN RIVER CHANGING CHANNEL AND TO BE TRANSFERRED TO NEW LOCATION "From"
-  5.4 AC CERT 83483 CHANGE IN P.O.D. ONLY
-  22.1 AC CERT 80564 CHANGE IN P.O.D. ONLY
-  4.1 AC CERT 80564 AREA RECEIVING WATER RIGHTS AND "TO" CHANGE IN P.O.D.

T 10948

RECEIVED

AUG 26 2009



NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DRAWING: F:\30-08-016 - Porfily Water Rights Consulting\00 Misc Engineering\Cod\1201052217KENN TRAP.dwg  
 PRINTED BY: rwillard on 03/17/09 01:51 PM

WATER RESOURCES DEPT  
 SALEM, OREGON



# Oregon

Theodore R. Kulongoski, Governor

*file copy*

**Water Resources Department**  
North Central Region  
116 S.E. Dorion Avenue  
Pendleton, Or 97801  
Phone (541) 278-5456  
Fax (541) 278-0287

December 9, 2010

Agent

SCHROEDER LAW OFFICES, P.C.  
Attn: CORTNEY D. DUKE  
P.O. BOX 12527  
PORTLAND, OR 97212

SUBJECT: Water Right Transfer Application T-10948

Thank you for your quick responses in addressing the few deficiencies found with your client's transfer application. The application is now found to be complete. The water right transfer is in one of three phases of processing. Please find enclosed a draft of our Preliminary Determination regarding Transfer Application T-10948. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved.

**Items needed before the next phase of processing...**

Please review the draft carefully to familiarize yourself with any requirements and evaluate whether the document is consistent with your client's intent in seeking the transfer. Please respond in writing by the deadline provided below, whether you agree with the proposed action and whether there are any typographical errors that need to be corrected.

A report of landownership for the lands to which the water rights are appurtenant (specifically the FROM lands) is required. **The report must be prepared by a title company.**

- 1) The title company's report must either be:
  - a) prepared within 3 months of the draft Preliminary Determination showing current ownership, or
  - b) prepared within 3 months of recording of a water right conveyance agreement, or
  - c) prepared at any time, but showing ownership at the time a water right conveyance agreement was recorded.
- 2) The ownership report shall include:
  - a) Date reflected by the ownership information
  - b) List of owners at that time
  - c) Legal description of the property where the water right to be transferred is currently located.
- 3) You will need to submit a notarized statement of consent from any landowner listed in the ownership report who is not already included in the transfer application, or other information such as a water right conveyance agreement, if applicable.

**Conditions to your water right...**

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

If this transfer is approved, the final order will also include a condition requiring installation of a fish screen at the new diversion point prior to diversion of water. Please note the proposed date by which this condition must be met: October 1, 2012. If you believe you will need more time to install and obtain ODFW approval of the fish screen, you may request the deadline to be changed,

giving an explanation of why more time is needed. You may not divert water prior to installation and written approval of the fish screen. 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 look at Condition #8 on page 5, which sets a date for completion of the changes. If the required completion date is insufficient to comply with any of the requirements listed in this document, you may extend the date at no cost to you during this stage of processing. Please let me know by the comment deadline so we can make the proper arrangements to get you the time you need.

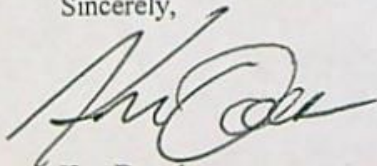
**What happens next...**

Once the preliminary determination is issued a publication period is required. Because the new point of diversion is more than ¼ mile from the authorized points of diversion, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you upon issuance of the Preliminary Determination.

Issuance of the Preliminary Determination will occur shortly after we receive the report of ownership and your written response to the conditions and proposed action in the draft Preliminary Determination (e-mail is acceptable). If we do not receive your response and the report by January 10, 2011, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at 541-278-5456 or Ken.D.Dowden@wrp.state.or.us if I may be of assistance.

Sincerely,



Ken Dowden  
Transfer Specialist  
Field Services Division

cc: T-10948  
Tony Justus, District #5 Watermaster  
Kenneth E. Gustafson, applicant → address: 5200 SW MacAdam Ave, Suite 470, Portland, OR 97239  
Dale Van Schoiack, CWRE #333 → address: DGV Consulting, 2141 South Lyle, Kennewick, WA. 99337

Encs: Watermaster contact sheet  
ODFW contact sheet

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application )  
T-10948, Umatilla County )

) **D R A F T**

) PRELIMINARY DETERMINATION  
) PROPOSING APPROVAL CHANGE IN  
) POINT OF DIVERSION AND PLACE  
) OF USE

**Authority**

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

**Applicant**

B & G RESOURCES  
c/o KENNETH E. GUSTAFSON  
5200 SW MACADAM AVE., SUITE 470  
PORTLAND, OR 97239

**Agent**

SCHROEDER LAW OFFICES, P.C.  
CORTNEY D. DUKE  
P.O. BOX 12527  
PORTLAND, OR 97212

**Findings of Fact**

**Background**

1. On August 26, 2009, B & G Resources filed an application to change the point of diversion and place of use under Certificates 80564 and 83483. The Department assigned the transfer application number T-10948.
2. The first right to be transferred is as follows:  
**Certificate:** 80564 in the name of B & G RESOURCES, INC. (perfected under Permit S-16393)  
**Use:** IRRIGATION 26.2 ACRES  
**Priority Date:** JULY 3, 1945  
**Rate:** 0.655 CUBIC FOOT PER SECOND  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall

be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Application Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	- not specified

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	Type of change	Acres
2 N	30 E	WM	1	SW SE	▲POU & ▲POD	4.1
2 N	30 E	WM	1	SW SE	▲POD only	2.0
2 N	30 E	WM	12	NE NE	▲POD only	11.1
2 N	30 E	WM	12	NW NE	▲POD only	8.9
2 N	30 E	WM	12	SE NE	▲POD only	0.1

3. Certificate 80564 does not describe the location of the point of diversion with coordinates and measured distances, however information is available from associated Certificate 83483 (also Per. S-16393/Findings of Fact#6 below) from the Umatilla River indicating that the point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	UMATILLA RIVER - 1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

4. Transfer Application T-10948 proposes to change the place of use for the 4.1 acres described above to:

**Proposed Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
2 N	30 E	WM	1	SW SE	0.5
2 N	30 E	WM	12	NE NE	0.3
2 N	30 E	WM	12	NW NE	3.3

5. Transfer application T-10948 also proposes to change the point of diversion for the entire water right described above downstream approximately 2400 feet to:

**Proposed Place of Use:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

6. The second right to be transferred is as follows:

**Certificate:** 83483 in the name of KENNETH E. GUSTAFSON (perfected under Permit S-16393)

**Use:** IRRIGATION 5.4 ACRES

**Priority Date:** JULY 3, 1945

**Rate:** 0.135 CUBIC FOOT PER SECOND



**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-FORTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 ACRE-FEET for each acre irrigated during the irrigation season of each year. The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

**Source:** UMATILLA RIVER and McKAY RESERVOIR, constructed under Permit R-584, tributary of the COLUMBIA RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	SE NE	1330 FEET SOUTH AND 610 FEET WEST FROM NE CORNER OF SECTION 12

**Authorized Place of Use:**

IRRIGATION						
Twp	Rng	Mer	Sec	Q - Q	GLot	Acres
2 N	30 E	WM	12	NE NE	--	1.0
2 N	30 E	WM	12	SE NE	--	2.6
2 N	31 E	WM	7	NW NW	1	0.1
2 N	31 E	WM	7	SW NW	2	1.7

- Transfer application T-1948 proposes to change the point of diversion for the above described water right downstream approximately 2400 feet to:

**Proposed Point of Diversion:**

Twp	Rng	Mer	Sec	Q - Q	Measured Distances
2 N	30 E	WM	12	NW NE	320 FEET SOUTH AND 2310 FEET WEST FROM NE CORNER OF SECTION 12

- Notice of the application for transfer was published on September 8, 2009, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
- 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 690-380-4010(2)]**

- Water has been used within the last five-year period prior to submittal of the transfer application according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing rights were present within the five-year period prior to submittal of Transfer Application T-10948.
12. The proposed changes would not result in enlargement of the rights.
13. The proposed changes would not result in injury to other water rights.

***Determination and Proposed Action***

The changes in points of diversion and place of use proposed in Transfer Application T-10948 appear 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 application T-10948 is approved, the final order will include the following:*

1. *The changes in points of diversion and place of use proposed in application T-10948 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80564 and 83483 and any related decree.*
3. *Water right Certificates 80564 and 83483 are cancelled.*
4. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion.*
5. *The former place of use of the transferred right shall no longer receive water under the right.*
6. *Before water use 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. The water user shall maintain the meter or measuring device in good working order. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *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, 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.*

8. *The approved changes shall be completed and full beneficial use of the water shall be made on or before **October 1, 2012**. A Claim of Beneficial Use 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 changes and full beneficial use of the water.*
9. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this \_\_\_\_\_ day of \_\_\_\_\_ 2010.

**D R A F T**

\_\_\_\_\_  
Dwight French for  
PHILLIP C. WARD, DIRECTOR

This draft Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or [Ken.D.Dowden@wr.d.state.or.us](mailto:Ken.D.Dowden@wr.d.state.or.us).

**Oregon Water Resources Department**

**Measurement Condition Information for the Applicant**  
*(to be sent with the Draft Preliminary Determination or Final Order)*

Transfer #: T-10948

A flowmeter will be required to be installed prior to diversion of water at the proposed point(s) of diversion or appropriation as a condition of this transfer.

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

Watermaster name: Tony Justus

District: 5

Address: 116 SE Dorian Ave.

City/State/Zip: Pendleton, OR, 97801

Phone: 541-278-5456

Email: Tony.G.JUSTUS@wrđ.state.or.us

*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:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

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 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-10948

**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 and/or fish by-pass devices are required as a condition of this transfer. The fish screen and/or by-pass device must meet ODFW's design, construction, operational and maintenance standards. Fish screening prevents fish from entering the diversion, while a by-pass device safely transports fish back to the body of water from which the fish were diverted.

Pursuant to ORS 498.306, cost share funds may be available to assist in the installation of fish screening and by-pass devices at diversions.

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

ODFW staff name: Mike Jensen

Address: P.O. Box 515

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 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: \_\_\_\_\_

Address: \_\_\_\_\_

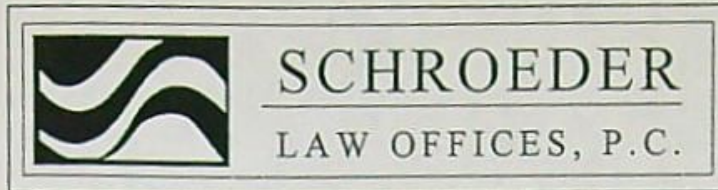
City/State/Zip: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_\_

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

January 6, 2011

**VIA ELECTRONIC AND U.S. MAIL**

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301  
Email: [ken.d.dowden@state.or.us](mailto:ken.d.dowden@state.or.us)

**RE: Water Right Transfer Application T-10948**

Dear Mr. Dowden:

This firm represents B & G Resources, c/o Kenneth E. Gustafson, the applicant for the referenced transfer application. The applicant has received and reviewed the Draft Preliminary Determination recommending approval of T-10948 and hereby acknowledges agreement with the proposed action, terms and conditions therein. The applicant found no typographical errors and agrees that the transfer should be approved as proposed.

Enclosed herein, please find the report of land ownership prepared on January 4, 2011 to complete the transfer application file.

Upon issuance of the preliminary determination, the applicant will complete publication of notice of the transfer in a local newspaper of general circulation in the area of the water right as required.

Please note that this office's address has changed. The P.O. Box to which the Draft Preliminary Determination was sent is no longer operable. In order to ensure timely receipt of

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)



PROPERTY ANALYSIS REPORT

SCHROEDER LAW OFFICES, P.C.  
Attn: BRIANA M. WITT  
1915 NE CESAR CHAVEZ BLVD  
PORTLAND, OR 97212

Date : January 7, 2011  
Order No. 0066893  
Cost:\$50.00

We have searched our Tract Indices as to the following described property:

*SEE ATTACHED LEGAL DESCRIPTION*

and as of December 5, 2010 at 8:00 A.M. at 8:00 a.m., we find that the last deed of record runs to:

*B&G RESOURCES, INC.,  
An Oregon corporation.*

We also find the following monetary encumbrances prior to the effective date hereof:

NONE

We also find the following unpaid taxes and city liens:

1. Potential Additional Tax Liability by reason of zoning reclassification, as disclosed on the assessment rolls for Umatilla County, Oregon. At any time that said land is disqualified for such use, said property will be subject to additional taxes and interest.

NOTE: Taxes for the year 2010-2011: \$.85, Paid in full.  
Map No. 2N 30 12 400 16-17  
Account No. 150322

Taxes for the year 2010-2011: \$150.25, Paid in full.  
Map No. 2N 30 12 400 16-22  
Account No. 150325

Taxes for the year 2010-2011: \$1.27, Paid in full.  
Map No. 2N 30 12 400 16-27  
Account No. 150322

Order No. 0066893

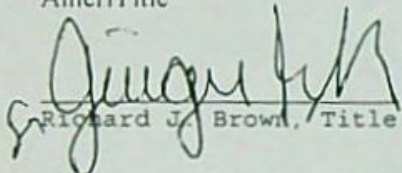
Page 2

Taxes for the year 2010-2011: \$412.73, Paid in full.  
Map No. 2N 30 12 400 16-29  
Account No. 150328

This Par Report is being made with the understanding that it does not represent any form of title insurance and is not a commitment for a policy of insurance. The information provided herein is not a full examination of the subject property. Further, if any person, corporation, or entity of any kind should use this report as a basis to produce a title insurance policy it should be understood that it is clearly outside of Oregon Law. Any liability hereunder is limited to the amount paid for said report.

**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.

AmeriTitle

  
Richard J. Brown, Title Examiner

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



LEGAL DESCRIPTION:

All of those certain parcels of land heretofore acquired by Oregon-Washington Railroad and Navigation Company and Warranty Deed dated December 20, 1933, filed for record February 5, 1994, in Volume 147 of Deeds at Page 144 of the Records of Umatilla County, Oregon, being more particularly described in said deed as follows:

PARCEL ONE:

An irregular shaped tract of land comprising a part of Sections 1 and 12, of Township 2 North, Range 30, East of the Willamette Meridian, and a part of Section 7 of Township 2 North, Range 31, East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the Southeast corner of said Section 1; thence North along the East line of said Section 1, to the Northeast corner of the Southeast quarter of the Southeast Quarter thereof; thence West along the North line of the South Half of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter of said Section 1, to the Northwest corner of the said Southeast Quarter of the Southwest Quarter; thence South along the West line of the said Southeast Quarter of the Southwest Quarter, to an iron monument at a point 689 feet, more or less, North of the Southwest corner thereof; thence South  $19^{\circ}57'$  West, 733 feet more or less to an iron monument at a point in the North line of said Section 12, 250 feet more or less, West of the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 12; thence West along the North line of said Section 12, to a point 940 feet East of the Northwest corner of said Section 12; thence South 1324.5 feet, to a point in the South line of the Northwest quarter of the Northwest quarter of said Section 12, 940 feet East of the Southwest corner of said Northwest quarter of the Northwest quarter; thence East along the South line of said Northwest quarter of the Northwest quarter to the Northwest corner of the Southeast quarter of the Northwest quarter of said Section 12; thence South along the West line of said Southeast quarter of the Northwest quarter to the Southwest corner thereof; thence East along the South line of said Southeast quarter of the Northwest quarter to a point in the center of the channel of the Umatilla River; thence Northwesterly along the said center of the channel of the Umatilla River to a point which is 462 feet North and 396 feet West of the center of said Section 12; thence Northwesterly in a direct line 620 feet, to a point on the left bank of said Umatilla River; thence East 600 feet to a point 50 feet East of the center of old railroad grade of the Oregon-Washington Railroad and Navigation Company; thence along a circular curve to the right, with a radius of 523.7 feet along the old right of way of said Oregon-Washington Railroad and Navigation Company to a point 165 feet South of the South line of the Northwest quarter of the Northeast quarter of said Section 12; thence Southeasterly on the Southwest side of and along said old right-of-way and terminating at a point 40 feet from the high water mark of the Furnish Ditch Company's Reservoir, which point bears North 560 feet from the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 12; thence South  $62^{\circ}16'$  East 52 feet; thence North  $33^{\circ}15'$  East 140 feet; thence South  $59^{\circ}23'$  East 398 feet; thence South  $9^{\circ}48'$  East 363 feet; thence South  $10^{\circ}30'$  West 317 feet; more or less, to a point on the North boundary line of Oregon-Washington Railroad and Navigation Company's right of way as now located in the Northeast quarter of the Southeast quarter of said Section 12; said point being 393 feet, more or less, distant Southeasterly, measured along said North boundary line of Oregon-Washington Railroad and Navigation Company's right of way, from the West boundary line of said Northeast quarter of the Southeast Quarter; thence Southeasterly along the Northerly right of way boundary line of said Oregon-Washington Railroad and Navigation Company as the same is now located through the Northeast quarter of the Southeast quarter of said Section 12 of Township 2 North, Range 30, East of the Willamette Meridian, and through the Southwest quarter and the Southwest quarter of the Southeast quarter of Section 7, Township 2 North, Range 31, East of the Willamette Meridian, to a point on the East boundary line of said Southwest quarter of the Southeast quarter of said Section 7; thence North along the East boundary line of said Southwest quarter of the Southeast quarter of said Section 7, to the Northeast

corner thereof; thence West along the North boundary line of said Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of said Section 7, to the Southeast corner of the Northwest quarter of the Southwest quarter of said Section 7; thence North along the East boundary line of said Northwest quarter of the Southwest quarter and the Southwest quarter of the Northwest Quarter of said Section 7, to the Northeast corner of said Southwest quarter of the Northwest quarter of said Section 7; thence West along the North boundary line of said Southwest quarter of the Northwest quarter of said Section 7, to the section line common to said Section 7 and said Section 12; thence North along said Section line to the Southeast corner of said Section 1, the place of beginning; exception therefrom all that part of the Northeast quarter of the Northeast quarter of said Section 12 and the Southeast quarter of the Southwest quarter and the South Half of the Southeast quarter of Section 1, that lies outside of the highwater boundary line of the Furnish Ditch Company's Reservoir; also except a piece or parcel of land, containing 35 acres, more or less, being all that part of the Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter of said Section 7, that lies North of Oregon-Washington Railroad and Navigation Company's right of way and East of a line parallel to and 40 feet above the highwater line of the Furnish Ditch Company's Reservoir.

PARCEL TWO:

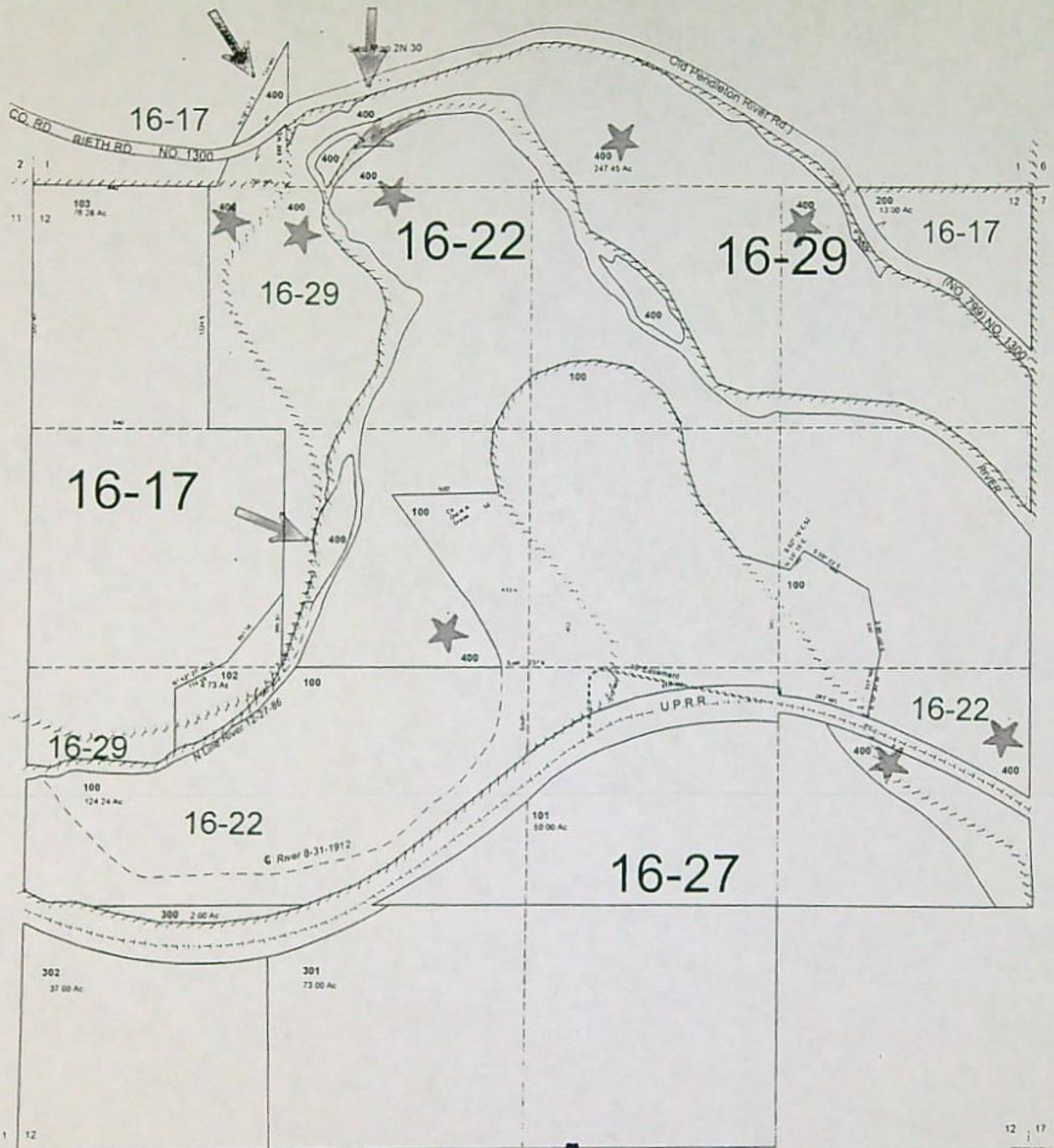
A tract of land, containing 2 acres, more or less, being all that part of the Northeast quarter of the Southwest quarter of Section 7, Township 2 North, Range 31, East of the Willamette Meridian, lying within the Furnish Ditch Company's Reservoir and extending back from said reservoir a distance of 40 feet above the highwater level in said reservoir.

PARCEL THREE:

An irregular shaped tract of land comprising a part of the East Half of the Southeast quarter of Section 12, of Township 2 North, Range 30 East of the Willamette Meridian, and a part of Sections 7 and 18 of Township 2 North, Range 31, East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the Southeast corner of the Northwest quarter of the Northeast quarter of said Section 18; thence North along the East line of said Northwest quarter of the Northeast quarter of said Section 18, to the Southerly boundary line of Oregon-Washington Railroad and Navigation Company's right of way as now located in the said Northwest quarter of the Northeast quarter of said Section 18; thence Northwesterly along the Southerly right of way boundary line of said Oregon-Washington Railroad and Navigation Company as same is now located through the Northwest quarter of the Northeast quarter of said Section 18, the Southwest quarter of the Southeast quarter and the Southeast quarter of the Southwest quarter and the West half of the Southwest quarter of said Section 7, and the Northeast quarter of the Southeast quarter of said Section 12, to a point on the Southwesterly boundary line of the old right of way of said Oregon-Washington Railroad & Navigation Company in the Northeast Quarter of the Southeast Quarter of said Section 12, distance fifty 50 feet Southwesterly from, measured at right angles to the center line of the old main track of said Oregon-Washington Railroad & Navigation Company as said old main track was formerly constructed and operated over and across the East Half of the Southeast Quarter of said Section 12 and the Southwest Quarter of the Southwest Quarter of said Section 7; thence Southeasterly along said Southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the north boundary line of the Southeast Quarter of said Section 12; thence West along the North boundary line of said Southeast Quarter of said Section 12, following said Southwesterly boundary line of the old right of way, to a point, distant 100 feet Southwesterly from, measured at right angles to, the center line of said old main track; thence Southeasterly, along said Southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the section line common to said Section 12, Township 2 North, Range 30, East

Willamette Meridian, and said Section 7, Township 2 North, Range 31, East Willamette Meridian; thence South along the Section line common to said Section 12 and said Section 7 to the Southwest corner of said Section 7; thence East along the section line common to Section 7 and said Section 18 to an iron monument at a point 538 feet, more or less, West of the Northeast corner of the Northwest Quarter of the Northwest Quarter of said Section 18; thence South  $65^{\circ}21'$  East 592 feet, more or less, to an iron monument at a point on the East line of the Northwest Quarter of the Northwest Quarter of said Section 18, distance 247 feet, more or less, South of the Northeast corner thereof; thence continuing South  $65^{\circ}21'$  East, 797.5 feet; thence South  $40^{\circ}29'$  East, 185 feet; thence South  $52^{\circ}17'$  East, 500 feet; thence South  $79^{\circ}35'$  East, 80.9 feet, more or less, to a point in the West line of the Northwest Quarter of the Northeast Quarter of said Section 18, distant 1040 feet, more or less, South of the Quarter Section corner common to said Section 7 and 18; thence South along the West line of said Northwest Quarter of the Northeast Quarter of said Section 18, to the Southwest corner thereof; thence East along the South line of said Northwest Quarter of the Northeast Quarter of said Section 18, to the Southeast corner thereof, the place of beginning; EXCEPTING THEREFROM, a piece or parcel of land, containing 26 acres, more or less, being all that part of the Southwest Quarter of the Southwest Quarter of said Section 7, Township 2 North, Range 31 East of the Willamette Meridian, that lies outside of the highwater boundary line of the Furnish Ditch Company's Reservoir as said Reservoir now exists.



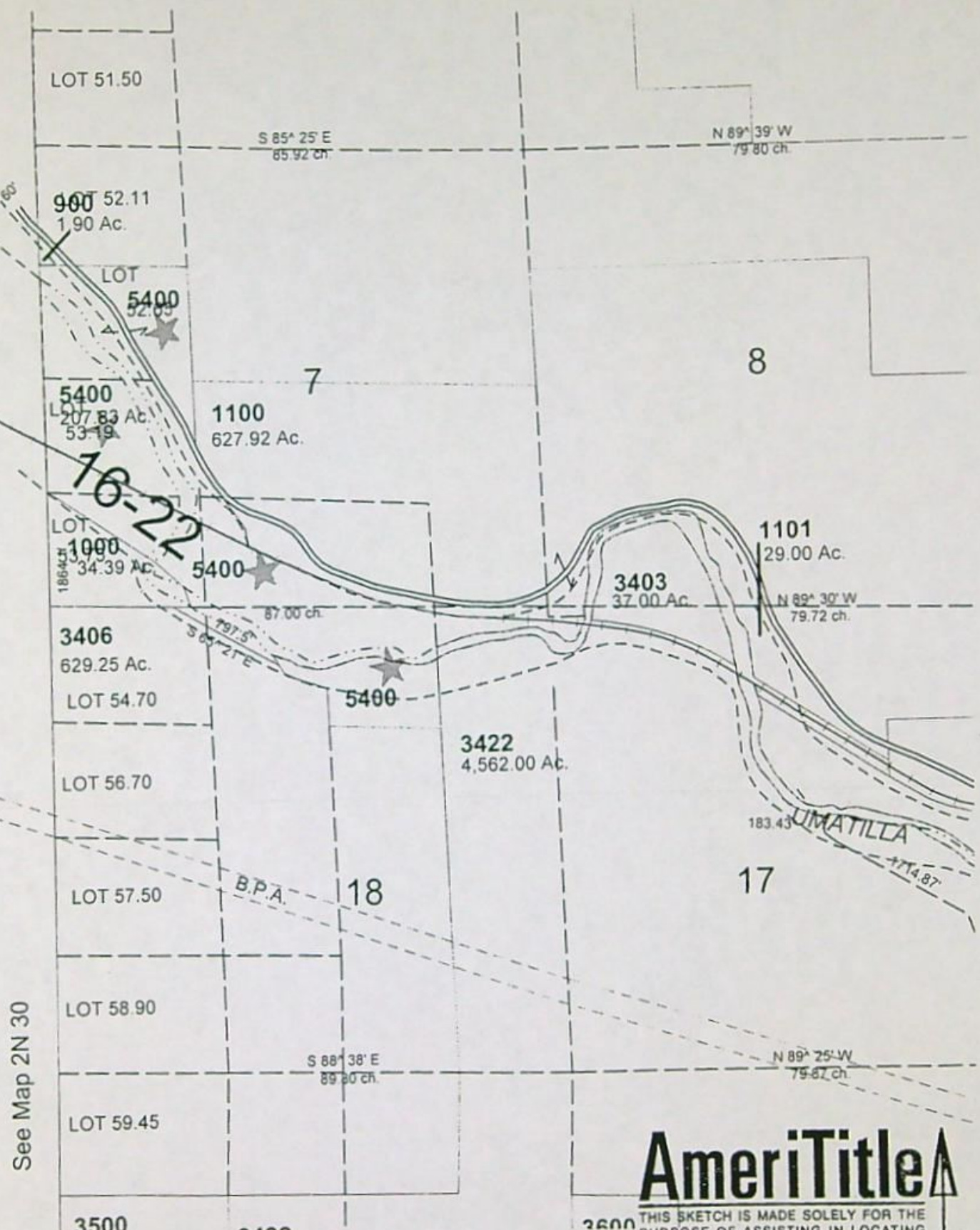
See Map 2N 31

See Map 2N 30

**AmeriTitle**

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING CERTAIN PREMISES AND NO LIABILITY IS ASSUMED FOR VARIATIONS, IF ANY, IN DIMENSIONS AND LOCATIONS ASCERTAINED BY ACTUAL SURVEY.

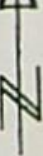
12 17  
13 18  
2N 30 12



See Map 2N 30

# AmeriTitle

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Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Roife  
Therese A. Ure

January 6, 2011

*VIA ELECTRONIC AND U.S. MAIL*

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301  
Email: [ken.d.dowden@state.or.us](mailto:ken.d.dowden@state.or.us)

**RE: Water Right Transfer Application T-10948**

Dear Mr. Dowden:

This firm represents B & G Resources, c/o Kenneth E. Gustafson, the applicant for the referenced transfer application. The applicant has received and reviewed the Draft Preliminary Determination recommending approval of T-10948 and hereby acknowledges agreement with the proposed action, terms and conditions therein. The applicant found no typographical errors and agrees that the transfer should be approved as proposed.

Enclosed herein, please find the report of land ownership prepared on January 4, 2011 to complete the transfer application file.

Upon issuance of the preliminary determination, the applicant will complete publication of notice of the transfer in a local newspaper of general circulation in the area of the water right as required.

Please note that this office's address has changed. The P.O. Box to which the Draft Preliminary Determination was sent is no longer operable. In order to ensure timely receipt of

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)

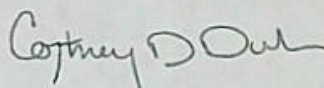
Ken Dowden  
January 6, 2011  
Page 2 of 2

documents, please send future correspondence to this office to: 1915 NE Cesar Chavez Blvd.,  
Portland, Oregon 97212.

Thank you for your immediate attention to these matters.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.



Cortney D. Duke

CDD:bmw

Enclosures

cc: Client

*1915 NE Cesar Chavez Blvd.*



## Customer Service Packet



112 SE Court • Pendleton, Oregon 97801  
Phone 541 276-2010 • Fax 541 276-0016

January 5, 2011

Deliver To: Schroeder Law Offices, P.C. water law

Attention: Briana M. Witt - Water Law

Prepared By: Alyssa Hearn - Alyssa Hearn

### WE APPRECIATE THE OPPURTUNITY TO BE OF SERVICE TO YOU!

This Title information has been furnished without charge, in conformance with OAR 836-80-315. The Insurance Division cautions intermediaries that this service is designed to benefit the ultimate insured; indiscriminate use only benefiting intermediaries will not be permitted. Said services may be discontinued. No liability is assumed for any errors in this report.

#### MISSION STATEMENT

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





**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2010

January 4, 2011 4:12:41 pm

Account # 150320  
 Map # 2N3100-00-05400  
 Code - Tax # 1622-150321  
 1627-150320  
 Legal Descr See Record  
 Mailing Name B & G RESOURCES INC  
 Agent  
 In Care Of  
 Mailing Address  
 1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Deed Reference # 1993-2420535 (SOURCE ID: 242-535)  
 Sales Date/Price 09-20-1993 / \$35,000 00  
 Appraiser FIFE, TERRY

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 78 000 111444-1

Situs Address(s)		Situs City			
Value Summary					
Code Area		AV	RMV	RMV Exception	CPR %
1622	Land	20,919	69,930	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		20,919	69,930		
1627	Land	679	8,430	Land	
	Impr.	0	0	Impr.	
Code Area Total		679	8,430		
Grand Total		21,598	78,360		

Code Area	ID#	RFD	Ex	Plan Zone	Value Source	Class	Irr Class	Irr Size
1622	4	R		EFU	Farm Use Zoned			
1622	5	R		EFU	Farm Use Zoned			
1622	6	R		EFU	Farm Use Zoned			0.00
1622	7	R		EFU	Farm Use Zoned			
1627	1	R		EFU	Farm Use Zoned			
1627	2	R		EFU	Farm Use Zoned			0.00
1627	3	R		EFU	Farm Use Zoned			0.00

Code Area	Yr	Stat	Improve	% MS Acct #	Trended RMV
Area	ID#	Built	Class	Description	
					0

Code Area	Type	Exemptions/Special Assessments/Potential Liability
1622		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES 150321-1622, 150320-1627
1627		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES: 150321-1622, 150320-1627

**THIS DOCUMENT IS CONSIDERED A "list pack" BY ACYSSA @ AMERICARE**

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2010

January 4, 2011 4:12:41 pm

Account # 150320  
 Map # 2N3100-00-05400  
 Code - Tax # 1622-150321  
 1627-150320  
 Legal Descr See Record  
 Mailing Name B & G RESOURCES INC  
 Agent  
 In Care Of  
 Mailing Address

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Deed Reference # 1993-2420535 (SOURCE ID: 242-535)  
 Sales Date/Price 09-20-1993 / \$35,000 00  
 Appraiser FIFE, TERRY

1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 78 000 111444-1

Situs Address(s)		Situs City			
Value Summary					
Code Area		AV	RMV	RMV Exception	CPR %
1622	Land	20,919	69,930	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		20,919	69,930		0
1627	Land	679	8,430	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		679	8,430		0
Grand Total		21,598	78,360		0

Land Breakdown											
Code Area	ID#	RFD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Irr Class	Irr Size
1622	4	R		EFU	Farm Use Zoned	100	A	94.83	2-5		
1622	5	R		EFU	Farm Use Zoned	100	A	2.00	5-5		
1622	6	R		EFU	Farm Use Zoned	100	A	26.00	7-5		
1622	7	R		EFU	Farm Use Zoned	100	A	49.00	8-5		
Code Area Total								171.83			0.00
1627	1	R		EFU	Farm Use Zoned	100	A	3.00	5-5		
1627	2	R		EFU	Farm Use Zoned	100	A	21.00	7-5		
1627	3	R		EFU	Farm Use Zoned	100	A	12.00	8-5		
Code Area Total								36.00			0.00
Grand Total								207.83			0.00

Improvement Breakdown												
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex%	MS Acct #	Trended RMV			
Grand Total											0	0

Exemptions/Special Assessments/Potential Liability											
Code Area	Type										
1622		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES: 150321-1622, 150320-1627									
1627		NOTATION(S): ■ POTENTIAL ADDL TAX LIABILITY ADDED 2005 ■ SPLIT CODE SPLIT CODES: 150321-1622, 150320-1627									

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 4 13.11 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b>	150321	<b>Lender</b>	
<b>Account Status</b>	Active	<b>Loan #</b>	
<b>Roll Type</b>	Real Property	<b>Property ID</b>	1822
<b>Situs Address</b>	No situs address for this account		<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	268.82	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	274.02	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	265.55	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	250.81	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	197.95	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	200.64	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	194.25	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	207.32	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	196.42	Nov 15, 2002
<b>Total</b>		0.00	0.00	0.00	0.00		

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 4 13:12 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150320	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1627 2N3100-00-05400
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	8.71	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	8.89	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	8.62	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	8.27	Nov 15, 2007
2005	ADVALOREM	0.00	0.00	0.00	0.00	7.28	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	7.26	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	7.09	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	7.02	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	6.82	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

This map was prepared for Assessment & Taxation purposes only and was NOT prepared for use as a substitute for actual engineering or surveying purposes.

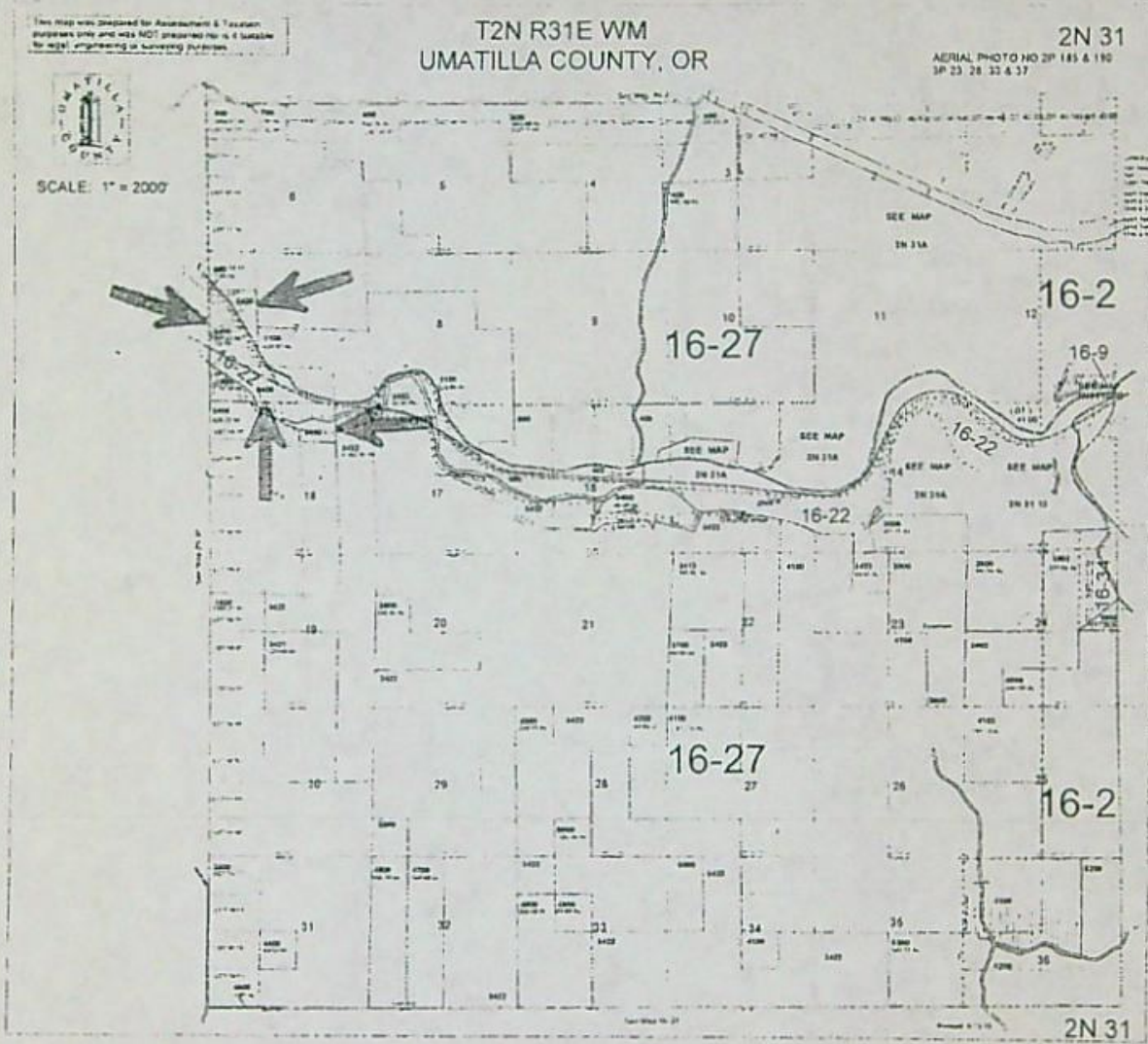
T2N R31E WM  
UMATILLA COUNTY, OR

2N 31

AERIAL PHOTO NO 2P 185 & 190  
SP 23 28 32 & 37



SCALE: 1" = 2000'



**AmeriTitle** 

THIS SKETCH IS MADE SOLELY FOR THE PURPOSE OF ASSISTING IN LOCATING CERTAIN PREMISES AND NO LIABILITY IS ASSUMED FOR VARIATIONS, IF ANY, IN DIMENSIONS AND LOCATIONS ASCERTAINED BY ACTUAL SURVEY.

**UMATILLA County Assessor's Summary Report**  
**Real Property Assessment Report**  
 FOR ASSESSMENT YEAR 2010

January 4, 2011 3:55:38 pm

Account # 150322  
 Map # 2N3012-00-00400  
 Code - Tax # 1617-150323  
 1622-150325  
 1627-150322  
 1629-150328

Tax Status ASSESSABLE  
 Acct Status ACTIVE  
 Subtype NORMAL

Legal Descr See Record

Mailing Name B & G RESOURCES INC  
 Agent  
 In Care Of  
 Mailing Address  
 1825 SE ST ANDREWS DR  
 PORTLAND, OR 97202

Deed Reference # 1993-2420535 (SOURCE ID: 242-535)  
 Sales Date/Price 09-20-1993 / \$35,000 00  
 Appraiser FIFE, TERRY

Prop Class 550 MA SA NH Unit  
 RMV Class 550 06 78 000 111445-1

Situs Address(s)		Situs City			
Value Summary					
Code Area		AV	RMV	RMV Exception	CPR %
1617	Land	63	1,250	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		63	1,250		0
1622	Land	11,692	45,350	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		11,692	45,350		0
1627	Land	103	2,030	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		103	2,030		0
1629	Land	31,405	89,020	Land	0
	Impr.	0	0	Impr.	0
Code Area Total		31,405	89,020		0
Grand Total		43,263	137,650		0

Land Breakdown											
Code Area	ID#	RFD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	Irr Class	Irr Size
1617	2	R		EFU	Farm Use Zoned	100	A	12.50	8-5		
						Code Area Total		12.50			0.00
1622	2	R		EFU	Farm Use Zoned	100	A	39.00	2-5		
1622	3	R		EFU	Farm Use Zoned	100	A	14.95	3-5		
1622	4	R		EFU	Farm Use Zoned	100	A	37.70	7-5		
1622	5	R		EFU	Farm Use Zoned	100	A	29.95	8-5		
1622	6	R		EFU	Farm Use Zoned	100	A	14.90	L		
						Code Area Total		136.50			0.00
1627	1	R		EFU	Farm Use Zoned	100	A	6.75	7-5		
						Code Area Total		6.75			0.00
1629	2	R		EFU	Farm Use Zoned	100	A	32.00	1-C		
1629	3	R		EFU	Farm Use Zoned	100	A	7.17	2-5		
1629	4	R		EFU	Farm Use Zoned	100	A	47.40	8-5		
1629	5	R		EFU	Farm Use Zoned	100	A	5.13	L		
						Code Area Total		91.70			0.00
						Grand Total		247.45			0.00

Code Area	Yr ID#	Stat Built	Description	Improvement Breakdown	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV
Grand Total								0

Code Area	Type	Exemptions/Special Assessments/Potential Liability

Account # 150322

1617

NOTATION(S):

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1622

NOTATION(S):

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1627

NOTATION(S):

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

1629

NOTATION(S):

- POTENTIAL ADDL TAX LIABILITY ADDED 2005
- SPLIT CODE  
SPLIT CODES: 150328-1629, 150325-1622,  
150323-1617, 150322-1627

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:57:59 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150323	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1617
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	0.85	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	0.86	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	0.82	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	0.79	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	0.65	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	0.65	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	0.66	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

## Tax Notations

Notation Code	Date Added	Description
NO WRITE OFF	11/16/2007	



# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3 57 59 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150325	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1622
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	150.25	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	153.15	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	148.43	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	140.09	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	112.21	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	113.73	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	109.71	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	116.71	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	110.81	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

## Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:58:00 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150322	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1627
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

### Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	1.27	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	1.25	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	1.23	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	1.21	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	0.89	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	0.91	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	0.92	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	0.91	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	0.90	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

# Statement of Tax Account

UMATILLA COUNTY TAX COLLECTOR  
PO BOX 68  
PENDLETON, OR 97801  
(541) 276-7111

1/4/2011 3:58:00 PM

B & G RESOURCES INC  
1825 SE ST ANDREWS DR  
PORTLAND, OR 97202

<b>Tax Account #</b> 150328	<b>Lender</b>
<b>Account Status</b> Active	<b>Loan #</b>
<b>Roll Type</b> Real Property	<b>Property ID</b> 1629 2N3012-00-00400
<b>Situs Address</b> No situs address for this account	<b>Interest To</b> Jan 15, 2011

## Tax Summary

Tax Year	Tax Type	Total Due	Current Due	Interest Due	Discount Available	Original Due	Due Date
2010	ADVALOREM	0.00	0.00	0.00	0.00	412.73	Nov 15, 2010
2009	ADVALOREM	0.00	0.00	0.00	0.00	421.79	Nov 15, 2009
2008	ADVALOREM	0.00	0.00	0.00	0.00	406.08	Nov 15, 2008
2007	ADVALOREM	0.00	0.00	0.00	0.00	397.06	Nov 15, 2007
2006	ADVALOREM	0.00	0.00	0.00	0.00	381.65	Nov 15, 2006
2005	ADVALOREM	0.00	0.00	0.00	0.00	375.13	Nov 15, 2005
2004	ADVALOREM	0.00	0.00	0.00	0.00	366.72	Nov 15, 2004
2003	ADVALOREM	0.00	0.00	0.00	0.00	354.40	Nov 15, 2003
2002	ADVALOREM	0.00	0.00	0.00	0.00	339.95	Nov 15, 2002
<b>Total</b>		<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		

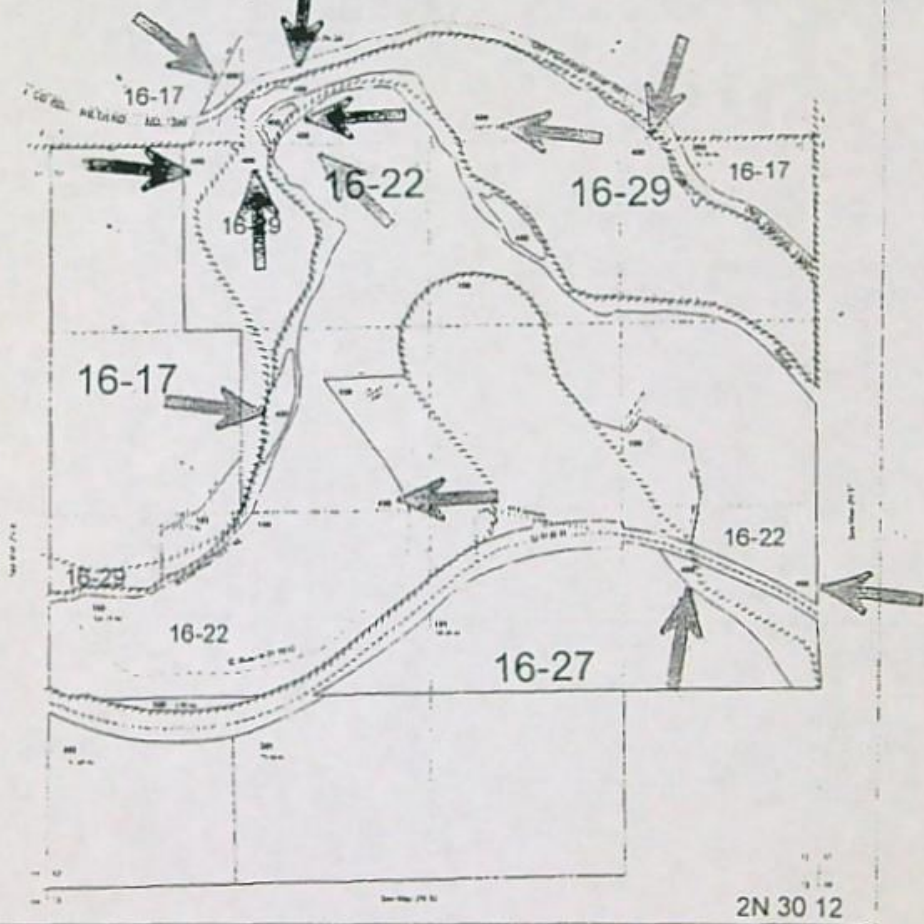
This map was prepared  
for assessment purposes

SEC 12 T2N R30E WM  
UMATILLA COUNTY

2N 30 12

AERIAL PHOTO NO 7P-183

SCALE 1"=400'



# AmeriTitle

THIS SKETCH IS MADE SOLELY FOR THE  
PURPOSE OF ASSISTING IN LOCATING  
CERTAIN PREMISES AND NO LIABILITY IS  
ASSUMED FOR VARIATIONS AT ANY, IN  
DIMENSIONS AND LOCATIONS DETERMINED  
BY ACTUAL SURVEY

PENL

REEL 296 PAGE 0886

222533

AFTER RECORDING RETURN TO:

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

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

**STATUTORY BARGAIN AND SALE DEED**

Nomad Alfalfa, Inc., an Oregon corporation, and Gloria M. Lewis, an individual, jointly Grantor, conveys to B&G Resources, Inc., an Oregon corporation, Grantee, the following described real property:

The real property described in Exhibit "A" attached hereto, together with all appurtenances thereto, except this deed does not convey any mineral rights relating to the real property which is the subject of this deed.

The true consideration for this conveyance is \$20,000.

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.

RECEIVED  
Executed this 28<sup>th</sup> day of August, 1996.  
AUG 30 1996

UMATILLA COUNTY RECORDS

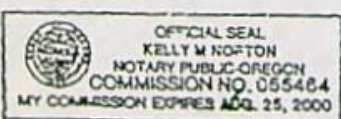
**GRANTOR:**

Nomad Alfalfa, Inc.  
an Oregon corporation

*Gloria M. Lewis, President*  
Gloria M. Lewis, President  
*President*  
Gloria M. Lewis

STATE OF OREGON }  
County of Multnomah } ss.

This instrument was acknowledged before me this 28<sup>th</sup> day of August, 1996, by Gloria Lewis, President of Nomad Alfalfa, Inc., on behalf of the corporation.



*Kelly M. Norton*  
NOTARY PUBLIC FOR OREGON 08/25/00  
My Commission Expires: \_\_\_\_\_

(Acknowledgments continued on next page)

1 - BARGAIN AND SALE DEED

8-30-96

REEL 296-261 0887

(Acknowledgments continued from next page)

STATE OF OREGON }  
County of Multnomah } ss.

This instrument was acknowledged before me this 28<sup>th</sup> day of August, 1996, by Gloria Lewis.



Kelly M. Norton  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 08/26/00

2 - BARGAIN AND SALE DEED

0274961171061770642246123

8-30-96

REINLI

REEL 296 PAGE 0888

EXHIBIT A

All of those certain parcels of land heretofore acquired by Oregon-Washington Railroad and Navigation Company by Warranty Deed dated December 20, 1933, filed for record February 5, 1934, in Volume 147 of Deeds at Page 144 of the Records of Umatilla County, Oregon, being more particularly described in said deed as follows:

"Parcel One: An irregular shaped tract of land comprising a part of Sections One (1) and Twelve (12), of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and a part of Section Seven (7), of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of said Section One (1); thence north along the east line of said Section One (1), to the northeast corner of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) thereof; thence west along the north line of the south half of the southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section One (1), to the northwest corner of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ); thence south along the west line of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ), to an iron monument at a point six hundred eighty-nine (689) feet, more or less, north of the southwest corner thereof; thence south 19°57' west, seven hundred thirty-three (733) feet, more or less, to an iron monument at a point in the north line of said Section Twelve (12), two hundred fifty (250) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north line of said Section Twelve (12), to a point nine hundred forty (940) feet east of the northwest corner of said Section Twelve (12); thence south thirteen hundred twenty-four and five tenths (1324.5) feet, to a point in the south line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12), nine hundred forty (940) feet east of the southwest corner of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ); thence east along the south line of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the northwest corner of the southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence south along the west line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the southwest corner thereof; thence east along the south line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to a

EXHIBIT A

8-30-46

point in the center of the channel of the Umatilla River; thence northwesterly along the said center of the channel of the Umatilla River, to a point which is four hundred sixty-two (462) feet north and three hundred ninety-six (396) feet west of the center of said Section Twelve (12); thence northwesterly in a direct line six hundred twenty (620) feet; to a point on the left bank of said Umatilla River; thence east six hundred (600) feet to a point fifty (50) feet east of the center of the old railroad grade of Oregon-Washington Railroad & Navigation Company; thence along a circular curve to the right, with a radius of five hundred twenty-three and seven tenths (523.7) feet along the old right of way of said Oregon-Washington Railroad & Navigation Company to a point one hundred sixty-five (165) feet south of the south line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence southeasterly on the southwest side of and along said old right-of-way and terminating at a point forty (40) feet from the high water mark of The Furnish Ditch Company's reservoir, which point bears north five hundred sixty (560) feet from the southeast corner of the southwest quarter of the northeast quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence south 62°16' east fifty-two (52) feet; thence north 33°15' east one hundred forty (140) feet; thence south 59°23' east three hundred ninety-eight (398) feet; thence south 9°48' east three hundred sixty-three (363) feet; thence south 10°30' west three hundred seventeen (317) feet, more or less, to a point on the north boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); said point being three hundred ninety-three (393) feet, more or less, distant southeasterly, measured along said north boundary line of Oregon-Washington Railroad & Navigation Company's right of way, from the west boundary line of said northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ); thence southeasterly along the northerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as the same is now located through the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and through the southwest quarter (SW $\frac{1}{4}$ ) and the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, to a point on the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7), to the northeast corner thereof; thence west along the north boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), to the southeast corner of the northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the



REF 296-0890

northeast corner of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7); thence West along the north boundary line of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the section line common to said Section Seven (7) and said Section Twelve (12); thence north along said section line to the southeast corner of said section one (1), the place of beginning; excepting therefrom all that part of the northeast quarter of the northeast quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12) and the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the South Half of the Southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section One (1), that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir; also except a piece or parcel of land, containing thirty-five (35) acres, more or less, being all that part of the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); that lies north of Oregon-Washington Railroad & Navigation Company's right of way and east of a line parallel to and forty (40) feet above the highwater line of The Furnish Ditch Company's Reservoir.

Parcel Two: A tract of land, containing two (2) acres, more or less, being all that part of the northeast quarter of the southwest quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, lying within The Furnish Ditch Company's Reservoir and extending back from said reservoir a distance of forty (40) feet above the highwater level in said reservoir.

Parcel Three: An irregular shaped tract of land comprising a part of the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section Twelve (12) of Township Two (2) North, Range Thirty (30) East, of the Willamette Meridian, and a part of Sections Seven (7) and Eighteen (18) of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence north along the east line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southerly boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence northwesterly along the southerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as same is now located through the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the west half of the southwest quarter (W $\frac{1}{2}$  SW $\frac{1}{4}$ ) of said Section Seven (7); and the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), to a point on the southwesterly boundary line of

REEL 296 PAGE 0891

the old right of way of said Oregon-Washington Railroad & Navigation Company in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), distant fifty (50) feet southwesterly from, measured at right angles to, the center line of the old main track of said Oregon-Washington Railroad & Navigation Company as said old main track was formerly constructed and operated over and across the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) and the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence southeasterly along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the north boundary line of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north boundary line of said southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), following said southwesterly boundary line of the old right of way, to a point, distant one hundred (100) feet southwesterly from, measured at right angles to, the center line of said old main track; thence southeasterly, along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the section line common to said Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, and said Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian; thence south along the section line common to said Section Twelve (12) and said Section Seven (7) to the southwest corner of said Section Seven (7); thence east along the section line common to said Section Seven (7) and said Section Eighteen (18) to an iron monument at a point five hundred thirty-eight (538) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18); thence south 65°21' east five hundred ninety-two (592) feet, more or less, to an iron monument at a point on the east line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18), distant two hundred forty-seven (247) feet, more or less, south of the northeast corner thereof; thence continuing south 65°21' east, seven hundred ninety-seven and five tenths (797.5) feet; thence south 40°29' east, one hundred eighty-five (185) feet; thence south 52°17' east, five hundred (500) feet; thence south 79°35' east, eighty and nine tenths (80.9) feet, more or less, to a point in the west line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), distant ten hundred forty (1040) feet, more or less, south of the quarter section corner common to said Sections Seven (7) and Eighteen (18); thence south along the west line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southwest corner thereof; thence east along the south line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southeast corner thereof, the place of beginning; excepting therefrom, a piece or parcel of land, containing twenty-six (26) acres, more or less, being all that part of the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), Township 2 North,

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Range 31 East, Willamette Meridian, that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir as said Reservoir now exists.

Alternative Description of all Property Above Described

The tracts of land hereinbefore described are hereby further described for greater certainty as follows:

Parcel A: All that property in Section One (1), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Samuel Smith, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 58 on page 385 of Deed Records of said Umatilla County; also, all that property in said Section One (1) conveyed by Lee Hummell and Mary L. Hummell, his wife, to The Furnish Ditch Co. by deed dated April 21, 1913 and recorded in Book 82 at page 558 Deed Records of said County; also

All that property in Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, as conveyed by Matt Saari, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 59 at page 96 of Deed Records of said County; also all that property in said Section Twelve (12) as conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909 and recorded in Book 59 at page 88, Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Anna Holverson, wife of Herman Holverson, to The furnish Ditch Company by deed dated February 27, 1909, recorded in Book 59 at page 91, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915, recorded in Book 94 at page 4, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by James L. Smith and Hattie Smith, his wife, to The Furnish Ditch Company by deed dated December \_\_\_\_\_, 1913, filed for record on January 3, 1914 and recorded in Book 61 at page 406, Deed Records of said County; excepting therefrom the areas in said Section Twelve (12) conveyed by The Furnish Ditch Co. to Lee Hummell by deed dated May 12, 1915, and recorded in Book 91 at page 211, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by Furnish Ditch Company to J. A. Turnbow by deed dated August 31, 1912, and recorded in Book 81 at page 192, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by The Furnish

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Ditch Co. to J. A. Turnbow by deed dated December 8, 1914, and recorded in Book 90 at page 90, Deed Records of said County; also except in the area in said Section Twelve (12) and said Section One (1) conveyed by The Furnish Ditch Company to Christopher Stanull by deed dated June 21, 1916, and recorded in Book 95 at page 232, Deed Records of said County; and also except the areas in said Section Twelve (12) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268 of Deed Records of said County;

Parcel B: All that property in Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 88 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Anna Holverson, wife of Herman Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 91 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by W. M. Smith and Katie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909 and recorded in Book 59 on page 89 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. L. Smith and Hattie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909, and recorded in Book 59 on page 90 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. E. Perigo and Mollie E. Perigo, his wife, to The Furnish Ditch Company by deed dated September 2, 1919, and recorded in Book 106 at page 240 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915 and recorded in Book 94 on page 4, Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Inland Irrigation Co., Inc., to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 237 of Deed Records of said County; excepting therefrom the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to

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REEL 296-2610894

J. E. Perigo by deed dated May 16, 1919 and recorded in Book 106 at page 247, Deed Records of said County; also except the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268, Deed Records of said County; also except the area in said Section Seven (7) conveyed by Furnish Ditch Company to Domatilla Gross by deed dated December 8, 1915, and recorded in Book 94 on page 583, Deed Records of said County.

Parcel C: All that property in Section Eighteen (18), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Inland Irrigation Co., Inc. to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239, Deed Records of said County; also

All that property in said Section Eighteen (18) conveyed by J. E. Smith Livestock Company to Furnish Ditch Company by deed dated November 14, 1913, and recorded at page 27 in Book 89, Deed Records of said County."

State of Oregon )

County of Umatilla

This instrument was received and recorded on  
8-30-96 at 12:35  
in the record of document code type DE-515

Location 2296-1886  
Document number 1996-222533  
Fee 75.00

Office of County Records

Received by

*[Signature]*  
Records Officer

8-30-96

REC'D DEC 09 2010

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



**SCHROEDER**  
LAW OFFICES, P.C.

Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

December 3, 2010

**VIA ELECTRONIC AND U.S. MAIL**

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
Email: [dowdenkd@wrp.state.or.us](mailto:dowdenkd@wrp.state.or.us)

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WATER RESOURCES DEPT  
SALEM, OREGON

**RE: Water Right Transfer Application T-10948  
Updates to Supplemental Forms A and B**

Dear Mr. Dowden:

Pursuant to our conversation on Monday, November 15, 2010, our office has enclosed an Updated Water Right Transfer Supplemental Form A and an Updated Water Right Transfer Supplemental Form B with the required proof of use documentation.

If there are any further changes necessary or if you have any questions, please contact our office at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke

CDD:bmw

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)

Last revised: 7/27/2007

**Water Right Transfer Supplemental Form A**  
**DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 80564

**1. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead</u> of the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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**2. CURRENT WATER RIGHT INFORMATION**

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

<input checked="" type="checkbox"/> Certified Right	<u>80564</u> Certificate Number	<u>16393</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: B&G Resources, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

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Tributary to: Columbia River

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*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?  
 Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*



▪ Certificate Number or other identifying number: 80564

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L- )	Source and Priority Date	Township	Range	Mer	Sec	1/4 1/4	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12

- Does the water right being transferred involve a ground water source(s)?  
 Yes      No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

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**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth



▪ Certificate Number or other identifying number: 80564

**3. PROPOSED CHANGES TO THE WATER RIGHT**

*Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.*

**Location of Proposed Point(s) of Diversion or Appropriation:**

*(i.e., the "TO" point(s) of diversion or appropriation)*

N/A - Instream Water Right Transfer

*(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)*

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		320 Feet South & 2310 Feet West from NE Corner Sec. 12

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

*If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)*

*If "No", describe the anticipated construction for the proposed well(s) in the following table:*

**Construction of Proposed Point(s) of Appropriation or Well(s)**

*Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

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SALEM, OREGON



**Water Right Transfer Supplemental Form B  
AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 ) ss  
 County of Multnomah )

I, Kenneth Gustafson, in my capacity as Owner/User,  
 mailing address 5200 SW MacAdam Ave., Suite 470, Portland, OR 97239  
 telephone number ( ) , being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; or
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_; 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.

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

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range	Mer	Sec	1/4 1/4 Section	Gov't Lot or DLC	Acres (if applicable)
2	N	30	E	W.M. 1	SW SE	6.1
2	N	30	E	W.M. 12	NE NE	11.1
2	N	30	E	W.M. 12	NW NE	8.9
2	N	30	E	W.M. 12	SE NE	0.1

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 SALEM, OREGON

(continues on reverse side)

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

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):  
Irrigation for alfalfa

5. The water delivery system used to apply water as authorized by the right is described below:  
20 hp electrical pump and 1/2 mile of wheel lines

6. One or more of the following documentation supporting the above statements is attached:
- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
  - Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
  - Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
  - Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
  - Dedicated power usage records or receipts,
  - Instream lease number \_\_\_\_\_,
  - Other: \_\_\_\_\_

RECEIVED

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

[Handwritten Signature]  
Signature of Affiant

11/29/10  
Date

Signed and sworn to (or affirmed) before me this 29<sup>th</sup> day of November, 2010.



[Handwritten Signature: Daryl N. Cole]  
Notary Public for Oregon

My Commission Expires: September 10, 2013

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



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

Questions about your bill: 1-888-221-7070  
Call toll free 24 hours a day, 7 days a week  
www.pacificpower.net

BILLING DATE: Sep 21, 2010  
ACCOUNT NUMBER: 31983684-001 1  
DATE DUE: Oct 7, 2010  
AMOUNT DUE: \$421.65

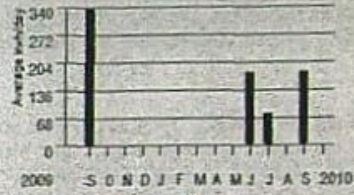
Your Balance With Us

Previous Account Balance	0.00
Payments/Credits	0.00
New Charges	+421.65
Current Account Balance	\$ 421.65

Payments Received

No payments have been received since your last billing statement.

Historical Data - ITEM 4



Your Average Daily kwh Usage by Month

PERIOD ENDING	SEP 2010	SEP 2009
Avg. Daily Temp.	63	57
Total kwh	6005	10162
Avg. kwh per Day	182	339
Cost per Day	\$12.78	\$22.02

Just in case of a power outage, keep our new Outage Hotline number handy - 1-877-508-5088. You also can use a wireless connection to access the Internet for outage information and updates by visiting [pacificpower.net/outage](http://pacificpower.net/outage).

Pacific Power is committed to the environment and is now offering paperless bills through our online payment program. Visit [pacificpower.net/epay](http://pacificpower.net/epay) to join the cause.

**Late Payment Charge for Oregon**  
A late payment charge of 1.5% may be charged on any balance not paid in full each month.

Detailed Account Activity

ITEM 4 - ELECTRIC SERVICE 37951A Rieth Rd Pendleton OR  
20 Hp Irrigation Schedule 41  
Service ID: 62562265-001

METER NUMBER	SERVICE PERIOD From To	ELAPSED DAYS	METER READINGS Previous	Current	METER MULTIPLIER	AMOUNT USED THIS MONTH
28691315	Aug 18, 2010 Sep 20, 2010	33	7843	13848	1.0	6,005 kwh
28691315	Demand Sep 20, 2010			12.732	1.0	13 kw
28691315	Reactive Sep 20, 2010			9.911	1.0	10 kvar

Previous Month Estimated - Unable To Read Meter  
Next scheduled read date: 10-18. Date may vary due to scheduling or weather.

NEW CHARGES - 09/10	UNITS	COST PER UNIT	CHARGE
Delivery Charge Secondary	6,005 kwh	0.0224500	134.81
Oregon Tax Charge	6,005 kwh	0.0003100	1.86
Reactive Power Charge Sec (Season End Est Charge Sec Is \$234.00)	5 kvar	0.6500000	3.25
Supply Energy Sec Summer	6,005 kwh	0.0455900	273.77
Public Purpose		0.0300000	12.41
Energy Conservation Charge	6,005 kwh	0.0021300	12.79
Low Income Assistance	6,005 kwh	0.0005000	3.00

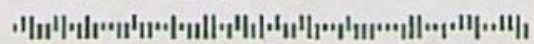
See reverse

Write account number on check & mail to: Pacific Power, 1033 NE 6th Ave, Portland, OR 97256-0001

RETAIN THIS PORTION FOR YOUR RECORDS.  
RETURN THIS PORTION WITH YOUR PAYMENT.



24513 01 AT 0.357 89-0



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

RECEIVED  
DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

WRITE ACCOUNT NUMBER  
ON CHECK & MAIL TO:

PACIFIC POWER  
1033 NE 6TH AVE  
PORTLAND OR  
97256-0001

Change of Mailing Address or Phone?  
Check here & provide information on back.

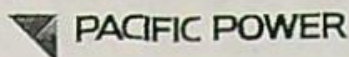
Account Number: 31983684-001 1

Date Due: Oct 7, 2010

AMOUNT DUE: \$421.65

Please enter the amount enclosed

Questions about your bill:  
Call toll free 1-888-221-7070



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

Questions about your bill: 1-888-221-7070  
Call toll free 24 hours a day, 7 days a week  
www.pacificpower.net

BILLING DATE: Jun 18, 2010  
ACCOUNT NUMBER: 31983684-001 1  
DATE DUE: Jul 7, 2010  
AMOUNT DUE: \$384.49

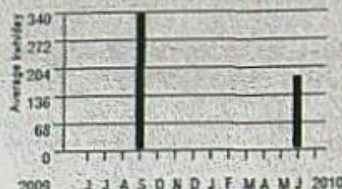
Your Balance With Us

Previous Account Balance	0.00
Payments/Credits	0.00
New Charges	+384.49
Current Account Balance	\$ 384.49

Payments Received

No payments have been received since your last billing statement.

Historical Data - ITEM 4



Detailed Account Activity

ITEM 4 - ELECTRIC SERVICE

37951A Rieth Rd Pendleton OR  
20 Hp Irrigation Schedule 41  
Service ID: 62562265-001

METER NUMBER	SERVICE PERIOD From To	ELAPSED DAYS	METER READINGS		METER MULTIPLIER	AMOUNT USED THIS MONTH
			Previous	Current		
28691315	May 18, 2010 Jun 17, 2010	30	0	5429	1.0	5,429 kwh
28691315	Demand Jun 17, 2010			12.577	1.0	13 kw
28691315	Reactive Jun 17, 2010			10.423	1.0	10 kvar

Previous Month Estimated - Road Construction Cant Access  
Next scheduled read date: 07-19. Date may vary due to scheduling or weather.

NEW CHARGES - 06/10	UNITS	COST PER UNIT	CHARGE
Delivery Charge Secondary	5,429 kwh	0.0225000	122.15
Oregon Tax Charge			
for 17 day(s)	3,076 kwh	0.0003100	0.95
for 13 day(s)	2,353 kwh	0.0014200	3.34
Reactive Power Charge Sec	5 kvar	0.6500000	3.25
(Season End Est Charge Sec Is \$234.00)			
Supply Energy Sec Summer	5,429 kwh	0.0455900	247.51
Public Purpose		0.0300000	11.32

Want to help your neighbors in need this summer? Use the enclosed envelope to make a tax-deductible donation.

Pacific Power is committed to the environment and is now offering paperless bills through our online payment program. Visit [pacificpower.net/epay](http://pacificpower.net/epay) to join the cause.

Late Payment Charge for Oregon  
A late payment charge of 1.5% may be charged on any balance not paid in full each month.

See reverse

Write account number on check & mail to: Pacific Power, 1033 NE 6th Ave, Portland, OR 97256-0001

RETAIN THIS PORTION FOR YOUR RECORDS;  
RETURN THIS PORTION WITH YOUR PAYMENT.

Change of Mailing Address or Phone?  
Check here & provide information on back.



PO BOX 25308  
SALT LAKE CITY UT 84125

RECEIVED

DEC 06 2010

WATER RESOURCES DEPT  
SALEM, OREGON

WRITE ACCOUNT NUMBER  
ON CHECK & MAIL TO:

PACIFIC POWER  
1033 NE 6TH AVE  
PORTLAND OR  
97256-0001

Account Number: 31983684-001 1

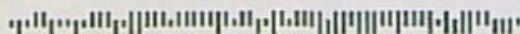
Date Due: Jul 7, 2010

AMOUNT DUE: \$384.49

Please enter the amount enclosed.

Questions about your bill:  
Call toll free 1-888-221-7070

29429 01 AT 0.357 124-0



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

H 31983684 001 118 000038449



# Water Rights Platcard Report

Meridian:  Township:  North Range:  East Section:  Records per Page:  Search

Platcards Maps!  
Learn about \* View Map

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40)	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown QQ	
Select Cert:28484 OR CN Additional Info: E BURLINGHAM App: S20936 Permit: S16393 Cert: 28484	T8718, T7772, T7771	7/3/1945	IRRIGATION CN																				1-4	6-8	
Select Cert:44900 OR * Additional Info: EDWARD W HOLMES App: G5732 Permit: G4962 Cert: 44900		2/22/1972	IRRIGATION																				6-6		
Select Cert:46102 OR CN Additional Info: DEAN FORTH App: S44660 Permit: S33439 Cert: 46102		4/4/1968	IRRIGATION CN																					± 21-7	
Select Cert:76631 RR CN Additional Info: B AND G RESOURCES INC. App: S20936 Permit: S16393 Cert: 76631	T8718	7/3/1945	IRRIGATION CN																					6-1	
OK Select Cert:80564 RR * Additional Info: B AND G RESOURCES INC. App: S20936 Permit: S16393 Cert: 80564	T10948	7/3/1945	IRRIGATION																					6-1	✓
Select Cert:28484 OR CN Additional Info: KENNETH GUSTAFSON App: S20936 Permit: S16393 Cert: 28484		7/3/1945	IRRIGATION CN																				1-4	6-8	

*SUBJECT RIGHT*

*NO CONFLICTS w/ EXISTING RIGHTS*

Acreage Legend: 12.25 Regular acreage    ~~12.25~~ Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

# Water Rights Platcard Report

Meridian:  Township:  North Range:  East Section:  Records per Page:  Search

Platcards Maps!  
[Learn about](#) \* [View Map](#)

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unkown QQ		
Select Cert:82165 OR *		9/24/1974	IRRIGATION																6.6							
Additional Info: FAIRVIEW ANGUS RANCH App: S52447 Permit: S39444 Cert: 82165																										
Select Permit:G 8631 CN		4/20/1979	SUPPLEMENTAL CN IRRIGATION (Suppl'mtl)																4.6							
Additional Info: CLINT LEWIS App: G9206 Permit: G8631																										
Select Permit:G 11791 *		10/24/1991	SUPPLEMENTAL IRRIGATION (Suppl'mtl)																4.6							
Additional Info: KENT BEEBE App: G12698 Permit: G11791																										
1 2																										

Acreage Legend: 12.25 Regular acreage ±2.25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate) [12.25] Acreage has been suspended \* Acreage is not specified

# Water Rights Platcard Report

Meridian: Willamette Township: 2 North Range: 30 East Section: 12 Records per Page: 6 Search

Platcards Maps!  
Learn about \* View Map

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unkown QQ
Select Cert:28484 OR CN Additional Info: E BURLINGHAM App: S20936 Permit: S16393 Cert: 28484	T8718, T7772, T7771	7/3/1945	IRRIGATION CN					13.4	12.8		28.6	12.6	8.8										15.6	
Select Cert:32699 OR * Additional Info: LEWIS LIVESTOCK CO. App: S33006 Permit: S26122 Cert: 32699		3/30/1959	IRRIGATION							1.6					21.5	25.2	15						2	
Select Cert:46102 OR CN Additional Info: DEAN FORTH App: S44660 Permit: S33439 Cert: 46102		4/4/1968	IRRIGATION CN					5.2																
Select Cert:76631 RR CN Additional Info: B AND G RESOURCES INC. App: S20936 Permit: S16393 Cert: 76631	T8718	7/3/1945	IRRIGATION CN					12.7	12.7		8.1													
<i>OK</i> Select Cert:80564 RR * Additional Info: B AND G RESOURCES INC. App: S20936 Permit: S16393 Cert: 80564	T10948	7/3/1945	IRRIGATION					11.1	8.9		0.1													
Select Cert:28484 OR CN Additional Info: KENNETH GUSTAFSON App: S20936 Permit: S16393 Cert: 28484		7/3/1945	IRRIGATION CN					13.4	12.8		28.6	12.6	8.8										15.6	

*SUBJECT RIGHT*

Acreage Legend: 12.25 Regular acreage    12.25 Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

*NO CONFLICTS w/ EXISTING RIGHTS*

### Water Rights Platcard Report

Meridian:  Township:  North Range:  East Section:  Records per Page:  Search

Platcards Maps! Learn about \* View Map

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40) Q(160)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unkown QQ
Select Cert:82166 OR * Additional Info: LEWIS LIVESTOCK CO. App: 549008 Permit: 541362 Cert: 82166		12/16/1976	IRRIGATION					8.1	24.5		1.8			2.7										
Select Cert:82165 OR * Additional Info: FAIRVIEW ANGUS RANCH App: 552447 Permit: 539444 Cert: 82165		9/24/1974	IRRIGATION										28.3	36.3		4.3								
<i>OK</i> Select Cert:83483 CF * Additional Info: KENNETH GUSTAFSON App: 520936 Permit: 516393 Cert: 83483		T10948 7/3/1945	IRRIGATION					1		2.6		✓												
Select App:LL 1201 * Additional Info: CONFEDERATED TRIBES OF UMATILLA INDIAN RESERVATION App: LL1201		4/21/2009	RIPARIAN HABITAT RESTORATION PROJECT					*							*	*	*							
Select Permit:G 8631 CN Additional Info: CLINT LEWIS App: G9206 Permit: G8631		4/20/1979	SUPPLEMENTAL CN IRRIGATION (Suppl'mtl)										32.9	38		6.3								
Select Permit:G 11791 * Additional Info: KENT BEEBE App: G12698 Permit: G11791		10/24/1991	SUPPLEMENTAL IRRIGATION (Suppl'mtl)										32.9	38		6.3								

*SUBJECT RIGHT*

Acreage Legend: 12.25 Regular acreage    12.25 Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

# Water Rights Platcard Report

Meridian:  Township:  North Range:  East Section:  Records per Page:  Search

Platcards Maps  
Learn about \* View Map

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(49) Q(160)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Cert:28484 OR CN Additional Info: E BURLINGHAM App: S20936 Permit: S16393 Cert: 28484	T8718, T7772, T7771	7/3/1945	IRRIGATION	CN									7.4			32.8	17.6	15.3				0.1		
Select Cert:46102 OR CN Additional Info: DEAN FORTH App: S44660 Permit: S33439 Cert: 46102		4/4/1968	IRRIGATION	CN												2.3	0.1		8.8		1.8	33	20.1	
Select Cert:28484 OR CN Additional Info: KENNETH GUSTAFSON App: S20936 Permit: S16393 Cert: 28484		7/3/1945	IRRIGATION	CN									7.4			32.8	17.6	15.3				0.1		
OK Select Cert:83483 CF * ✓ Additional Info: KENNETH GUSTAFSON App: S20936 Permit: S16393 Cert: 83483		T10948	7/3/1945	IRRIGATION		1							0.1	✓										
OK Select Cert:83483 CF * ✓ Additional Info: KENNETH GUSTAFSON App: S20936 Permit: S16393 Cert: 83483		T10948	7/3/1945	IRRIGATION		2							1.7	✓										
Select App:LL 1201 * Additional Info: CONFEDERATED TRIBES OF UMATILLA INDIAN RESERVATION App: LL1201		4/21/2009	RIPARIAN HABITAT RESTORATION PROJECT													*	*	*						

SUBJECT WR

SUBJECT WR

Acreage Legend: 12.25 Regular acreage    12.25 Acreage is on a canceled right    (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate)    [12.25] Acreage has been suspended    \* Acreage is not specified

NO CONFLICTS w/ EXISTING WR'S

Ken Dowden

---

To: Cortney Duke

Subject: RE: T-10948

Hi Cortney. One last thing.

I decided to take a quick peek at this transfer. I wouldn't want to have something impossibly wrong with the file and not be able to work on it right away.

One thing I noticed, we solicited ODFW's comments when the application first came in.

Nothing.

We re-solicited for their comments on January 11, 2010, and still have not received a response. I will try and contact Bill Duke, ODFW here in Pendleton regarding a reply.

I do not see anything else that "screams" at me on the application or map.

Ken

---

**From:** Cortney Duke [mailto:cortney@water-law.com]

**Sent:** Wednesday, August 04, 2010 10:44 AM

**To:** Ken Dowden

**Subject:** RE: T-10948

Thank you for the prompt response and useful information!

I appreciate the update!

Cortney

---

**From:** Ken Dowden [mailto:dowdenkd@wrd.state.or.us]

**Sent:** Wednesday, August 04, 2010 10:40 AM

**To:** Cortney Duke

**Subject:** RE: T-10948

Hi Cortney. Good to follow-up on these...

District transfers this year have confiscated my time a great deal. As you know, because of statutory changes about 6 years ago, irrigation Districts may file their transfers any time of year now, not being restricted to submitting them prior to irrigation season or commencement of water deliveries. And, these types of transfers take precedent over regular, individual transfers such as your client's. Never in the 9 years I've been here that District transfers have ever gone into the month of July or beyond.  
<argh>

Because of the amount of District Transfers that have poured in since our last correspondence, I am happy to report I have one last temporary District transfer to complete and then have roughly 9 regular transfers ahead of your clients. I have completed a few regulars in-between.

It is not just the backlog as you mention, (down to approximately 300 now!), it is the vacant transfer positions as well that we cannot fill at the moment that has somewhat slowed the process down a bit, but transfer specialists from all over the state have been asked to help out with other region's transfers and I just finished four "old dogs" from

8/4/2010

over on the west side (*of the cascades*) recently as well.

I would guess a draft of the Preliminary determination on this transfer application T-10948 would easily go out by years end.

I am sorry that this is all I can offer you at this time.

Ken

---

**From:** Cortney Duke [mailto:cortney@water-law.com]

**Sent:** Wednesday, August 04, 2010 10:07 AM

**To:** Ken Dowden

**Subject:** T-10948

Mr. Dowden -

This office represents the applicant for T-10948. The application was submitted in the August 2009. While I know that Department has a backlog of transfer applications which has delayed the processing of these applications over the years. However, I am also aware that the Department has made significant progress is reducing the backlog in recent years.

Could you please provide me with an estimated timeframe when T-10948 might be reviewed and a PD issued? The applicant may consider the reimbursement authority at the appropriate time.

Thank you,

Cortney

**Cortney D. Duke**

Schroeder Law Offices, PC

1915 NE Cesar Chavez Blvd

Portland, OR 97212

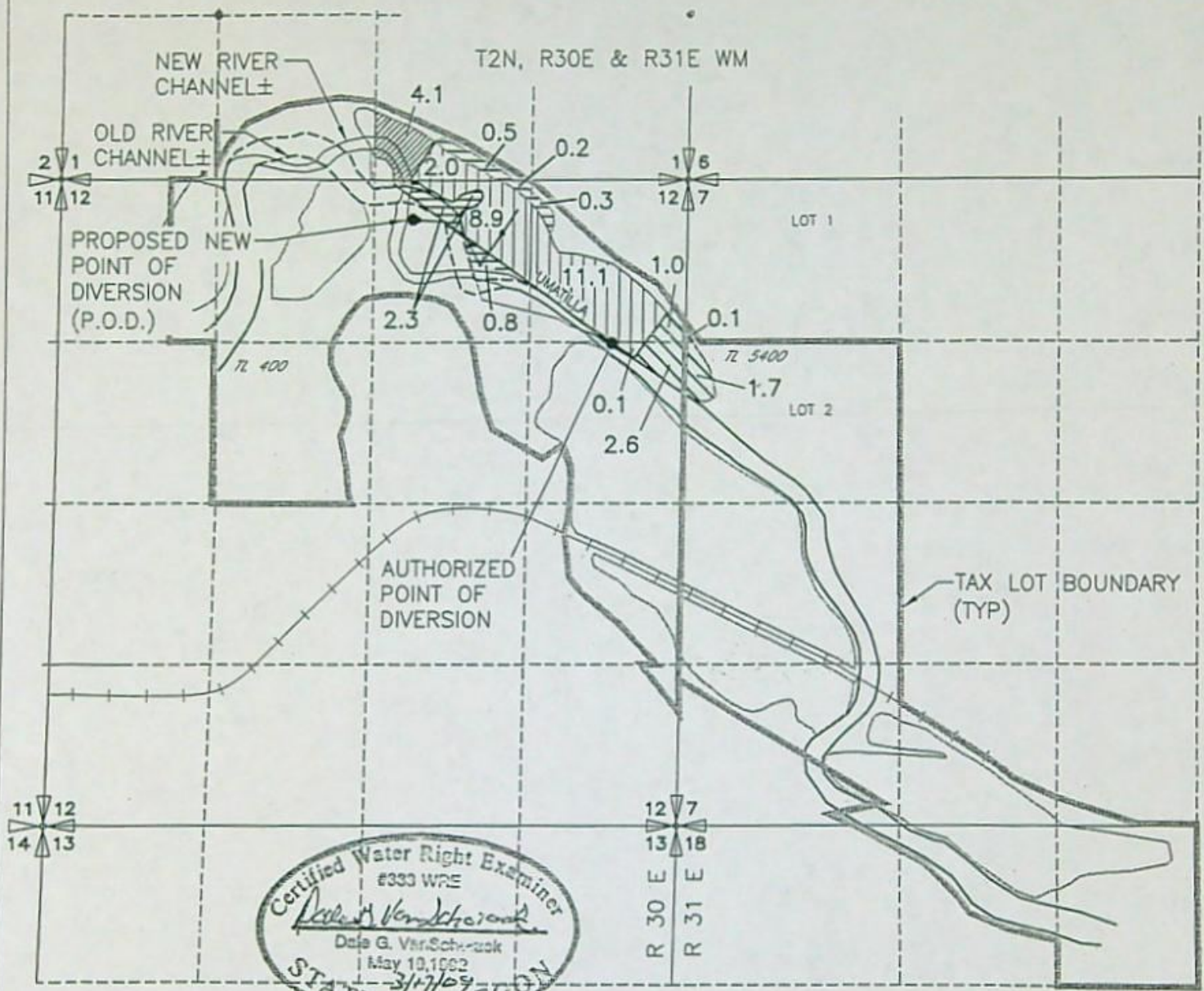
(503) 281-4100 (ph)

(503) 281-4600 (f)

[www.water-law.com](http://www.water-law.com)







B&G RESOURCES TRANSFER APPLICATION  
 MAP FOR CERT 80564 & 83483  
 C/O KENNETH E. GUSTAFSON



Certified Water Right Examiner  
 #333 WRE  
*Robert VanDerHorst*  
 Dale G. VanSchwartz  
 May 10, 1992  
 3/7/09  
 STATE OF OREGON  
 Expires 6/30/10

AUTHORIZED POINT OF DIVERSION  
 P.O.D. 1330 FEET SOUTH AND 610 FEET WEST FROM  
 THE NE CORNER SECTION 12, T 2 N, R30E. WM.

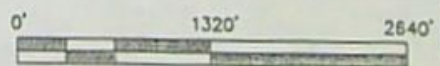
PROPOSED CHANGE IN POINT OF DIVERSION (BOTH  
 CERTIFICATES)  
 P.O.D. 320 FEET SOUTH AND 2310 FEET WEST  
 FROM THE NE CORNER SECTION 12, T 2 N, R30E.  
 WM.

-  4.1 AC CERT 80564 WATER RIGHT INVOLVED IN RIVER CHANGING CHANNEL AND TO BE TRANSFERRED TO NEW LOCATION
-  5.4 AC CERT 83483 CHANGE IN P.O.D.
-  22.1 AC CERT 80564 CHANGE IN P.O.D.
-  4.1 AC CERT 80564 AREA RECEIVING WATER RIGHTS AND CHANGE IN P.O.D.

TZ 5400 TAX LOT

**RECEIVED**

AUG 26 2009



T 10948

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

DRAWING: F:\30-08-016 - Porfily Water Rights Consulting\--00 Misc Engineering\Cad\128\80564\2009\TRAP.dwg  
 PRINTED BY: rwillard on 03/17/09 01:51 PM

WATER RESOURCES DEPT  
 SALEM, OREGON

# ORIGINALS

Transfer Application and Map

Amendments/Revisions to Appl & Map

Receipt

Deed or Lot Book Report

Notarized Consent

Evidence of Use Affidavit

Land Use Information Form

Lien Holder Notification *(if applicable)*

Report of Ownership and Lien Info *(if applicable)*

8

Other Supporting Documentation



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

# Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at [www.wrd.state.or.us/OWRD/PUBS/forms.shtml](http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml).

## 1. TYPE OF TRANSFER APPLICATION

Please check one		
<input checked="" type="checkbox"/> Permanent Transfer <input type="checkbox"/> Temporary Transfer (1 to 5 yrs.) • total number of years: _____ (begin year: _____) (end year: _____)	<input type="checkbox"/> Instream Transfer <input type="checkbox"/> Permanent <input type="checkbox"/> Time-Limited <input type="checkbox"/> Drought Transfer <input type="checkbox"/> Other	Is this project fully or partially funded by the American Recovery and Reinvestment Act? (Federal stimulus dollars) <p style="text-align: center;"> <input type="radio"/> Yes    <input type="radio"/> No         </p>

## 2. APPLICANT INFORMATION

Applicant: B & G Resources c/o Kenneth G. Gustafson

First Last

Mailing Address: 5200 SW MacAdam Ave., Suite 470

Portland Oregon 97239

City State Zip

Phone: \_\_\_\_\_

Home Work Other

Fax: \_\_\_\_\_ Email Address: \_\_\_\_\_

**RECEIVED**

**AUG 26 2009**

**WATER RESOURCES DEPT  
 SALEM, OREGON**

## 3. AGENT INFORMATION

Agent: Schroeder Law Offices, P.C. c/o Cortney D. Duke

First Last

Mailing Address: P.O. Box 12527

Portland Oregon 97212

City State Zip

Phone: \_\_\_\_\_

Home Work Other

Fax: 503-281-4600 Email Address: c.duke@water-law.com

• If an agent is listed above, please check one of the following:

- Please send all correspondence to Agent. Send copies of correspondence to Applicant; or
- Please send all correspondence to Applicant. Send copies of correspondence to Agent.

T 10948

**4. PROPOSED CHANGE(S) TO WATER RIGHT(S)**

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

	Application / Decree	Permit / Previous Transfer	Certificate
1.		T-8718	83483
2.			80564
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

- Place of Use       Point of Diversion (POD)       Additional Point of Diversion
- Character of Use       Point of Appropriation (POA, or well)       Additional POA
- Instream Transfer       Surface Water POD to Ground Water POA
- Substitution of Supplemental Groundwater right for Primary Surface water right
- Historic POD change       Other

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- Reason(s) for change(s): The banks of the Umatilla River have naturally changed, making a portion of the place of use and the authorized POD inaccessible.

**5. WATER DELIVERY SYSTEM**

- Describe the **current** water delivery system **or** the system that **was in place** at some time **within the last 5 years**. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

*The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.*

The system uses a 20 hp electrical pump and 1/2 mile of wheellines.

- System capacity: 0.78 cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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6. EVIDENCE OF BENEFICIAL WATER USE

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
  - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
  - ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
  - ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
  - ▶ If the right has **not** been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

7. AFFECTED DISTRICTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district?  Yes  No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer?  Yes  No
- Is 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?  Yes  No

*If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:*

See contract 14-06-100-1336 with the Bureau of Reclamation.

Address: 1150 N. Curtis Road, Suite 100, Boise, ID 83706-1234

Contact: Ryan M. Patterson

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8. LOCAL GOVERNMENTS

- List the name and mailing address of all local governments (i.e., each county, city, municipal corporation, or tribal government within whose jurisdiction water will be diverted, conveyed or used).

Umatilla County

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9. LAND OWNERSHIP

- Does the applicant own the lands FROM which the right is being transferred?  Yes  No

*If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners (for Permanent Transfers see Section 12(c)):*

Names of Current Landowner(s): N/A  
First Last

Address: \_\_\_\_\_

City State Zip

- Does the applicant own the lands TO which the right is being transferred?  
 Yes  No  N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

*If "No", provide the following information:*

Names of Receiving Landowner(s): \_\_\_\_\_  
First Last

Address: \_\_\_\_\_

City State Zip

- Check one of the following:
  - The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
  - The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.
  - N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

10. Other Remarks (optional)

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## 11. ATTACHMENTS

Check each of the following attachments included with this application.  
The application will be returned if all required attachments are not included.

### Supplemental Form A –

#### Description of Proposed Change(s) to a Water Right

- A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

### Supplemental Form B –

#### Evidence of Use Affidavit(s)

- At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
- The Evidence of Use Affidavit must be accompanied by supporting documentation.

### Map

- Water Right Transfer*

The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.

- Temporary Transfer or Historical POD Change*

A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

### Water Well Report(s)/Well Log(s): N/A

- The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

### Land Use Information For Proposed Changes:

#### For Instream Transfers:

- Notice of the intent to file an instream transfer application has been provided to each affected local government along the proposed reach, and copies of the notices are enclosed. (*For instream transfers a Land Use Information Form is not required.*)

#### For All Other Transfers:

- Land Use Information Form is enclosed; *or*
- All of the following criteria are met, therefore a Land Use Information Form is not required:
- ① In EFU zone or irrigation district,
  - ② Change in place of use only,
  - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
  - ④ Irrigation only.

#### Fees:

- Amount enclosed: \$ 2,000.00  
See the Department's Fee Schedule at [www.wrd.state.or.us](http://www.wrd.state.or.us) or call (503) 986-0900.

#### Instream Water Right Transfers, also include:

### Supplemental Form C –

#### Instream Water Right Transfer

- Complete this form to describe the desired nature and attributes for the proposed instream water right.

#### Temporary Transfers, also include:

#### Recorded Deed:

- The applicant must submit a copy of the current deed of record for the land from which the authorized place of use or point of diversion/appropriation is being moved.

#### Affidavit of Consent:

- If the applicant is NOT the owner of record for the land from which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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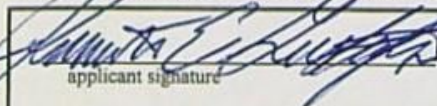
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**Before submitting your application to the Department, be sure you have:**

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

**12. SIGNATURES**

- Check one of the following, as appropriate, and sign the application in the signature box below:
- In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:
- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is not the applicant, a **notarized statement consenting to the transfer** (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.
- I (we) affirm that interest in the water right has been conveyed to someone other than the landowner, and documents, including a water right conveyance agreement, report of ownership and lien information, and any required lienholder notification are enclosed, demonstrating that I am (we are) authorized to pursue the transfer. I (we) understand that we may be required to provide additional information upon receipt of the draft Preliminary Determination.
- I (we) affirm that 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. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.
- I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)
- I (we) affirm that this is a temporary transfer and a copy of the deed for the "from" land (and affidavits of consent from any other landowners, if applicable) is enclosed.
- I (we) affirm that the information contained in this application is true and accurate.

 applicant signature	Kenneth E. Costafan name and title if applicable (print) VP, TRUS	8/24/09 date
_____ applicant signature	_____ name and title if applicable (print)	_____ date

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REC'D VIA  
E-MAIL ATTACHMENT

Licensed in Oregon and Nevada:

Cortney D. Duke  
Wyatt E. Rolfe  
Therese A. Ure

Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



December 3, 2010

*VIA ELECTRONIC AND U.S. MAIL*

Oregon Water Resources Department  
c/o Ken Dowden  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1266  
Email: [dowdenkd@wrp.state.or.us](mailto:dowdenkd@wrp.state.or.us)

**RE: Water Right Transfer Application T-10948  
Updates to Supplemental Forms A and B**

Dear Mr. Dowden:

Pursuant to our conversation on Monday, November 15, 2010, our office has enclosed an Updated Water Right Transfer Supplemental Form A and an Updated Water Right Transfer Supplemental Form B with the required proof of use documentation.

If there are any further changes necessary or if you have any questions, please contact our office at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke

CDD:bmw

Enclosures

cc: Client

1915 NE Cesar E. Chavez Boulevard, Portland, Oregon 97212 (503) 281-4100

440 Marsh Avenue, Reno, Nevada 89509 (775) 786-8800

[www.water-law.com](http://www.water-law.com) [counsel@water-law.com](mailto:counsel@water-law.com)

**Water Right Transfer Supplemental Form A**  
**DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 80564

**I. TYPE OF CHANGE(S) PROPOSED**

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used instead of the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.)  <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

**2. CURRENT WATER RIGHT INFORMATION**

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

<input checked="" type="checkbox"/> Certificated Right	<u>80564</u> Certificate Number	<u>16393</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: B&G Resources, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

Tributary to: Columbia River

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?

Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

▪ Certificate Number or other identifying number: 80564

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water OWRD Well Log ID No. (or Well ID Tag No. L- )	Source and Priority Date	Township	Range	Mer.	Sec.	1/4	Tax Lot, DLC or Gov. Lot	Survey Coordinates (Coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12

- Does the water right being transferred involve a ground water source(s)?

Yes       No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation - (Only needed if no well log is available.)**

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth



Certificate Number or other identifying number: 80564

**3. PROPOSED CHANGES TO THE WATER RIGHT**

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

**Location of Proposed Point(s) of Diversion or Appropriation:**

(i.e., the "TO" point(s) of diversion or appropriation)  N/A - Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer.	Sec.	1/4 Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		320 Feet South & 2310 Feet West from NE Corner Sec. 12

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

**Construction of Proposed Point(s) of Appropriation or Well(s)**

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, DWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth



## Water Right Transfer Supplemental Form A

### DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 80564

### 1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead</u> of the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input checked="" type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.)  <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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**2. CURRENT WATER RIGHT INFORMATION**

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

<input checked="" type="checkbox"/> Certified Right	<u>80564</u> Certificate Number	<u>16393</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: B&G Resources, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

Tributary to: Columbia River

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?  
 Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

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▪ Certificate Number or other identifying number: 80564

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12

- Does the water right being transferred involve a ground water source(s)?  
 Yes      No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 80564

**3. PROPOSED CHANGES TO THE WATER RIGHT**

*Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.*

**Location of Proposed Point(s) of Diversion or Appropriation:**

*(i.e., the "TO" point(s) of diversion or appropriation)*  N/A - Instream Water Right Transfer

*(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)*

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	SW NE		320 Feet South & 2310 Feet West from NE Corner Sec. 12

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

*If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)*

*If "No", describe the anticipated construction for the proposed well(s) in the following table:*

**Construction of Proposed Point(s) of Appropriation or Well(s)**

*Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.*

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

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## Water Right Transfer Supplemental Form A

### DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

▪ Certificate Number or other identifying number: 83483

#### 1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
<input checked="" type="checkbox"/> <b>Change</b> (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Additional</b> (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) <input type="checkbox"/> <b>Historic Point of Diversion or Appropriation Change</b> (Unauthorized point of diversion or appropriation used for more than 10 years.) <input type="checkbox"/> <b>Surface Water to Ground Water</b> (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.) <input type="checkbox"/> <b>Point of Diversion Change due to Government Action</b> (The old point of diversion or appropriation can no longer be used due to government action.) <input type="checkbox"/> <b>Exchange</b> (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	<input type="checkbox"/> <b>All of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.) <input type="checkbox"/> <b>Only a portion of the right will be exercised at a different location than currently authorized</b> (Use of water at the current location will be discontinued.)	Proposed new use: <input type="checkbox"/> Irrigation <input type="checkbox"/> Municipal <input type="checkbox"/> Quasi-municipal <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Instream (complete and attach <i>Supplemental Form C</i> ) <input type="checkbox"/> Domestic (indicate number of households) _____ <input type="checkbox"/> Other _____  <input type="checkbox"/> <b>Substitution</b> (A supplemental ground water right will be substituted for a primary surface water right.) <input type="checkbox"/> <b>Supplemental Use to Primary Use</b> (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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**2. CURRENT WATER RIGHT INFORMATION**

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

<input checked="" type="checkbox"/> Certified Right	<u>83483</u> Certificate Number	<u>16393</u> Permit Number or Decree Name
<input type="checkbox"/> Adjudicated, Non-certificated Right	_____ Name of Decree	_____ Page Number
<input type="checkbox"/> Permit for which Proof has been Approved	_____ Permit Number	_____ Date Claim of Beneficial Use Submitted
<input type="checkbox"/> Transferred Right for which Proof has been Filed	_____ Previous Transfer Number	_____ Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: Kenneth E. Gustafson
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: N/A - Use is irrigation and will not change.
- Priority Date(s): July 3, 1945

*If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Umatilla River & McKay Reservoir

Tributary to: Columbia River

*If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

**For applications proposing a Change in Place of Use or Character of Use:**

- Are there **Other Water Rights**, Permits or Ground Water Registrations associated with this land?  
 Yes     No     N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? \_\_\_\_\_

*Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).*

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The following information must be provided only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

**Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:**

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-___)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
	Umatilla River McKay Reservoir July 3, 1945	2N	30E	W.M.	12	SE NE		1330 Feet South & 610 Feet West from NE Corner, Sec. 12

- Does the water right being transferred involve a ground water source(s)?  
 Yes       No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

A. Supply a copy of the well log(s) for each point of appropriation that is clearly labeled and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

B. If a well log is not available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

**Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)**

Wells in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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▪ Certificate Number or other identifying number: 83483

**3. PROPOSED CHANGES TO THE WATER RIGHT**

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

**Location of Proposed Point(s) of Diversion or Appropriation:**

(i.e., the "TO" point(s) of diversion or appropriation)

N/A - Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)
Umatilla River McKay Reservoir	2N	30E	W.M.	12	NW NE		320 Feet South & 2310 Feet West from NE Corner, Sec. 12

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed?  Yes  No  N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

**Construction of Proposed Point(s) of Appropriation or Well(s)**

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L- )	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
	T 10948									

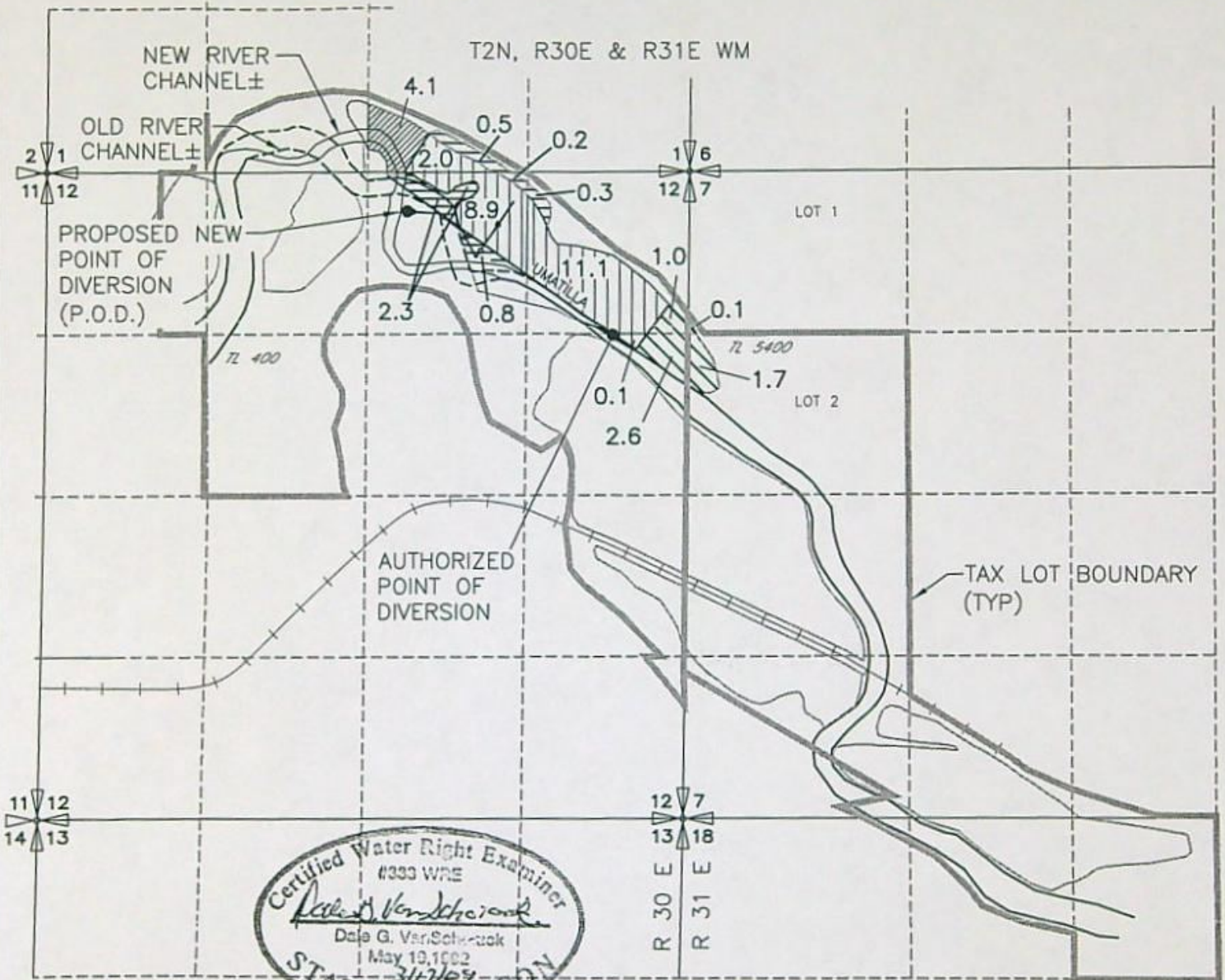
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**B&G RESOURCES TRANSFER APPLICATION  
MAP FOR CERT 80564 & 83483  
C/O KENNETH E. GUSTAFSON**



**AUTHORIZED POINT OF DIVERSION**  
P.O.D. 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.

**PROPOSED CHANGE IN POINT OF DIVERSION (BOTH CERTIFICATES)**  
P.O.D. 320 FEET SOUTH AND 2310 FEET WEST FROM THE NE CORNER SECTION 12, T 2 N, R30E. WM.

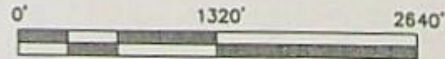
-  4.1 AC CERT 80564 WATER RIGHT INVOLVED IN RIVER CHANGING CHANNEL AND TO BE TRANSFERRED TO NEW LOCATION
-  5.4 AC CERT 83483 CHANGE IN P.O.D.
-  22.1 AC CERT 80564 CHANGE IN P.O.D.
-  4.1 AC CERT 80564 AREA RECEIVING WATER RIGHTS AND CHANGE IN P.O.D.

T 5400 TAX LOT

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NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY BOUNDARY LINES.

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## Oregon Water Resources Department Land Use Information Form

*This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. WRD will use this and other information to evaluate the water use application. 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, or exchange and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm use zone.*

### To Be Completed By Applicant

*This section must be completed by the individual or group that is filing an application with the Water Resources Department. Attach a copy of the map from the application to this form.*

**- A. Applicant**

Name: B & G Resources, Inc. c/o Kenneth E. Gustafson  
 Address: 5200 SW MacAdam Ave Ste 470  
 City: Portland State: OR Zip: 97201 Day Phone: (503)221-5117

**- B. Land and Location**

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Tax Lot I.D.	Plan Designated (e.g. Rural Residential/RR-5)	Water to be: (Check all that apply)	Proposed Land Use
T2N, R30E, SEC 12 TL 400	EFU T2N, R30E sec. 1 & 12	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Alfalfa
T2N, R31E, Sec 1, TL 5400	Z T2N, R31E sec. 7	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	Alfalfa
		<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 counties and cities where water is proposed to be diverted, conveyed, or used. Umatilla

**- C. Description of Proposed Use**

Indicate the type of application to be filed with the Water Resources Department.  
 Water Use Permit  Water Right Transfer  Allocation of Conserved Water  Exchange

Indicate the intended use of water and describe the key characteristics of the project.

- Commercial  Industrial  Instream  Irrigation  
 Municipal  Quasi-municipal  Domestic (indicate number of households)  
 Other \_\_\_\_\_

Briefly describe: The Umatilla River is changing channels, taking our land leaving our existing pump station high and dry. We are relocating our pump and transferring the water right from the area the River has taken the last few years and transferring water rights from the area that it looks like it is going to take in the next few years

Indicate the source of the water to be used.  
 Reservoir/Pond  Ground Water  Surface Water Umatilla River

Indicate the estimated quantity of water the use will require: 0.5  CFS  GPM  Acre-Feet

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BY: LAUK

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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 this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

**- A. Allowed Use**

Check the appropriate box below and provide requested information.

- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 152, 056. Go to section B "Approval" below.
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Type of Land Use Approval Needed (3.g. plan amendments, rezones, conditional use permits, etc.)	City Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval	
N/A	N/A	<input type="checkbox"/> Obtained	<input type="checkbox"/> Being pursued
		<input type="checkbox"/> Denied	<input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained	<input type="checkbox"/> Being pursued
		<input type="checkbox"/> Denied	<input type="checkbox"/> Not being pursued
2	2	<input type="checkbox"/> Obtained	<input type="checkbox"/> Being pursued
		<input type="checkbox"/> Denied	<input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained	<input type="checkbox"/> Being pursued
		<input type="checkbox"/> Denied	<input type="checkbox"/> Not being pursued
		<input type="checkbox"/> Obtained	<input type="checkbox"/> Being pursued
		<input type="checkbox"/> Denied	<input type="checkbox"/> Not being pursued

**Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action/land use decision and accompanying findings are sufficient.)

**- B. Approval**

Please provide printed name and written signature.

Name: J.L. Cook Date: 3-27-09

Title: Asst. Planning Dir. Phone: 541.278.6251

Signature: 

**- C. Additional Comments**

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

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**Note:** If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. 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.

REEL 296 PAGE 0886

222533

AFTER RECORDING RETURN TO:

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

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

B&G Resources, Inc.  
3132 SE Tindall Circle  
Portland, OR 97202

**STATUTORY BARGAIN AND SALE DEED**

Nomad Alfalfa, Inc., an Oregon corporation, and Gloria M. Lewis, an individual, jointly Grantor, conveys to B&G Resources, Inc., an Oregon corporation, Grantee, the following described real property:

The real property described in Exhibit "A" attached hereto, together with all appurtenances thereto, except this deed does not convey any mineral rights relating to the real property which is the subject of this deed.

The true consideration for this conveyance is \$20,000.

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.

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Executed this 28 day of August, 1996.

AUG 30 1996

UMATILLA COUNTY RECORDS

**GRANTOR:**

Nomad Alfalfa, Inc.  
an Oregon corporation

*Gloria M. Lewis, President*  
Gloria M. Lewis, President

*President*  
Gloria M. Lewis

STATE OF OREGON

County of Multnomah

} ss.

This instrument was acknowledged before me this 28th day of August, 1996, by Gloria Lewis, President of Nomad Alfalfa, Inc., on behalf of the corporation.



NOTARY PUBLIC FOR OREGON  
My Commission Expires: 08/25/00

(Acknowledgments continued on next page)

1 - BARGAIN AND SALE DEED

(174991/106137/SCM/124661.2)

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(Acknowledgments continued from next page)

STATE OF OREGON }  
County of Washington } ss.

This instrument was acknowledged before me this 25<sup>th</sup> day of August, 1996, by Gloria Lewis.



Kelly M. Norton  
NOTARY PUBLIC FOR OREGON  
My Commission Expires: 08/26/00

2 - BARGAIN AND SALE DEED

(17/49811/106137/SCM/124661.2)

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## EXHIBIT A

All of those certain parcels of land heretofore acquired by Oregon-Washington Railroad and Navigation Company by Warranty Deed dated December 20, 1933, filed for record February 5, 1934, in Volume 147 of Deeds at Page 144 of the Records of Umatilla County, Oregon, being more particularly described in said deed as follows:

"Parcel One: An irregular shaped tract of land comprising a part of Sections One (1) and Twelve (12), of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and a part of Section Seven (7), of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of said Section One (1); thence north along the east line of said Section One (1), to the northeast corner of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) thereof; thence west along the north line of the south half of the southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section One (1), to the northwest corner of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ); thence south along the west line of the said southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ), to an iron monument at a point six hundred eighty-nine (689) feet, more or less, north of the southwest corner thereof; thence south 19°57' west, seven hundred thirty-three (733) feet, more or less, to an iron monument at a point in the north line of said Section Twelve (12), two hundred fifty (250) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north line of said Section Twelve (12), to a point nine hundred forty (940) feet east of the northwest corner of said Section Twelve (12); thence south thirteen hundred twenty-four and five tenths (1324.5) feet, to a point in the south line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12), nine hundred forty (940) feet east of the southwest corner of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ); thence east along the south line of said northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the northwest corner of the southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Twelve (12); thence south along the west line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to the southwest corner thereof; thence east along the south line of said southeast quarter of the northwest quarter (SE $\frac{1}{4}$  NW $\frac{1}{4}$ ) to a

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point in the center of the channel of the Umatilla River; thence northwesterly along the said center of the channel of the Umatilla River, to a point which is four hundred sixty-two (462) feet north and three hundred ninety-six (396) feet west of the center of said Section Twelve (12); thence northwesterly in a direct line six hundred twenty (620) feet; to a point on the left bank of said Umatilla River; thence east six hundred (600) feet to a point fifty (50) feet east of the center of the old railroad grade of Oregon-Washington Railroad & Navigation Company; thence along a circular curve to the right, with a radius of five hundred twenty-three and seven tenths (523.7) feet along the old right of way of said Oregon-Washington Railroad & Navigation Company to a point one hundred sixty-five (165) feet south of the south line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence southeasterly on the southwest side of and along said old right-of-way and terminating at a point forty (40) feet from the high water mark of The Furnish Ditch Company's reservoir, which point bears north five hundred sixty (560) feet from the southeast corner of the southwest quarter of the northeast quarter (SW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12); thence south 52°15' east fifty-two (52) feet; thence north 33°15' east one hundred forty (140) feet; thence south 59°23' east three hundred ninety-eight (398) feet; thence south 9°48' east three hundred sixty-three (363) feet; thence south 10°30' west three hundred seventeen (317) feet, more or less, to a point on the north boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); said point being three hundred ninety-three (393) feet, more or less, distant southeasterly, measured along said north boundary line of Oregon-Washington Railroad & Navigation Company's right of way, from the west boundary line of said northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ); thence southeasterly along the northerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as the same is now located through the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) of Township Two (2) North, Range Thirty (30) East of the Willamette Meridian, and through the southwest quarter (SW $\frac{1}{4}$ ) and the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, to a point on the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Seven (7), to the northeast corner thereof; thence west along the north boundary line of said southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), to the southeast corner of the northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence north along the east boundary line of said northwest quarter of the southwest quarter (NW $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the

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northeast corner of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7); thence West along the north boundary line of said southwest quarter of the northwest quarter (SW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Seven (7), to the section line common to said Section Seven (7) and said Section Twelve (12); thence north along said section line to the southeast corner of said section one (1), the place of beginning; excepting therefrom all that part of the northeast quarter of the northeast quarter (NE $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Twelve (12) and the Southeast quarter of the Southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the South Half of the Southeast quarter (S $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section One (1), that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir; also except a piece or parcel of land, containing thirty-five (35) acres, more or less, being all that part of the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), that lies north of Oregon-Washington Railroad & Navigation Company's right of way and east of a line parallel to and forty (40) feet above the highwater line of The Furnish Ditch Company's Reservoir.

Parcel Two: A tract of land, containing two (2) acres, more or less, being all that part of the northeast quarter of the southwest quarter (NE $\frac{1}{4}$  SW $\frac{1}{4}$ ) of Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, lying within The Furnish Ditch Company's Reservoir and extending back from said reservoir a distance of forty (40) feet above the highwater level in said reservoir.

Parcel Three: An irregular shaped tract of land comprising a part of the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of Section Twelve (12) of Township Two (2) North, Range Thirty (30) East, of the Willamette Meridian, and a part of Sections Seven (7) and Eighteen (18) of Township Two (2) North, Range Thirty-One (31) East of the Willamette Meridian, being more particularly described as follows, to-wit:

Beginning at the southeast corner of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence north along the east line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southerly boundary line of Oregon-Washington Railroad & Navigation Company's right of way as now located in the said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18); thence northwesterly along the southerly right of way boundary line of said Oregon-Washington Railroad & Navigation Company as same is now located through the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), the southwest quarter of the southeast quarter (SW $\frac{1}{4}$  SE $\frac{1}{4}$ ) and the southeast quarter of the southwest quarter (SE $\frac{1}{4}$  SW $\frac{1}{4}$ ) and the west half of the southwest quarter (W $\frac{1}{2}$  SW $\frac{1}{4}$ ) of said Section Seven (7), and the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), to a point on the southwesterly boundary line of

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SALEM, OREGON

the old right of way of said Oregon-Washington Railroad & Navigation Company in the northeast quarter of the southeast quarter (NE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), distant fifty (50) feet southwesterly from, measured at right angles to, the center line of the old main track of said Oregon-Washington Railroad & Navigation Company as said old main track was formerly constructed and operated over and across the east half of the southeast quarter (E $\frac{1}{2}$  SE $\frac{1}{4}$ ) of said Section Twelve (12) and the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7); thence southeasterly along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the north boundary line of the southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12); thence west along the north boundary line of said southeast quarter of the southeast quarter (SE $\frac{1}{4}$  SE $\frac{1}{4}$ ) of said Section Twelve (12), following said southwesterly boundary line of the old right of way, to a point, distant one hundred (100) feet southwesterly from, measured at right angles to, the center line of said old main track; thence southeasterly, along said southwesterly boundary line of the old right of way, parallel with the center line of said old main track, to a point on the section line common to said Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, and said Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian; thence south along the Section line common to said Section Twelve (12) and said Section Seven (7) to the southwest corner of said Section Seven (7); thence east along the section line common to said Section Seven (7) and said Section Eighteen (18) to an iron monument at a point five hundred thirty-eight (538) feet, more or less, west of the northeast corner of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18); thence south 65°21' east five hundred ninety-two (592) feet, more or less, to an iron monument at a point on the east line of the northwest quarter of the northwest quarter (NW $\frac{1}{4}$  NW $\frac{1}{4}$ ) of said Section Eighteen (18), distant two hundred forty-seven (247) feet, more or less, south of the northeast corner thereof; thence continuing south 65°21' east, seven hundred ninety-seven and five tenths (797.5) feet; thence south 49°29' east, one hundred eighty-five (185) feet; thence south 52°17' east, five hundred (500) feet; thence south 79°35' east, eighty and nine tenths (80.9) feet, more or less, to a point in the west line of the northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), distant ten hundred forty (1040) feet, more or less, south of the quarter section corner common to said Sections Seven (7) and Eighteen (18); thence south along the west line of said northwest quarter of the northeast quarter (NW $\frac{1}{4}$  NE $\frac{1}{4}$ ) of said Section Eighteen (18), to the southeast corner thereof, the place of beginning; excepting therefrom, a piece or parcel of land, containing twenty-six (26) acres, more or less, being all that part of the southwest quarter of the southwest quarter (SW $\frac{1}{4}$  SW $\frac{1}{4}$ ) of said Section Seven (7), Township 2 North,

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SALEM, OREGON

REF 296-0892

Range 31 East, Willamette Meridian, that lies outside of the highwater boundary line of The Furnish Ditch Company's Reservoir as said Reservoir now exists.

Alternative Description of all Property Above Described

The tracts of land hereinbefore described are hereby further described for greater certainty as follows:

Parcel A: All that property in Section One (1), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Samuel Smith, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 58 on page 385 of Deed Records of said Umatilla County; also, all that property in said Section One (1) conveyed by Lee Hummell and Mary L. Hummell, his wife, to The Furnish Ditch Co. by deed dated April 21, 1913 and recorded in Book 82 at page 558 Deed Records of said County; also

All that property in Section Twelve (12), Township 2 North, Range 30 East, Willamette Meridian, Umatilla County, Oregon, as conveyed by Matt Saari, an unmarried man, to The Furnish Ditch Company, by deed dated February 25, 1909, and recorded in Vol. 59 at page 96 of Deed Records of said County; also all that property in said Section Twelve (12) as conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909 and recorded in Book 59 at page 88, Deed Records of said County; also all that property in said Section Twelve (12) conveyed by Anna Holverson, wife of Herman Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, recorded in Book 59 at page 91, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by American National Bank of Peppleton to Furnish Ditch Company by deed dated October 20, 1915, recorded in Book 54 at page 4, Deed Records of said County; also

All that property in said Section Twelve (12) conveyed by James L. Smith and Hattie Smith, his wife, to The Furnish Ditch Company by deed dated December \_\_\_\_\_, 1913, filed for record on January 3, 1914 and recorded in Book 61 at page 406, Deed Records of said County; excepting therefrom the areas in said Section Twelve (12) conveyed by The Furnish Ditch Co. to Lee Hummell by deed dated May 12, 1915, and recorded in Book 91 at page 211, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by Furnish Ditch Company to J. A. Turnbow by deed dated August 31, 1912, and recorded in Book 81 at page 192, Deed Records of said County; also except the areas in said Section Twelve (12) conveyed by The Furnish

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WATER RESOURCES DEPT  
SALEM, OREGON

REEL 295: 0893

Ditch Co. to J. A. Turnbow by deed dated December 8, 1914, and recorded in Book 90 at page 90, Deed Records of said County; also except in the area in said Section Twelve (12) and said Section One (1) conveyed by The Furnish Ditch Company to Christopher Stanull by deed dated June 21, 1916, and recorded in Book 95 at page 232, Deed Records of said County; and also except the areas in said Section Twelve (12) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268 of Deed Records of said County;

Parcel B: All that property in Section Seven (7), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Oregon-Washington Railroad & Navigation Company to Furnish Ditch Company by deed dated February 20, 1912, and recorded in Vol. 78 at page 74 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Herman Holverson, husband of Anna Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 88 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Anna Holverson, wife of Herman Holverson, to The Furnish Ditch Company by deed dated February 27, 1909, and recorded in Book 59 at page 91 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by W. M. Smith and Katie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909 and recorded in Book 59 on page 89 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. L. Smith and Hattie Smith, husband and wife, to The Furnish Ditch Company by deed dated February 25, 1909, and recorded in Book 59 on page 90 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by J. E. Perigo and Mollie E. Perigo, his wife, to The Furnish Ditch Company by deed dated September 2, 1919, and recorded in Book 106 at page 240 of Deed Records of said County; also

All that property in said Section Seven (7) conveyed by American National Bank of Pendleton to Furnish Ditch Company by deed dated October 20, 1915 and recorded in Book 94 on page 4, Deed Records of said County; also

All that property in said Section Seven (7) conveyed by Inland Irrigation Co., Inc., to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239 of Deed Records of said County; excepting therefrom the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to

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WATER RESOURCES DEPT  
SALEM, OREGON

REEL 296 PAGE 0894

J. E. Perigo by deed dated May 16, 1919 and recorded in Book 106 at page 247, Deed Records of said County; also except the areas in said Section Seven (7) conveyed by The Furnish Ditch Company to Oregon-Washington Railroad & Navigation Company by deed dated December 5, 1911, and recorded in Vol. 78 at page 268, Deed Records of said County; also except the area in said Section Seven (7) conveyed by Furnish Ditch Company to Domatilla Gross by deed dated December 8, 1915; and recorded in Book 94 on page 583, Deed Records of said County.

Parcel C: All that property in Section Eighteen (18), Township 2 North, Range 31 East, Willamette Meridian, Umatilla County, Oregon, conveyed by Inland Irrigation Co., Inc. to The Furnish Ditch Co. by deed dated August 15, 1919, and recorded in Book 106 at page 239, Deed Records of said County; also

All that property in said Section Eighteen (18) conveyed by J. E. Smith Livestock Company to Furnish Ditch Company by deed dated November 14, 1913, and recorded at page 27 in Book 89, Deed Records of said County."

State of Oregon )  
                  )  
County of Umatilla  
This instrument was received and recorded on  
08-30-96 at 12:35  
in the record of document code type DE-845

Location      8296-0186  
Document number 1996-212533  
Fee            75.00

Office of County Records  
Received by Amaraiah  
Records Officer

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WATER RESOURCES DEPT  
SALEM, OREGON

**Water Right Transfer Supplemental Form B  
AFFIDAVIT ATTESTING TO THE USE OF WATER**

CERT #  
80564  
REV'D 12/3/2010

State of Oregon )  
County of Multnomah ) ss

I, Kenneth Gustafson, in my capacity as Owner/User,  
mailing address 5200 SW MacAdam Ave., Suite 470, Portland, OR 97239  
telephone number ( ) \_\_\_\_\_, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; or
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_; 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.

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

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range	Mer	Sec	1/4 Section	Gov't Lot or DLC	Acres (if applicable)
2	N	30	E	W.M. 1	SW SE	6.1
2	N	30	E	W.M. 12	NE NE	11.1
2	N	30	E	W.M. 12	NW NE	8.9
2	N	30	E	W.M. 12	SE NE	0.1

(continues on reverse side)

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



4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

Irrigation for alfalfa

5. The water delivery system used to apply water as authorized by the right is described below:

20 hp electrical pump and 1/2 mile of wheel lines

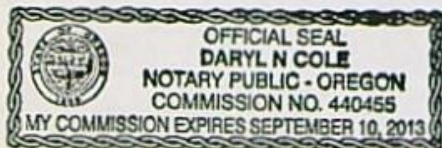
6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),  
Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

[Handwritten Signature]  
Signature of Affiant

11/29/10  
Date

Signed and sworn to (or affirmed) before me this 29<sup>th</sup> day of November, 2010.



Daryl N. Cole  
Notary Public for Oregon

My Commission Expires: September 10, 2013

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



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

Questions about your bill: 1-888-221-7070  
Call toll free 24 hours a day, 7 days a week  
www.pacificpower.net

BILLING DATE: Sep 21, 2010  
ACCOUNT NUMBER: 31983684-001 1  
DATE DUE: Oct 7, 2010  
AMOUNT DUE: \$421.65

Your Balance With Us

Previous Account Balance	0.00
Payments/Credits	0.00
New Charges	+421.65
Current Account Balance	\$ 421.65

Payments Received

No payments have been received since your last billing statement.

Detailed Account Activity

ITEM 4 - ELECTRIC SERVICE

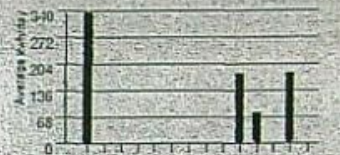
37951A Rieth Rd Pendleton OR  
20 Hp Irrigation Schedule 41  
Service ID: 62562265-001

METER NUMBER	SERVICE PERIOD From To	ELAPSED DAYS	METER READINGS		METER MULTIPLIER	AMOUNT USED THIS MONTH
			Previous	Current		
28691315	Aug 18, 2010 Sep 20, 2010	33	7843	13848	1.0	6,005 kwh
28691315	Demand Sep 20, 2010			12.732	1.0	13 kw
28691315	Reactive Sep 20, 2010			9.911	1.0	10 kvar

Previous Month Estimated - Unable To Read Meter  
Next scheduled read date: 10-18. Date may vary due to scheduling or weather.

NEW CHARGES - 09/10	UNITS	COST PER UNIT	CHARGE
Delivery Charge Secondary	6,005 kwh	0.0224500	134.81
Oregon Tax Charge	6,005 kwh	0.0003100	1.86
Reactive Power Charge Sec (Season End Est Charge Sec Is \$234.00)	5 kvar	0.6500000	3.25
Supply Energy Sec Summer	6,005 kwh	0.0455900	273.77
Public Purpose		0.0300000	12.41
Energy Conservation Charge	6,005 kwh	0.0021300	12.79
Low Income Assistance	6,005 kwh	0.0005000	3.00

Historical Data - ITEM 4



2009 S O N D J F M A M J J A S 2010

Your Average Daily kwh Usage by Month

PERIOD ENDING	SEP 2010	SEP 2009
Avg. Daily Temp	63	67
Total kwh	6005	10162
Avg. kwh per Day	182	339
Cost per Day	\$12.78	\$22.02

Just in case of a power outage, keep our new Outage Hotline number handy - 1-877-508-5088. You also can use a wireless connection to access the Internet for outage information and updates by visiting [pacificpower.net/outage](http://pacificpower.net/outage).

Pacific Power is committed to the environment and is now offering paperless bills through our online payment program. Visit [pacificpower.net/epay](http://pacificpower.net/epay) to join the cause.

See reverse

Late Payment Charge for Oregon  
A late payment charge of 1.5% may be charged on any balance not paid in full each month.

Write account number on check & mail to: Pacific Power, 1033 NE 6th Ave, Portland, OR 97256-0001

RETAIN THIS PORTION FOR YOUR RECORDS.  
RETURN THIS PORTION WITH YOUR PAYMENT.



Change of Mailing Address or Phone?  
Check here & provide information on back.

Account Number: 31983684-001 1

Date Due: Oct 7, 2010

AMOUNT DUE: \$421.65

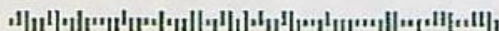
WRITE ACCOUNT NUMBER ON CHECK & MAIL TO:

PACIFIC POWER  
1033 NE 6TH AVE  
PORTLAND OR  
97256-0001

Please enter the amount enclosed.

Questions about your bill:  
Call toll free 1-888-221-7070

24513 01 AT 0.357 89-0



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

H 31983684 001 114 000042165



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

Questions about your bill: 1-888-221-7070  
Call toll free 24 hours a day, 7 days a week  
www.pacificpower.net

BILLING DATE: Jun 18, 2010  
ACCOUNT NUMBER: 31983684-001 1  
DATE DUE: Jul 7, 2010  
AMOUNT DUE: \$384.49

Your Balance With Us

Previous Account Balance	0.00
Payments/Credits	0.00
New Charges	+384.49
<b>Current Account Balance</b>	<b>\$ 384.49</b>

Payments Received

No payments have been received since your last billing statement.

Detailed Account Activity

ITEM 4 - ELECTRIC SERVICE

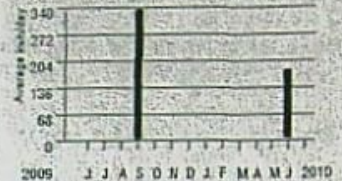
37951A Rieth Rd Pendleton OR  
20 Hp Irrigation Schedule 41  
Service ID: 62562265-001

METER NUMBER	SERVICE PERIOD From To	ELAPSED DAYS	METER READINGS Previous Current	METER MULTIPLIER	AMOUNT USED THIS MONTH
28691315	May 18, 2010 Jun 17, 2010	30	0 5429	1.0	5,429 kwh
28691315	Demand Jun 17, 2010			1.0	13 kw
28691315	Reactive Jun 17, 2010			1.0	10 kvar

Previous Month Estimated - Road Construction Cant Access  
Next scheduled read date: 07-19. Date may vary due to scheduling or weather.

NEW CHARGES - 06/10	UNITS	COST PER UNIT	CHARGE
Delivery Charge Secondary	5,429 kwh	0.0225000	122.15
Oregon Tax Charge			
for 17 day(s)	3,076 kwh	0.0003100	0.95
for 13 day(s)	2,353 kwh	0.0014200	3.34
Reactive Power Charge Sec (Season End Est Charge Sec is \$234.00)	5 kvar	0.6500000	3.25
Supply Energy Sec Summer	5,429 kwh	0.0455900	247.51
Public Purpose		0.0300000	11.32

Historical Data - ITEM 4



Want to help your neighbors in need this summer? Use the enclosed envelope to make a tax-deductible donation.

Pacific Power is committed to the environment and is now offering paperless bills through our online payment program. Visit [pacificpower.net/epay](http://pacificpower.net/epay) to join the cause.

Late Payment Charge for Oregon  
A late payment charge of 1.5% may be charged on any balance not paid in full each month.

Write account number on check & mail to: Pacific Power, 1033 NE 6th Ave, Portland, OR 97256-0001

RETAIN THIS PORTION FOR YOUR RECORDS.  
RETURN THIS PORTION WITH YOUR PAYMENT.



See reverse

Change of Mailing Address or Phone?  
Check here & provide information on back.

Account Number: 31983684-001 1

Date Due: Jul 7, 2010

AMOUNT DUE: \$384.49

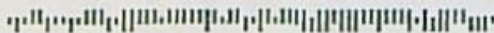
WRITE ACCOUNT NUMBER  
ON CHECK & MAIL TO:

PACIFIC POWER  
1033 NE 6TH AVE  
PORTLAND OR  
97256-0001

Please enter the amount enclosed.

Questions about your bill:  
Call toll free 1-888-221-7070

29429 01 AT 0.357 124-0



B & G RESOURCES INC  
1825 SE SAINT ANDREWS DR  
PORTLAND OR 97202-9023

H 31983684 001 118 000038449

PLACED INTO FILE 12/6/2010

①

Storage

Contractor: **B & G Resources**  
 Phone 969-8971 (Cell)  
 (541) 276-1283 (H)  
**Chuck Hack**  
 (503) 221-513  
**Ken Gustafson**

Water Year: <sup>2007</sup>~~2006~~  
 Prior Use: 1.28

Month	Beginning Storage	Accumulation	Charges	Accumulation Carryover	Accumulation Lost	Storage
March	0.00	0.00	0.00	0.00	0.00	0.00
April	0.00	0.00	0.00	0.00	0.00	0.00
May	126.00	4.70	1.01	3.69	0.00	126.72
June	126.72	0.00	0.91	0.00	2.79	127.37
July	127.37	0.00	2.51	-2.51	0.00	123.73
August	123.73	0.00	1.92	-1.92	0.00	120.97
September	120.97	0.00	0.00	0.00	0.00	119.24
October	119.24	0.00	0.00	0.00	0.00	120.97
November	0.00	0.00	0.00	0.00	0.00	0.00

PLACED INTO FILE 12/6/2010

↙

## Storage

Contractor: **B & G Resources**

Water Year: **2008**

Phone 969-8971 (Cell)  
(541) 276-1283 (H)

Prior Use: **0.00**

**Chuck Hack**  
(503) 221-513  
**Ken Gustafson**

Month	Beginning Storage	Accumulation	Charges	Accumulation Carryover	Accummulation Lost	Storage
March	0.00	0.00	0.00	0.00	0.00	0.00
April	0.00	0.00	0.00	0.00	0.00	0.00
May	126.10	0.00	0.00	0.00	0.00	126.10
June	126.10	6.27	0.98	5.29	0.00	126.31
July	126.31	0.00	1.37	0.00	3.92	126.69
August	126.69	0.00	2.76	-2.76	0.00	124.67
September	124.67	0.00	0.81	-0.81	0.00	124.12
October	124.12	0.00	0.56	-0.56	0.00	128.52
November	0.00	0.00	0.00	0.00	0.00	0.00

SEE ATTACHED USE REPORTS  
FROM WATERMASTER'S OFFICE

Ken Dowden

---

From: Ken Dowden  
Sent: Monday, December 06, 2010 3:11 PM  
To: 'Cortney Duke'  
Subject: T-10948  
Attachments: Use Report from Flowmeter Readings 2008 - 2007.pdf

Hi Cortney.

I have had a chance to review the documents you submitted via e-mail thru Briana. The only thing that I see that needs attention is the evidence that was submitted for the affidavit asserting the use of water per Certificate 80564. The electrical bills were from this year.

What the Department is actually looking for, as would make sense, is evidence in the five years prior to the date the application was received and/or date stamped. We received the file August 26, 2009.

Fortunately this office does read the B & G Resources flowmeter monthly during the year and the attached is an excerpt from our data base as to the use reports generated from our readings.

To that end, I will append to the supplemental application information these two pages aiding in the evidence of use representation so you won't have to track down Mr. Gustafson and bother him anymore. I wanted to go to this length in the spirit of "*keeping things rolling*" here. We should now be good to go

In the future, this evidence of use is always in regards to the use of water within the five years prior to the filing date of the transfer, unless of course in the case of the other certificate (83483) involved in this transfer, which is a new certificate (NOT a remaining right certificate) that was issued within the five years prior to the filing. Thanks Cortney.

690-380-3000

#### Application for Transfer

Each transfer application shall be prepared in ink or typewritten on forms provided by the Department. Applications shall contain the following information concerning the primary water right and any appurtenant supplemental water right or permit, if applicable:

- (1) Applicant's name, mailing address, and telephone number.
- (2) Type of change proposed.
- (3) Name appearing on permit, certificate, decree or proof of appropriation.

- (4) Name of decree and certificate number, if applicable.
- (5) Permit number and certificate number, if applicable.
- (6) Source of water (from permit, decree or certificate).
- (7) Date of priority.
- (8) The existing and proposed points of diversion or appropriation located accurately in reference to a public land survey corner.
- (9) The authorized existing use of water.
- (10) A description of the current water delivery system that demonstrates that the applicant is ready, willing, and able to exercise the right and includes information on the capacity of any pumps, canals, and pipelines used to divert and convey the water to the authorized use.
- (11) The authorized place of use identified by its location within the public land survey and tax lot number.
- (12) Evidence that the water has been used over the past five years in accordance with the terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610. The evidence shall include the following information:
  - (a) If the right has been used during the past five years, one or more affidavits from persons, such as the owner or operator, a neighbor, crop field person for a cannery or other product buyer, or Natural Resources Conservation Service (NRCS) representatives, who can attest from personal knowledge or professional expertise that the right was exercised at the authorized location and for the authorized purpose. Such affidavits shall state the specific grounds for the affiant's knowledge, the specific use to which the water was put (e.g., the crops grown, the nursery stock watered), and the delivery system used to apply the water and include supporting documentation such as:
    - (A) Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
    - (B) Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers; or
    - (C) Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph, or
  - (b) If the right has not been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

---

Thanks Briana, downloaded perfectly.

I will endeavor to review these documents soon and hopefully get the draft of the Preliminary Determination out quickly.

Ken

**From:** Briana Witt [<mailto:b.witt@water-law.com>]

**Sent:** Friday, December 03, 2010 4:17 PM

**To:** Ken Dowden

**Cc:** Cortney Duke

**Subject:** Schroeder Law Offices, P.C. to Ken Dowden regarding Water Right Transfer Application T-10948 - Updates to Supplemental Forms A & B

Dear Mr. Dowden,

Please find attached to this email a copy of the letter from our office regarding *Water Right Transfer Application T-10948 - Updates to Supplemental Forms A & B*. A hard copy will follow by U.S. mail.

Please contact our office if there is any difficulty opening the attachment.

Sincerely,  
Briana

**Briana M. Witt**

Paralegal

Schroeder Law Offices, P.C.

1915 NE Cesar Chavez Blvd.

Portland, OR 97212

Phone: 503-281-4100

Fax: 503-281-4600

[b.witt@water-law.com](mailto:b.witt@water-law.com)

[www.water-law.com](http://www.water-law.com)



**Water Right Transfer Supplemental Form B**  
**AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon )  
 ) ss  
County of \_\_\_\_\_ )

I, Kenneth Gustafson, in my capacity as Owner/User,  
mailing address 5200 SW MacAdam Ave., Suite 470, Portland, OR 97239  
telephone number (\_\_\_\_)\_\_\_\_\_, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; or
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_; 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.

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

- Personal observation                       Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range	Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
2	N	30	E	W.M. 1	SW SE	6.1
2	N	30	E	W.M. 12	NE NE	11.1
2	N	30	E	W.M. 12	NW NE	8.9
2	N	30	E	W.M. 12	SE NE	0.1

(continues on reverse side)

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

**RECEIVED**

AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

T 10948

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. The water delivery system used to apply water as authorized by the right is described below:  
20 hp electrical pump and 1/2 mile of wheellines

\_\_\_\_\_  
\_\_\_\_\_

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

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AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

[Signature]  
Signature of Affiant

8/21/09  
Date

T 10948

Signed and sworn to (or affirmed) before me this 21 day of August, 2009.



[Signature]  
Notary Public for Oregon

My Commission Expires: June 22, 2012

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

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE¼ NE¼, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

RECEIVED

AUG 26 2009

80564

T-8718.KDD

T 10948

Page 1 of 2

WATER RESOURCES DEPT  
SALEM, OREGON

A description of the place of use to which this right is appurtenant is as follows:

SW¼ SE¼ 6.1 ACRES - RR-20AC  
SECTION 1

NE¼ NE¼ 11.1 ACRES  
NW¼ NE¼ 8.9 ACRES  
SE¼ NE¼ 0.1 ACRE  
SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 20 2004, approving Transfer Application 8718.

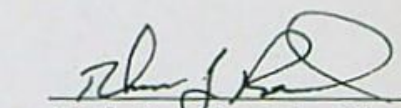
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

JAN 20 2004

Director, affixed \_\_\_\_\_.

  
Paul R. Cleary, Director

T 10948

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AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

Recorded in State Record of Water Right Certificates numbered 80564.

A description of the place of use to which this right is appurtenant is as follows:

SW~~X~~ SE~~X~~ 6.1 ACRES  
SECTION 1

NE~~X~~ NE~~X~~ 11.1 ACRES  
NW~~X~~ NE~~X~~ 8.9 ACRES  
SE~~X~~ NE~~X~~ 0.1 ACRE

SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 20 2004, approving Transfer Application 8718.

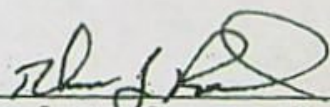
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

JAN 20 2004

Director, affixed \_\_\_\_\_.

  
for Paul R. Cleary, Director

T 10948

RECEIVED

AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

Recorded in State Record of Water Right Certificates numbered 80564.

### Water Right Transfer Supplemental Form B AFFIDAVIT ATTESTING TO THE USE OF WATER

C# 83483

State of Oregon )  
 ) ss  
County of \_\_\_\_\_ )

I, Kenneth Gustafson, in my capacity as Owner/User  
mailing address 5200 SW MacAdam Ave., Suite 470, Portland, OR 97239  
telephone number (\_\_\_\_\_) \_\_\_\_\_, being first duly sworn depose and say:

1. I attest that:

- Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; or
- The water right was leased instream at some time within the last five years. The instream lease number is as follows: \_\_\_\_\_; 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.

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

- Personal observation
- Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township	Range	Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
2	N 30	E	W.M. 12	NE NE		1.0
2	N 30	E	W.M. 12	SE NE		2.6
2	N 31	E	W.M. 7	NW NW		0.1
2	N 31	E	W.M. 7	SW NW		1.7

T 10948

RECEIVED  
AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

(continues on reverse side)

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

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):  
Irrigation for pasture.

5. The water delivery system used to apply water as authorized by the right is described below:  
20 hp electric pump and 1/2 mile of wheelines.

6. One or more of the following documentation supporting the above statements is attached:

- Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- Dedicated power usage records or receipts,
- Instream lease number \_\_\_\_\_,
- Other: \_\_\_\_\_

**RECEIVED**

AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

[Signature]  
Signature of Affiant

8/21/09  
Date

T 10948

Signed and sworn to (or affirmed) before me this 21 day of August, 2009.



[Signature]  
Notary Public for Oregon

My Commission Expires: June 22, 2012

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

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

RECEIVED

AUG 26 2009

THIS CERTIFICATE ISSUED TO

KENNETH E. GUSTAFSON  
5200 SW MACADAM, SUITE 470  
PORTLAND, OR 97239

WATER RESOURCES DEPT  
SALEM, OREGON

confirms the right to use the waters of UMATILLA RIVER AND MCKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, a tributary of the COLUMBIA RIVER, for IRRIGATION OF 5.4 ACRES.

This right was perfected under Permit 16393. The date of priority is July 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.135 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE 1/4 NE 1/4, SECTION 12, T 2 N, R 30 E, W.M.; 1330 FEET SOUTH AND 610 FEET WEST FROM THE NE CORNER, SECTION 12

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

T-8718.RA

T 10948

Certificate Number 83483



A description of the place of use to which this right is appurtenant is as follows:

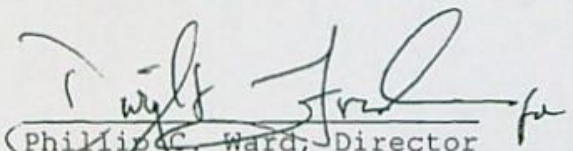
NE 1/4 NE 1/4 1.0 ACRE  
SE 1/4 NE 1/4 2.6 ACRES  
SECTION 12  
TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

LOT 1 (NW 1/4 NW 1/4) 0.1 ACRE  
LOT 2 (SW 1/4 NW 1/4) 1.7 ACRES  
SECTION 7  
TOWNSHIP 2 NORTH, RANGE 31 EAST, W.M.

When required by the Department, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered January 20, 2004, approving Transfer Application 8718, and together with Certificate 80564, supersedes Certificate 76631, State Record of Water Right Certificates.

Issued           AUG 24 2007          

  
Phillip C. Ward, Director  
Water Resources Department

T 10948

Recorded in State Record of Water Right Certificates Number 83483.

T-8718.RA

**RECEIVED**  
AUG 26 2009  
WATER RESOURCES DEPT  
SALEM, OREGON

STATE OF OREGON  
COUNTY OF UMATILLA  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

B&G RESOURCES, INC.  
18270 SW BOONES FERRY ROAD  
PORTLAND, OREGON 97227

confirms the right to use the waters of the UMATILLA RIVER and McKAY RESERVOIR, constructed under Application R-7526 and Permit R-584, tributary of the COLUMBIA RIVER, for IRRIGATION OF 26.2 ACRES.

This right was perfected under Permit 16393. The date of priority is JULY 3, 1945. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 0.655 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SE~~X~~ NE~~X~~, SECTION 12, TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M..

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-FORTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 4.5 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

The use of water shall be subject to Contract Number 14-06-100-1336, or successor contract, with the Bureau of Reclamation.

NO RR

A description of the place of use to which this right is appurtenant is as follows:

Acc Δ POD  
SW¼ SE¼ ✓ 6.1 ACRES - 4.1 (Δ POU Acre)  
SECTION 1

NE¼ NE¼ ✓ 11.1 ACRES  
NW¼ NE¼ ✓ 8.9 ACRES  
SE¼ NE¼ ✓ 0.1 ACRE  
SECTION 12

TOWNSHIP 2 NORTH, RANGE 30 EAST, W.M.

This certificate describes that portion of the water right confirmed by Certificate 76631, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JAN 2 0 2004, approving Transfer Application 8718.

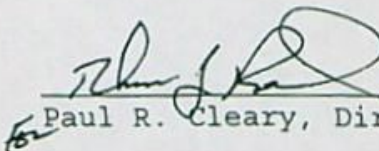
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

WITNESS the signature of the Water Resources

JAN 2 0 2004

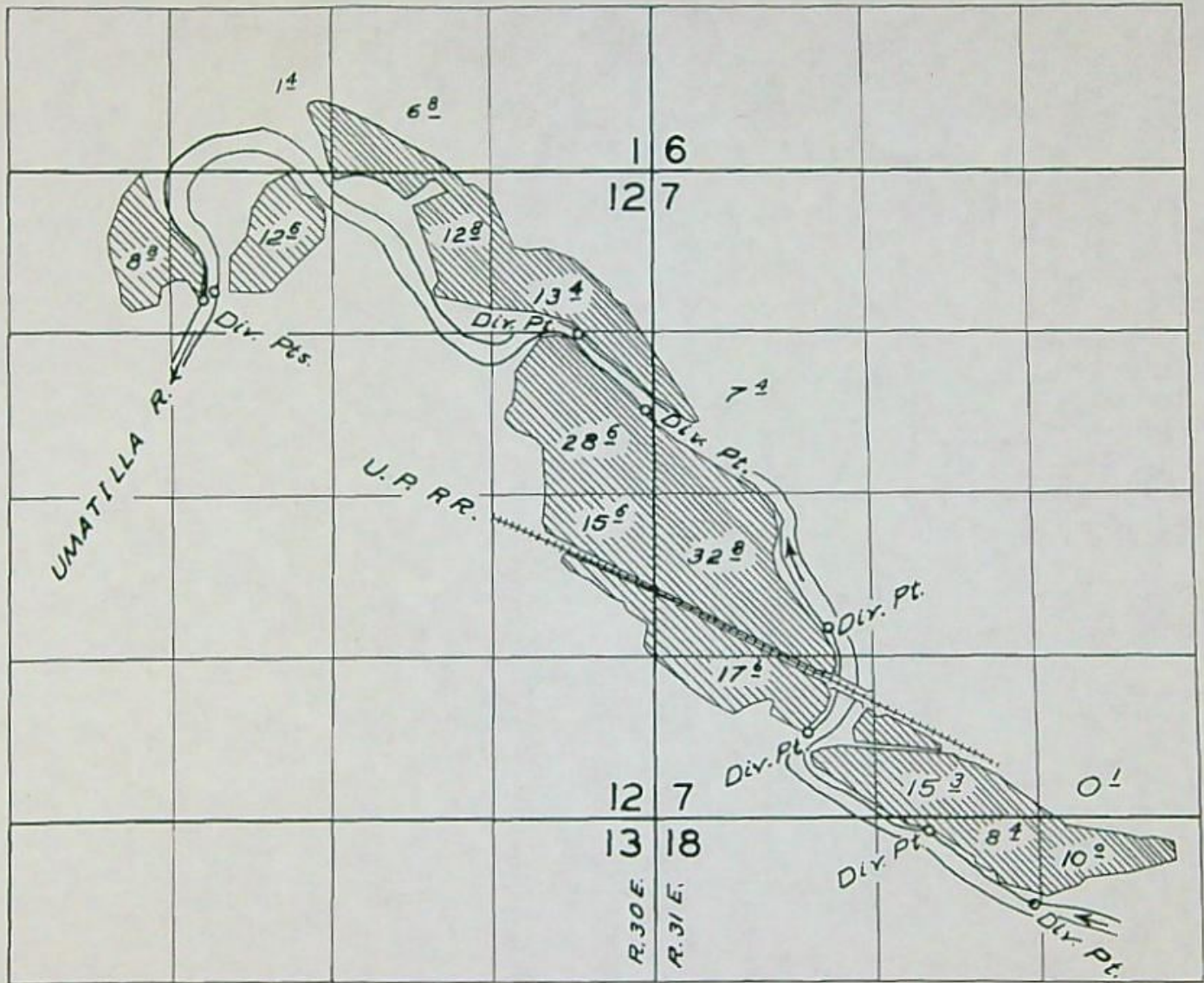
Director, affixed \_\_\_\_\_.

  
Paul R. Cleary, Director

Recorded in State Record of Water Right Certificates numbered 80564.

*Handwritten initials and scribbles*

T. 2 N. R. 30 & 31 E. W. M.



FINAL PROOF SURVEY  
UNDER

Application No. 20,936 Permit No. 16393  
IN NAME OF

*E. E. Burlingham & Sons*

Surveyed May 30, 1958, by C. O. Bartels  
July 16, 1960, by R. H. Jackson

NZ-2P-184  
1957-2 *[Signature]*

C-80564

T 10948  
review  
9/2/24/2010

affidavit attesting use -  
NO COUNTY **DONE** not  
filled in

**NO** Naturally changing stream channel  
do you need POD trans? ~~2500~~  
<sup>TOO FAR</sup> When did channel change last Syria?  
EXCESS RESOURCES ORS 540.50(5)

C-80564 pg 3 app - Auth POD - meets bounds  
not on act but in app.

pg 4 - 1/4 1/4 sec - pow - not  
on act - must have **FIXED**

> backwinds - SE SW -

must be SW SE +

no ty lot info -

**FIXED**

POW  
4.7 4.1  
o/c on  
map

> map - direction of flow? **NOTED, NOT FIXED**

> pg 5 app - location new pal **NOT FATAL**

1/4 1/4's do not agree w/map

**Fixed**

should be nw NE, not sw NE

> land use form HAS wrong  
Section - Sec 1 in **I notified by AG's e-mail**  
**NOTED** 2N 31 Should be Sec 7

STATE OF OREGON  
**WATER RESOURCES DEPARTMENT**

RECEIPT # **97608**

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

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

RECEIVED FROM: **Schroeder Law Offices,**  
 BY: **P.L.**

APPLICATION	
PERMIT	
TRANSFER	<b>T-10948</b>
TOTAL REC'D	<b>\$ 2000<sup>00</sup></b>

CASH:  CHECK:#  **18332** OTHER: (IDENTIFY)

**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			
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 <b>46110</b>		\$	0202 \$
0203 GROUND WATER		\$	0204 \$
0205 TRANSFER		<b>\$2000<sup>00</sup></b>	
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 _____	\$ _____

RECEIPT: **97608**

DATED: **8-26-09** BY: **LTG**



# Oregon

Theodore R. Kulongoski, Governor

Water Resources Department  
North Mall Office Building  
725 Summer Street NE, Suite A  
Salem, OR 97301-1266  
503-986-0900  
FAX 503-986-0904

September 3, 2009

KENNETH G. GUSTAFSON  
B & G RESOURCES  
5200 SW MACADAM SUITE 470  
PORTLAND OR 97201

Reference: Application T- 10948

On August 26, 2009, we received your water right Transfer application. The application was accompanied by \$2000.00. Our receipt number 97608 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change.

Your application will be examined to determine whether additional information is needed. We will notify you if further information or corrections to the application or map are required.

A number of other transfer applications are also awaiting review. As a result, it may be some time before we are able to process your application. If you wish to have your application processed more quickly, you may want to consider use of the Department's reimbursement authority. Under this authority, an applicant may receive expedited review by paying the full cost for a pre-qualified contractor to process the applications. For further information on the Reimbursement Authority program, see our website at [http://www.wrd.state.or.us/OWRD/mgmt\\_reimbursement.shtml](http://www.wrd.state.or.us/OWRD/mgmt_reimbursement.shtml) or call the transfer section.

Except as provided under ORS 540.510(3) for municipalities, you may not use water for the new use, in the new place of use or from the new point of [diversion or appropriation] until a final order approving the transfer application has been issued by the Department. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right. If the land is sold before the transfer is approved, the buyer's consent to the transfer will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

If you have any questions, please contact the Transfer Section at (503)986-0883.

cc: Watermaster Dist. #5 (via e-mail)  
Dale VanSchoiack, CWRE  
Cortney Duke, Agent  
ODFW (via e-mail)  
Bureau of Reclamation, Ryan Patterson

enclosure





# Oregon

Theodore R. Kulongoski, Governor

**Water Resources Department**

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

**Notice of Application for  
Water Right Transfer, Temporary Transfer, or Permit Amendment  
09/08/09**

The Department seeks comment on the recently-filed application listed below. Any person may comment on the application. Comments must be received by the Department within 30 days of the date of this notice. The Director may presume that the transfer would be allowed by, and compatible with comprehensive plans unless an affected local government informs the Director otherwise within 30 days of this notice.

County: UMATILLA  
Transfer: 10948  
Water Right: CERT 83483,80564  
Priority Date: 1945  
Name: B & G RESOURCES, KENNETH GUSTAFSON  
Address: 5200 SW MACADAM AVE STE 470; PORTLAND OR 97239  
Change: POU/POD  
Source: UMATILLA RIVER/MCKAY RES  
Authorized POD: T2N R30E 12  
Proposed POD: T2N R30E 12  
Authorized POU: T2N R30E 1  
T2N R31E 7  
Proposed POU: T2N R30E 1,12

The holder of a water right may apply to permanently change an existing water use subject to transfer. A transfer application may involve any of the following changes: Point of diversion or appropriation (POD; POA); Additional point of diversion or appropriation (APOD; APOA); Historic POD (HIST); Place of use (POU); Character of use (USE); Instream (ISWR); Substitution (SUB); or Exchange (EXCH).

The holder of a water right subject to transfer may request to temporarily change the place of use of the water for up to 5 years and, if necessary to convey the water, to temporarily change the point of diversion or appropriation.

The holder of a water right permit may apply to change a point of diversion (POD) or appropriation (POA) or to change the place of use (POU).

Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time. Comments should be sent to the Transfers Section at the Department's Salem office.



Laura A. Schroeder  
Licensed in Oregon, Idaho,  
Nevada and Washington

V. Scott Borison, Ph.D.  
Certified Legal Manager

Daryl N. Cole  
Office Manager



**SCHROEDER**  
LAW OFFICES, P.C.

Licensed in Oregon and Nevada:

Cortney D. Duke  
Colm Moore  
Wyatt E. Rolfe  
Therese A. Ure

August 25, 2009

**VIA CERTIFIED MAIL**

Oregon Water Resources Department  
725 Summer Street N.E. Suite A  
Salem, OR 97301-4172  
Certified Mail Receipt # 7007 0710 0002 6214 1383

**RE: Applications for Water Right Transfer**

To Whom It May Concern:

This office represents B & G Resources. On behalf of B & G Resources, enclosed please find the following: 1) Application for Water Right Transfer for Certificates 83483 and 80564, and 2) associated \$2,000.00 application fee.

Thank you for your assistance with this matter. Should you have any questions, please contact the undersigned at (503) 281-4100.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke

CDD:leh

Enclosures

cc: Client

**RECEIVED**

**AUG 26 2009**

**WATER RESOURCES DEPT  
SALEM, OREGON**

T 10948

P.O. Box 12527, Portland, Oregon 97212-0527 (503) 281-4100

P.O. Box 40400, Reno, Nevada 89504-4400 (775) 786-8800

www.water-law.com counsel@water-law.com

**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 # **97608**

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

RECEIVED FROM: Schroeder Law Offices  
BY: \_\_\_\_\_  
P.L.

APPLICATION	
PERMIT	
TRANSFER	<u>T-1094B</u>

CASH:  CHECK: #  18332 OTHER: (IDENTIFY) \_\_\_\_\_

TOTAL REC'D \$ 2000<sup>00</sup>

**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		
0407 COPY & TAPE FEES		\$
0410 RESEARCH FEES		\$
0408 MISC REVENUE: (IDENTIFY) _____		\$
TC162 DEPOSIT LIAB. (IDENTIFY) _____		\$
0240 EXTENSION OF TIME		\$
WATER RIGHTS:		
0201 SURFACE WATER <u>46110</u>	\$	0202
0203 GROUND WATER	\$	0204
0205 TRANSFER	\$ <u>2000<sup>00</sup></u>	
WELL CONSTRUCTION		
0218 WELL DRILL CONSTRUCTOR	\$	0219
LANDOWNER'S PERMIT		0220
OTHER (IDENTIFY) _____		

EXAM FEE	RECORD FEE
\$	\$
\$	\$
\$ <u>2000<sup>00</sup></u>	
EXAM FEE	LICENSE FEE
\$	\$
	\$

**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 \_\_\_\_\_ \$ \_\_\_\_\_

RECEIPT: **97608**

DATED: 8-26-09 BY: LSG

18332

SCHROEDER LAW OFFICES, P.C.

58.00 Oregon Water Resources Department Salem  
08/25/09 Transfer Application T-8718,  
Certificates 83483 and 80564

B&G RESOURCE                      2000.00                      2000.00

**RECEIVED**

AUG 26 2009

WATER RESOURCES DEPT  
SALEM, OREGON

08/25/09                      18332                      Gross:                      2000.00                      Ded:                      0.00                      Net:                      2000.00

Indicate in this column whether or not the item is satisfied.	<h2 style="margin: 0;">Permanent Transfer Application – OAR 690-380 3000 &amp; 3100</h2> <h3 style="margin: 0;">Completeness Checklist</h3> <p style="margin: 0;">Applicant's Name: <u>B &amp; G Resources/Gustafson</u> (Form last revised: January 11, 2008)</p>
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### Section A – Status of Right

ZWR	<p><b>Is this a Water Right that can be transferred?</b> <span style="float: right;">[OAR 690-380-0100(14)]</span></p> <p><i>NOTE:</i> The Department can accept a Transfer application for any right that is:</p> <p>___ 1) an adjudication with a court decree; <i>or</i></p> <p>___ 2) a certificate that is not cancelled; <i>or</i></p> <p>___ 3) a transfer that's been approved &amp; A COBU has been received by the Department</p> <p><i>If the subject right <u>does not</u> fall into <u>any</u> of the above categories, RETURN the application &amp; fee to the applicant.</i></p>
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### Section B – Type of Change

POU POD	<p><b>Is the proposed change(s) allowed under the Transfer process?</b> <span style="float: right;">[ORS 540.510]</span></p> <p><i>NOTE:</i> Only <u>POD, POA or POU or USE</u> changes are allowed on Transfers.</p> <p><i>If the application proposes a change <u>other</u> than those listed above, RETURN the application &amp; fee to the applicant.</i></p>
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### Section C - Fees

OK	<p><b>Have the appropriate fees been paid?</b></p> <p style="text-align: right;"><i>900 1st WR 1st A</i> Total Required Fees: <u>2000</u></p> <p style="text-align: right;"><i>400 2nd WR 2nd A</i> Total Fees Paid: <u>2000</u></p> <p style="text-align: right;">Fees Due (if any): <u>0</u></p> <p style="text-align: right;">Refund Due (if any): <u>0</u></p> <p><i>Fee Schedule – ORS 536.050(1)(h)</i></p> <p><del>\$400</del> - Base fee (1<sup>st</sup> change and 1<sup>st</sup> CFS of water)</p> <p>+ <del>\$400</del> - Each additional type of change requested</p> <p>+ <del>\$300</del> - Each additional water right or permit</p> <p>+ <del>\$200</del> - For each CFS, or fraction thereof, requested beyond 1<sup>st</sup> CFS (for POU, Type of Use, or Exchange)</p> <p><i>If the applicant has NOT submitted the total fees required, RETURN the application &amp; deficient fee to the applicant.</i></p>
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### Section D – Completeness

Indicate in this column whether an item is incomplete, and if so, identify the deficiency.	<p><b>Is the Transfer application complete?</b></p> <p>All required elements necessary for a complete transfer application are listed below.</p> <p><b>Indicate whether or not the applicant has answered and/or supplied attachments to adequately address each of the following items.</b> If any one of the items is deficient, then the application is incomplete.</p> <p><i>NOTE: For reference, the application page number upon which each item is requested is identified.</i></p> <p><i>If the application is NOT complete, RETURN the application &amp; fee to the applicant.</i></p>
OK	<ul style="list-style-type: none"> <li>• Type of transfer application <u>Reg</u> <span style="float: right;">(Page 1)</span></li> </ul>
OK	<ul style="list-style-type: none"> <li>• Applicant's name, mailing address and contact information. <span style="float: right;">(Page 1)</span></li> </ul>
OK	<ul style="list-style-type: none"> <li>• Agent's name, mailing address and contact information, <i>if applicable.</i> <span style="float: right;">(Page 1)</span></li> </ul>
OK	<ul style="list-style-type: none"> <li>• Are the water rights to be affected by this transfer listed? <span style="float: right;">(Page 2)</span></li> </ul> <p>If there are multiple water rights listed.... The applicant must supply a <u>separate "set"</u> of Supplemental Form A for <u>each</u> water right to be transferred.</p>

0564 .102 of 5  
83483

		Checklist for Supplemental Form A – (Attachments)	
OK	OK	• Certificate # filled in on each page?	(Page 1)
OK	OK	• Type of change(s) proposed clear?	(Page 1)
OK	OK	• Current Water Right information is complete?	(Page 2)
?	OK	<p>• If for a change in <b>POU or USE</b>..... (Page 2)</p> <p>Are there any "layered" irrigation rights, permits, or GR registrations appurtenant to the same place of use as the water right proposed to be transferred? <b>YES NO</b></p> <p>If <b>YES</b>..... the other "layered" water uses subject to transfer must either change concurrently or be cancelled, except as provided in OAR 690-380-2240(5).</p> <p>If layered with GR, must submit a GR Modification application as well as this application.</p> <p>Are they included in application? If not, contact applicant or agent.</p>	
<del>OK</del>	OK	<p>• Location description of the authorized POA/POD to be changed. (Page 3)</p> <p><i>NOTE:</i> Ensure that the location coordinates listed in the application match the point and location coordinates illustrated on the application map.</p> <p>Additionally, if the existing authorized source is ground water (POA), the applicant must either:</p> <p><u>N/A</u> 1) supply a copy of the well log(s), <u>or</u></p> <p>2) if well logs are not available, describe the construction of the well(s) in the table provided on page 3 of the supplemental form A application.</p>	
4.1	OK	<p>• Location description of the existing authorized POU and associated acres (if applicable). (Page 4)</p> <p><i>NOTE:</i> Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.</p>	
<del>OK</del>	OK	<p>• Location description of the proposed POA/POD. (Page 5)</p> <p><i>NOTE:</i> Ensure that the proposed location coordinates listed in the application match the proposed point and location coordinates illustrated on the application map.</p> <p>Additionally, if the proposed source is ground water (POA), the applicant must either:</p> <p><u>N/A</u> 1) supply a copy of the well log(s), <u>or</u></p> <p>2) if well logs are not available <u>or</u> the well is not yet constructed, describe the construction of the well(s) in the table provided on page 5 of the application.</p>	
4.1	N/A	<p>• Location description of the proposed POU and associated acres (if applicable). (Page 6)</p> <p><i>NOTE:</i> Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.</p>	
Return back to Page 2 of transfer application			
OK		• The type of changes being proposed. <u>POU / POD</u>	(Page 2)
OK		• Reason for the transfer.	(Page 2)
OK		• Description of current water delivery system.	(Page 2)
OK		• System Capacity. <u>.78</u>	(Page 2)

Checklist for Supplemental Form B – (Attachments)	
OK	<ul style="list-style-type: none"> <li>• Is there a box checked in #1? (Page 1)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Is there a box checked in #2? (Page 1)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Does the description of POU on page 4 of the supplemental form A application, match authorized POU in question #3? (Page 1)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• In question #4 and #5 are they filled out? (Page 2)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Is there a box checked in #6? (Page 2)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Is the #6 supporting documentation included with application? (Page 2)</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Is there an original signature of the notary and notary stamp? (Page 2)</li> </ul>
<b>Return back to Page 3 of transfer application</b>	
OK	<ul style="list-style-type: none"> <li>• Affected districts and local governments. <b>BOR</b> (Page 3) If within a district/local government jurisdiction, ensure that name &amp; mailing address is provided.</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Is the applicant the Landowner of the "from" and "to" Lands? <b>YES</b> NO (Page 4) If NO..... The applicant must list current landowner name &amp; address.</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Who will be responsible for completion of the changes? (Page 4) Is a box checked? If no box is checked the <b>applicant</b> or agent must be contacted.</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Map..... (Page 5) (Required to be prepared by a CWRE) unless... 1. Map Waiver included with application 2. FP map with advance email or written approval 3. POD/POA without POU change and for entire right with FP map for "from" map ___ if more than 3 rights are included in transfer, is there a separate map for each water right? ___ If larger than 8 1/2 X 14 than 3 copies of map is needed &amp; an electronic pdf file of map ___ north arrow ___ size &amp; scale ___ other: _____ ___ authorized acreage per 1/4 1/4 matches the water right ___ authorized POD/POA and POU (clearly shown, labeled &amp; matches application listing) ___ point plotted for the authorized POD/POA agrees with location coordinates on supplemental form A and WR ___ proposed POD/POA and/or POU (clearly shown, labeled &amp; matches application "proposed" listing) ___ location coordinates accurately describe the point identified as the proposed POD/POA</li> </ul>
OK	<ul style="list-style-type: none"> <li>• Land Use form, if applicable. (Page 5) Is the form signed by the local planning department staff? May be needed if the POD/POA or POU is moving a great distance <u>and</u> off of land originally involved in WR.</li> </ul>
N/A	<ul style="list-style-type: none"> <li>• If a groundwater right is involved, are the well logs or a description included. (Page 5)</li> </ul>
	<ul style="list-style-type: none"> <li>• If this is an instream water right transfer, is there a form C included and filled out. (Page 5)</li> </ul>

OK

• Signature(s) of applicant(s):

(Page 6)

Are one of the boxes checked?

All applicants listed on page 1 of the application **must** sign the application.

WRD Completeness Reviewer's Name: S. Henderson

Date: 8-31-09

CERTIFIED MAIL™



7007 0710 0002 6214 1383



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