

T-13837

District

T-13837

Name Tualatin Valley Irrigation

DESCRIPTION OF WATER RIGHT(s)

Address 2330 Elm Street
Forest Grove, OR 97116Name of Stream WellTrib. of West Fork Dairy CreekUse Ag. Irrigation, SECounty Washington

Quantity of water (CFS)

No. of Acres

Name of ditch

App# 538477Per # 535792Cert # 88122

PR Date

App# 614113Per # 612102

Cert #

PR Date

App#

Per #

Cert #

PR Date

App#

Per #

Cert #

PR Date

App#

Per #

Cert #

PR Date

Change in POUDate Filed 9/27/2021Initial notice date 10/12/2021

DPD issued date

PD issued date

PD notice date

Date of FO 1/18/2022 Vol 122 Page 318-20C-Date 10/01/2023COBU due date 10/01/2024

COBU Received date

Certificate issued

Assignments:

Irrigation District

Agent Aspen Neal and Eric Urstadt

CWRE

CC's list

☐ - Oversized map - Location

FEES PAID

Date	Amount	Receipt #
9-27-2021	\$1,970. ⁰⁰	136491

FEES REFUNDED

Date	Amount	Receipt #
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Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

February 7, 2022

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM STREET
FOREST GROVE, OR 97116

REFERENCE: District Transfer T-13837

Enclosed is a copy of the final order approving your District Transfer.

The time allowed to complete the transfer is specified in the final order. You are required to submit a claim of beneficial use to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized final order whichever comes first. If necessary, you may request more time by filing for transfer extension. All extensions are subject to approval.

To file a claim please include:

1. A CLAIM OF BENEFICIAL USE form
2. A CLAIM OF BENEFICIAL USE SITE REPORT
3. A Claim of Beneficial Use Map (this map does not need to be prepared by a Certified Water Rights Examiner (CWRE))

All forms needed to file a claim for a district transfer are available at

<https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/Forms.aspx>

If you have any questions related to the approval of this transfer, you may contact your caseworker Ann Reece by telephone at (503) 979-3214 or by e-mail at Ann.L.Reece@water.oregon.gov.

Sincerely,

Julie C. Baustian

Water Right Services Support

Transfers and Conservation Section

cc: Jacob W. Constans, Watermaster Dist. # 18 (via email)
Eric Anthony Urstadt, Agent

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	SUPERSEDING FINAL ORDER APPROVING
T-13837, County of Washington)	A DISTRICT PERMANENT TRANSFER FOR
)	PLACE OF USE and PARTIAL DIMINUTION OF A
)	PERMIT and CORRECTING SCRIVENER'S
)	ERRORS IN A PREVIOUS ORDER.

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM ST
FOREST GROVE, OR 97116

Findings of Fact

1. On September 27, 2021, TUALATIN VALLEY IRRIGATION DISTRICT (TVID) filed a district transfer application to permanently change the place of use under Certificate 88122 and Permit G-12612, and diminish the affected place use under Permit G-12612 from primary irrigation to supplemental irrigation. The Department assigned the application number T-13837.
2. Notice of the District Permanent Transfer Application was published on October 12, 2021, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notices.
3. The U.S. Bureau of Reclamation was notified of the transfer application on October 12, 2021; no comments were received within 90 days of the notification.

This final order in a contested case and 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(2) 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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

4. On January 18, 2022, the Department signed a Final Order approving Transfer T-13837, which was mailed on January 19, 2022. The order is recorded at Special Order Volume 122, Pages 318-322.
5. This order is issued multiple correct scrivener's errors and supersedes the Final Order recorded at Special Order Volume 122, Pages 318-322.
 - a) In Finding of Fact #1, Permit G-12612 was incorrectly referenced as Permit G-13837.
 - b) The authorized and proposed places of use for Certificate 88122 and Permit G-12612 in Findings of Fact #6, #7, #8, #9, and #17, below, have been corrected from Township 2 North, to Township 1 North. The application map clearly shows the proposed places of use as being in Township 1 North. The affidavit for diminution also listed the place of use as being in Township 1 North.
 - c) The priority date listed in Finding of Fact #8 and #17, below, has been corrected from as June 23, 1965 to June 23, 1995.
 - d) The rate in Finding of Fact #8 below, was changed to from 0.02 cfs to 0.022 cfs to be consistent with the rate listed for the same lands under the same water right in Finding of Fact #17.
 - e) At the applicant's request, the water user for the proposed lands has been changed from Nish Land LLC & TD Farm LLC to the most current landowner, DCA Land Oregon, LLC.

6. The portion of the first right to be transferred is as follows:

Certificate: 88122 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-35792)

Use: IRRIGATION of 11.9 acres

Priority Dates: FEBRUARY 20, 1963

Limits/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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 and as evidenced by Certificate 81149; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein. The right is further limited to the use of stored water on the lands described as supplemental irrigation.

Source: SCOGGINS CREEK, GALES CREEK, AND SCOGGINS RESERVOIR / HENRY HAGG LAKE (constructed under Permit R-5777), and GALES CREEK, tributaries to the Tualatin River; and the TUALATIN RIVER, tributary to the WILLAMETTE RIVER.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	LATITUDE-LONGITUDE
1 S	3 W	WM	08	SW SW	SHPP: 45 DEGREES 29 MINUTES 32.73 SECONDS NORTH AND -123 DEGREES 05 MINUTES 33.85 SECONDS WEST

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
1 N	3 W	WM	5	NE NW	80	11.9	700	Dan H. Fishback and Teresa K, Fishback Living Trust

7. Transfer Application T-13837 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
1 N	3 W	WM	5	NW NE	80	2.9	200	DCA Land Oregon, LLC.
1 N	3 W	WM	5	SW NE	80	6.3	200	DCA Land Oregon, LLC.
1 N	3 W	WM	5	SE NW	80	2.7	200	DCA Land Oregon, LLC.
Total:						11.9		

8. The portion of the first second right to be transferred is as follows:

Permit: G-12612 in the names of Keith R Fishback, Dan H. Fishback, and the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust (Application G-14113)

Use: IRRIGATION and AGRICULTURAL USE (NURSERY OPERATIONS) on 11.9 acres

Priority Dates: JUNE 23, 1995

Rate: 0.022 CUBIC FOOT PER SECOND FOR EACH USE

Limits/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year. The use of water for NURSERY OPERATIONS may be made at any time of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Source: A WELL within the DAIRY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	3 W	WM	05	NE NW	1310 FEET SOUTH AND 1340 FEET WEST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS) and PRIMARY IRRIGATION DIMINISHED* TO SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
1 N	3 W	WM	5	NE NW	80	11.9	700	Dan H. Fishback and Teresa K, Fishback Living Trust

*See Finding of Facts #16 and #17 for Diminution

9. Transfer Application T-13837 proposes to change the place of use to:

Proposed Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS) and SUPPLEMENTAL IRRIGATION DIMINISHED FROM PRIMARY IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
1 N	3 W	WM	5	NW NE	80	2.9	200	DCA Land Oregon, LLC.
1 N	3 W	WM	5	SW NE	80	6.3	200	DCA Land Oregon, LLC.
1 N	3 W	WM	5	SE NW	80	2.7	200	DCA Land Oregon, LLC.
Total:						11.9		

10. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.
11. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
12. The water right is subject to transfer as defined in OAR 690-385-0100(17).
13. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
14. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
15. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Partial Diminution of Permit G-12612

16. The portion of water right Certificate 88122 involved in this transfer is layered with a portion of the authorized place of use place of use under Permit G-12612. The application requests the water uses be transferred to the same proposed place of use under both water rights. Therefore, to avoid layering of two primary water rights for irrigation, the portion of layered lands under Permit G-12612 will be diminished to supplemental irrigation as a result of this order.
17. On November 30, 2021, Dan H. Fishback and Teresa K, Fishback, trustees of the Dan H. Fishback and Teresa K, Fishback Living Trust, owner of lands to which a portion of Permit G-12612 is appurtenant, submitted an affidavit requesting a portion of Permit G-12612 be

diminished from primary irrigation to supplemental irrigation. The portion to be diminished is described as follows:

Permit: G-12612 in the names of Keith R Fishback, Dan H. Fishback, and the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust (Application G-14113)

Use: IRRIGATION on 11.9 acres

Priority Dates: JUNE 23, 1995

Rate: 0.022 CUBIC FOOT PER SECOND FOR EACH USE

Source: A WELL within the DAIRY CREEK BASIN

Place of Use to be diminished:

DIMINUTION FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION ON PERMIT G-12612							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot
1 N	3 W	WM	5	NE NW	80	11.9	700

Conclusions of Law

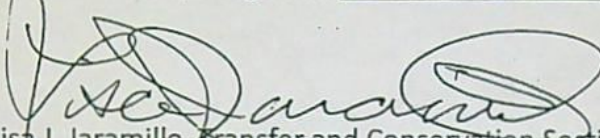
The proposed changes in place of use as proposed in Transfer Application T-13837 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the portion of the permit requested to be diminished from primary to supplemental irrigation should be diminished.

Now, therefore, it is ORDERED:

1. The order entered at Special Order Volume 122, Pages 318 to 322 is withdrawn and of no further force and effect and is superseded by this order.
2. The proposed change in place of use to the water right evidenced by Certificate 88122 is approved.
3. The place of use from which the water right is transferred off by Transfer T-13837 shall no longer be irrigated and is cancelled from Certificate 88122.
4. The right to the use of the water at the place of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificate 88122.
5. The portion of the water right for the use of 0.022 cfs of well water for irrigation on 11.9 acres, as described in Finding of Facts #16, and 17, above, is diminished from a right for primary irrigation to a right for supplemental irrigation. The proposed change in place of use for agricultural use (nursery operations) and supplemental irrigation under Permit G-12612, is approved. Permit G-12612, is hereby modified by this transfer. The water use shall be in accordance with the terms and conditions of Permit G-12612.
6. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.

7. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use shall be submitted by TVID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
8. Water right Certificate 88122 is modified. After satisfactory proof of completion has been determined by the Department, a superseding water right certificate will be issued when the Department determines it is necessary for record keeping.

Dated in Salem, Oregon on **FEB 07 2022**


Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: **FEB 08 2022**

OWRD RECEIVED

Ann Reece, 1/24/2022, 8:17:21 AM

GRANTOR'S NAME/ADDRESS:

Jessie Warner Properties, LLC
TD Farm, LLC
40065 NW Wilkesboro Road
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

AFTER RECORDING RETURN TO:

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

Washington County, Oregon

2021-077854

D-DW

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\$25.00 \$11.00 \$5.00 \$60.00 \$1,984.00

\$2,085.00

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
Assessment and Taxation, Ex-Officio

STATUTORY WARRANTY DEED

Jessie Warner Properties, LLC, an Oregon limited liability company, and TD Farm, LLC, an Oregon limited liability company, together, the "Grantor", convey and warrant to DCA Land Oregon, LLC, an Oregon limited liability company, "Grantee", the following described real property located in Washington County, Oregon (the "Property"):

See Exhibit A, attached hereto and incorporated herein.

The true consideration for this conveyance stated in terms of dollars is \$1,983,100.00.

The Property is free of encumbrances except (i) encumbrances listed on Exhibit B, attached hereto and incorporated herein; and (ii) any and all encumbrances allowed on the Property by Grantee or an affiliate of Grantee.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST

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451 V 1120 * 01 3

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Ann Reece, 1/24/2022, 8:18:16 AM

PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Executed this 8th day of July, 2021.

Grantor:

*Jessie Warner Properties, LLC,
an Oregon limited liability company*

By: *David J. Fishback*
Name: David J. Fishback
Title: Manager

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on July 8th, 2021, by David J. Fishback, as Manager of Jessie Warner Properties, LLC, an Oregon limited liability company, on behalf of said company.



Suzanne M. Aspy
Notary Public for Oregon

*TD Farm, LLC,
an Oregon limited liability company*

By: *David J. Fishback*
Name: David J. Fishback
Title: Manager

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on July 8th, 2021, by David J. Fishback, as Manager of TD Farm, LLC, an Oregon limited liability company, on behalf of said company.



Suzanne M. Aspy
Notary Public for Oregon

EXHIBIT A

Legal Description

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Doc. No. 2004-148929, together with a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.E. 1/4 & N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northwesterly corner of said TD Farm/NISH Land tract, also being the Northeasterly corner of said Fishback tract; thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 63.63 feet to the TRUE POINT OF BEGINNING of the tract herein described;

Thence leaving said South right-of-way line, South 16°16'32" West, 1201.13 feet;

Thence South 72°14'46" East, 62.94 feet to a re-entrant corner of said TD Farm/NISH Land tract of land;

Thence along the Southeasterly line thereof, South 16°16'32" West, 796.09 feet;

Thence South 73°20'00" East, 23.97 feet;

Thence South 16°44'00" West, 121.41 feet to a point on the North line of Parcel 1 of Partition Plat No. 2010-024, Washington County Plat Records;

Thence along the North line of said Partition Plat, North 73°20'00" West, 23.00 feet to an angle point therein;

Thence continuing along said North line and its Westerly extension, South 89°44'21" West, 1724.84 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline North 47°54'13" West, 124.55 feet to the beginning of a curve to the right having a radius of 200.00 feet and a long chord bearing North 19°49'25" West, a distance of 188.28 feet;

Thence 196.04 feet along said curve through a central angle of 56°09'37";

Thence continuing along said centerline, North 08°15'57" East 1195.31 feet, to an angle point therein;

Thence continuing along said centerline, North 08°03'44" East 38.82 feet;

OWRD RECEIVED

Ann Reece, 1/24/2022, 8:18:31 AM

EXHIBIT A (continued)

Legal Description

Thence, leaving said centerline, South $85^{\circ}49'01''$ East 1119.02 feet;

Thence, parallel with said County Road 3275, North $08^{\circ}03'44''$ East 824.93 feet to said South railroad right of way line;

Thence, along said South right of way, South $82^{\circ}17'30''$ East 433.15 feet;

Thence South $14^{\circ}30'00''$ West 20.14 feet;

Thence South $82^{\circ}17'30''$ East 587.00 feet to the true point of beginning.

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

FISHBACK
DISTRICT TRANSFER
FINAL ORDER
URSTADT REVIEW
21 JAN 2022

In the Matter of Transfer Application)
T-13837, County of Washington)
FINAL ORDER APPROVING
A DISTRICT PERMANENT TRANSFER FOR
PLACE OF USE and PARTIAL DIMINUTION
OF A PERMIT

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM ST
FOREST GROVE, OR 97116

SHOULD BE PERMIT G-12612

Findings of Fact

1. On September 27, 2021, TUALATIN VALLEY IRRIGATION DISTRICT (TVID) filed a district transfer application to permanently change the place of use under Certificate 88122 and Permit G-13837, and diminish the affected place use under Permit G-13837 from primary irrigation to supplemental irrigation. The Department assigned the application number T-13837.
2. Notice of the District Permanent Transfer Application was published on October 12, 2021, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notices.
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Use: IRRIGATION of 11.9 acres
Priority Dates: FEBRUARY 20, 1963

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Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

*NOTE: THIS LAND WAS PREVIOUSLY OWNED BY NISH LAND & TD FARM, BUT NOW OWNED BY "DCA LAND OREGON, LLC" (DEED PROVIDED)

Limits/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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 and as evidenced by Certificate 81149; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein. The right is further limited to the use of stored water on the lands described as supplemental irrigation.

Source: SCOGGINS CREEK, GALES CREEK, AND SCOGGINS RESERVOIR / HENRY HAGG LAKE (constructed under Permit R-5777), and GALES CREEK, tributaries to the Tualatin River; and the TUALATIN RIVER, tributary to the WILLAMETTE RIVER.

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5. Transfer Application T-13837 proposes to change the place of use to:

Proposed Place of Use:

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2N	3 W	WM	5	NW NE	80	2.9	200	Nish Land LLC & TD Farm LLC
2N	3 W	WM	5	SW NE	80	6.3	200	Nish Land LLC & TD Farm LLC
2N	3 W	WM	5	SE NW	80	2.7	200	Nish Land LLC & TD Farm LLC
Total:						11.9		

SHOULD BE:
DCA LAND
OREGON,
LLC

* SEE NOTE

6. The portion of the first second right to be transferred is as follows:

Permit: G-12612 in the names of Keith R Fishback, Dan H. Fishback, and the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust (Application G-14113)

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Priority Dates: JUNE 23, 1965

Rate: 0.02 CUBIC FOOT PER SECOND FOR EACH USE

Limits/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of in ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its

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SHOULD BE 9" OR 1995

equivalent) and 2.5 acre feet per acre during the irrigation season of each year. The use of water for NURSERY OPERATIONS may be made at any time of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Source: A WELL within the DAIRY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	3 W	WM	05	NE NW	1310 FEET SOUTH AND 1340 FEET WEST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS) and PRIMARY IRRIGATION DIMINISHED* TO SUPPLEMENTAL IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
2 N	3 W	WM	5	NE NW	80	11.9	700	Dan H. Fishback and Teresa K. Fishback Living Trust

*See Finding of Facts #14 and #15 for Diminution

7. Transfer Application T-13837 proposes to change the place of use to:

Proposed Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS) and SUPPLEMENTAL IRRIGATION DIMINISHED FROM PRIMARY IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
2 N	3 W	WM	5	NW NE	80	2.9	200	Nish Land LLC & TD Farm LLC
2 N	3 W	WM	5	SW NE	80	6.3	200	Nish Land LLC & TD Farm LLC
2 N	3 W	WM	5	SE NW	80	2.7	200	Nish Land LLC & TD Farm LLC
Total:						11.9		

SHOULD BE
DCA LAND
OREGON, LLC

8. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.
9. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
10. The water right is subject to transfer as defined in OAR 690-385-0100(17).
11. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
12. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
13. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Partial Diminution of Permit G-12612

14. The portion of water right Certificate 88122 involved in this transfer is layered with a portion of the authorized place of use place of use under Permit G-12612. The application requests the water uses be transferred to the same proposed place of use under both water rights. Therefore, to avoid layering of two primary water rights for irrigation, the portion of layered lands under Permit G-12612 will be diminished to supplemental irrigation as a result of this order.

15. On November 30, 2021, Dan H. Fishback and Teresa K. Fishback, trustees of the Dan H. Fishback and Teresa K. Fishback Living Trust, owner of lands to which a portion of Permit G-12612 is appurtenant, submitted an affidavit requesting a portion of Permit G-12612 be diminished from primary irrigation to supplemental irrigation. The portion to be diminished is described as follows:

Permit: G-12612 in the names of Keith R Fishback, Dan H. Fishback, and the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust (Application G-14113)

Use: IRRIGATION on 11.9 acres

Priority Dates: JUNE 23, 1963

Rate: 0.022 CUBIC FOOT PER SECOND FOR EACH USE

Source: A WELL within the DAIRY CREEK BASIN

Place of Use to be diminished:

DIMINUTION FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION ON PERMIT G-12612							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot
2N	3 W	WM	5	NE NW	80	11.9	700

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13837 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the portion of the permit requested to be diminished from primary to supplemental irrigation should be diminished.

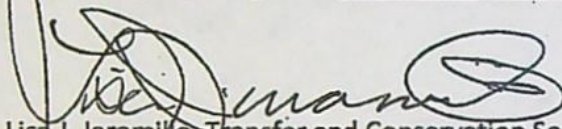
Now, therefore, it is ORDERED:

1. The proposed change in place of use to the water right evidenced by Certificates 88122 is approved.
2. The place of use from which the water right is transferred off by Transfer T-13837 shall no longer be irrigated and is cancelled from Certificate 88122.
3. The right to the use of the water at the place of use NOT modified by this order is restricted to beneficial and is subject to all other conditions and limitations contained in Certificate 88122.
4. The portion of the water right for the use of 0.22 cfs of well water for irrigation on 11.9 acres, as described in Finding of Facts 14, and 15, above, is diminished from a right for primary irrigation to a right for supplemental irrigation. The proposed change in place of use for agricultural use (nursery operations) and supplemental irrigation under Permit G-12612.

is approved. Permit G-12612, is hereby modified by this transfer. The water use shall be in accordance with the terms and conditions of Permit G-12612.

5. The water user shall maintain and operate the existing measurement device and shall make such improvements as may be required by the Department.
6. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2023**. A Claim of Beneficial Use shall be submitted by TVID to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
7. Water right Certificate 88122 is modified. After satisfactory proof of completion has been determined by the Department, a superseding water right certificate will be issued when the Department determines it is necessary for record keeping.

Dated in Salem, Oregon on JAN 18 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: JAN 19 2022



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

January 18, 2022

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM STREET
FOREST GROVE, OR 97116

REFERENCE: District Transfer T-13837

Enclosed is a copy of the final order approving your District Transfer.

The time allowed to complete the transfer is specified in the final order. You are required to submit a claim of beneficial use to this Department within one year of the date you complete the change(s) or within one year of the completion date authorized final order whichever comes first. If necessary, you may request more time by filing for transfer extension. All extensions are subject to approval.

To file a claim please include:

1. A CLAIM OF BENEFICIAL USE form
2. A CLAIM OF BENEFICIAL USE SITE REPORT
3. A Claim of Beneficial Use Map (this map does not need to be prepared by a Certified Water Rights Examiner (CWRE))

All forms needed to file a claim for a district transfer are available at

<https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/Forms.aspx>

If you have any questions related to the approval of this transfer, you may contact your caseworker Ann Reece by telephone at (503) 979-3214 or by e-mail at Ann.L.Reece@water.oregon.gov.

Sincerely,

Julie C. Baustian

Water Right Services Support
Transfers and Conservation Section

cc: Jacob W. Constans, Watermaster Dist. # 18 (via email)
Eric Anthony Urstadt, Agent

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER APPROVING
T-13837, County of Washington)	A DISTRICT PERMANENT TRANSFER FOR
)	PLACE OF USE and PARTIAL DIMINUTION
		OF A PERMIT

Authority

Oregon Revised Statutes (ORS) 540.570 to 540.580 establish the process in which a district may submit a request to transfer a water right within district boundaries. Oregon Administrative Rule (OAR) Chapter 690, Division 385 implements the statutes and provides the Department's procedures and criteria for evaluating district transfer applications.

Applicant

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM ST
FOREST GROVE, OR 97116

Findings of Fact

1. On September 27, 2021, TUALATIN VALLEY IRRIGATION DISTRICT (TVID) filed a district transfer application to permanently change the place of use under Certificate 88122 and Permit G-13837, and diminish the affected place use under Permit G-13837 from primary irrigation to supplemental irrigation. The Department assigned the application number T-13837.
2. Notice of the District Permanent Transfer Application was published on October 12, 2021, pursuant to ORS 540.580 and OAR 690-385-4400. No comments were filed in response to the notices.
3. The U.S. Bureau of Reclamation was notified of the transfer application on October 12, 2021; no comments were received within 90 days of the notification.
4. The portion of the first right to be transferred is as follows:
Certificate: 88122 in the name of U.S. BUREAU OF RECLAMATION (perfected under Permit S-35792)
Use: IRRIGATION of 11.9 acres
Priority Dates: FEBRUARY 20, 1963

This final order in a contested case and 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(2) 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.

Within 20 days after this final order is issued (i.e., mailing date), the district or any protestant may file with the commission exceptions to the final order. The commission shall issue an order granting or denying the exceptions within 30 days after receiving the exceptions. ORS 540.580(10).

Limits/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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 2.5 acre-feet for each acre irrigated during the irrigation season of each year from direct flow and storage from the reservoir constructed under Permit R-5777 and as evidenced by Certificate 81149; provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein. The right is further limited to the use of stored water on the lands described as supplemental irrigation.

Source: SCOGGINS CREEK, GALES CREEK, AND SCOGGINS RESERVOIR / HENRY HAGG LAKE (constructed under Permit R-5777), and GALES CREEK, tributaries to the Tualatin River; and the TUALATIN RIVER, tributary to the WILLAMETTE RIVER.

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	LATITUDE-LONGITUDE
1 S	3 W	WM	08	SW SW	SHPP: 45 DEGREES 29 MINUTES 32.73 SECONDS NORTH AND -123 DEGREES 05 MINUTES 33.85 SECONDS WEST

Authorized Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
2 N	3 W	WM	5	NE NW	80	11.9	700	Dan H. Fishback and Teresa K, Fishback Living Trust

5. Transfer Application T-13837 proposes to change the place of use to:

Proposed Place of Use:

IRRIGATION								
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot	Water User
2 N	3 W	WM	5	NW NE	80	2.9	200	Nish Land LLC & TD Farm LLC
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Total:						11.9		

6. The portion of the first second right to be transferred is as follows:

Permit: G-12612 in the names of Keith R Fishback, Dan H. Fishback, and the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust (Application G-14113)

Use: IRRIGATION and AGRICULTURAL USE (NURSERY OPERATIONS) on 11.9 acres

Priority Dates: JUNE 23, 1965

Rate: 0.02 CUBIC FOOT PER SECOND FOR EACH USE

Limits/Duty: The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its

equivalent) and 2.5 acre feet per acre during the irrigation season of each year. The use of water for NURSERY OPERATIONS may be made at any time of the year that the use is beneficial. For the irrigation of any other crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

Source: A WELL within the DAIRY CREEK BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 N	3 W	WM	05	NE NW	1310 FEET SOUTH AND 1340 FEET WEST FROM THE NW CORNER OF SECTION 5

Authorized Place of Use:

AGRICULTURAL USE (NURSERY OPERATIONS) and PRIMARY IRRIGATION DIMINISHED* TO SUPPLEMENTAL IRRIGATION								
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Total:						11.9		

8. The Department finds that the district permanent transfer application was submitted according to ORS 540.580 and OAR 690-385-4000, contains the information required under OARs 690-385-4200 and 690-385-2000, and includes maps meeting the requirements of OARs 690-385-4300 and 690-385-2200.
9. The Department finds that the proposed district permanent transfer meets all the criteria set forth in ORS 540.580 and OAR 690-385-4000.
10. The water right is subject to transfer as defined in OAR 690-385-0100(17).
11. The proposed change in places of use will not result in enlargement of the right as defined in OAR 690-385-0100(4).
12. The proposed change in place of use will not result in injury to other water rights as defined in OAR 690-385-0100(6).
13. Any other applicable requirements for district permanent water right transfers are met as required in OAR 690-385-4500.

Partial Diminution of Permit G-12612

14. The portion of water right Certificate 88122 involved in this transfer is layered with a portion of the authorized place of use place of use under Permit G-12612. The application requests the water uses be transferred to the same proposed place of use under both water rights. Therefore, to avoid layering of two primary water rights for irrigation, the portion of layered lands under Permit G-12612 will be diminished to supplemental irrigation as a result of this order.

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Use: IRRIGATION on 11.9 acres

Priority Dates: JUNE 23, 1965

Rate: 0.022 CUBIC FOOT PER SECOND FOR EACH USE

Source: A WELL within the DAIRY CREEK BASIN

Place of Use to be diminished:

DIMINUTION FROM PRIMARY IRRIGATION TO SUPPLEMENTAL IRRIGATION ON PERMIT G-12612							
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres	Tax Lot
2 N	3 W	WM	5	NE NW	80	11.9	700

Conclusions of Law

The proposed changes in place of use as proposed in Transfer Application T-13837 comply with and satisfy the requirements of ORS 540.580 and OAR 690-385-4500, and the portion of the permit requested to be diminished from primary to supplemental irrigation should be diminished.

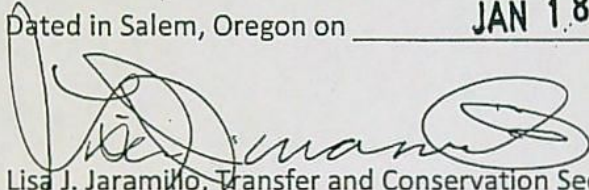
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7. Water right Certificate 88122 is modified. After satisfactory proof of completion has been determined by the Department, a superseding water right certificate will be issued when the Department determines it is necessary for record keeping.

Dated in Salem, Oregon on JAN 18 2022



Lisa J. Jaramillo, Transfer and Conservation Section Manager for
THOMAS M. BYLER, DIRECTOR
Oregon Water Resources Department

Mailing Date: JAN 19 2022

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 13837

Transfer Specialist:

Transfer Type: District Permanent Transfer

Applicant: TUALATIN VALLEY IRRIGATION DISTRICT 2330 ELM STREET FOREST GROVE, OR 97116 Email: _____ Phone: _____		Agent: <input type="checkbox"/> N/A ERIC ANTHONY URSTADT 39290 NW MURTAUGH RD NORTH PLAINS, OR 97133 Email: _____ Phone: _____	
Irrigation District: <input type="checkbox"/> N/A Email: _____		CWRE: <input type="checkbox"/> N/A Email: _____	
Affected Local Gov'ts: <input type="checkbox"/> N/A Email: _____		Affected Tribal Gov't: <input type="checkbox"/> N/A UNAVAILABLE Email: _____	
Current Landowner if other than Applicant: <input type="checkbox"/> N/A Email: _____		Receiving Landowner: <input type="checkbox"/> N/A Email: _____	

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>				<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions:

Rec'd: September 29, 2021	Proposed Action(s): PLACE OF USE	
Fees Pd: 1970.00	WM District: 18	ODFW District:
Initial Public Notice: October 5, 2021	WM Review sent:	ODFW Review sent:
Acknowledgement Letter Sent <input type="checkbox"/>		GW Review sent: <input type="checkbox"/> N/A
County sent cc: of Ack Letter <input type="checkbox"/>	BOR notified (date): <input type="checkbox"/> N/A	
Newspaper quote requested:	Request for news \$ sent:	News \$ received:
Request to publish sent:	Affidavit of publication received:	Last day of publication:

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	CW Sent: _____	N/A
PD	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____	Date: _____
FO	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____	Date: _____

Special Issues: Please place copy of order in G-14113/G12612

Special Order Volume: Vol. 122 Pages 318-22

Mail after Dec 27

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KEITH R AND DAN H FISHBACK
14985 NW SPRINGVILLE RD
PORTLAND, OREGON 97229

(503) 645-1276

The specific limits for the use are listed below along with conditions of use:

APPLICATION FILE NUMBER: G-14113

SOURCE OF WATER: A WELL IN DAIRY CREEK BASIN

PURPOSE OR USE: IRRIGATION AND AGRICULTURAL USE (NURSERY OPERATIONS) ON 86.5 ACRES

QUANTITY OF USE: 0.16 CUBIC FOOT PER SECOND FOR EACH USE

PERIOD OF ALLOWED USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION, AND YEAR ROUND FOR AGRICULTURAL USE

DATE OF PRIORITY: JUNE 23, 1995

POINT OF DIVERSION LOCATION: NE 1/4 NW 1/4, SECTION 5, T 1 N, R 3 W, W.M.; 1310 FEET SOUTH AND 1340 FEET EAST FROM THE NW CORNER OF SECTION 5

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of **containerized nursery plants**, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of **in ground nursery plants** the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime of the year that the use is beneficial. For the irrigation of **any other crop**, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

86.5 acres total with 0.16 cfs

for IR/IS + 0.16 for Ag Use

NW 1/4 NE 1/4
SW 1/4 NE 1/4
NE 1/4 NW 1/4
NW 1/4 NW 1/4

.16cfs/86.5 x 11.9 = 0.02 cfs
for each use IS & Ag

PRIMARY

1.6 ACRES

27.3 ACRES -11.9

1.0 ACRE

SUPPLEMENTAL

1.2 ACRES +2.9

6.4 ACRES +6.3

8.6 ACRES

Application G-14113 Water Resources Department

PERMIT G-12612

SW 1/4 NW 1/4
SE 1/4 NW 1/4

5.9 ACRES
34.5 ACRES +2.7

SECTION 5
TOWNSHIP 1 NORTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Groundwater production under this permit shall be from no shallower than 300 feet below land surface.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Reference Water Level Determination

Following the first year of water use, the user shall submit one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The water user is not required to measure additional water levels after the reference level has been determined unless required by the Director. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to

occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

If, at any time, the well or its use:

- a) acts as a conduit for groundwater contamination,
- b) allows loss of artesian pressure,
- c) allows waste of groundwater,
- d) interferes with senior groundwater users, or
- e) interferes with nearby surface water sources,

the Department may require that the well be repaired in accordance with current well construction standards.

STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

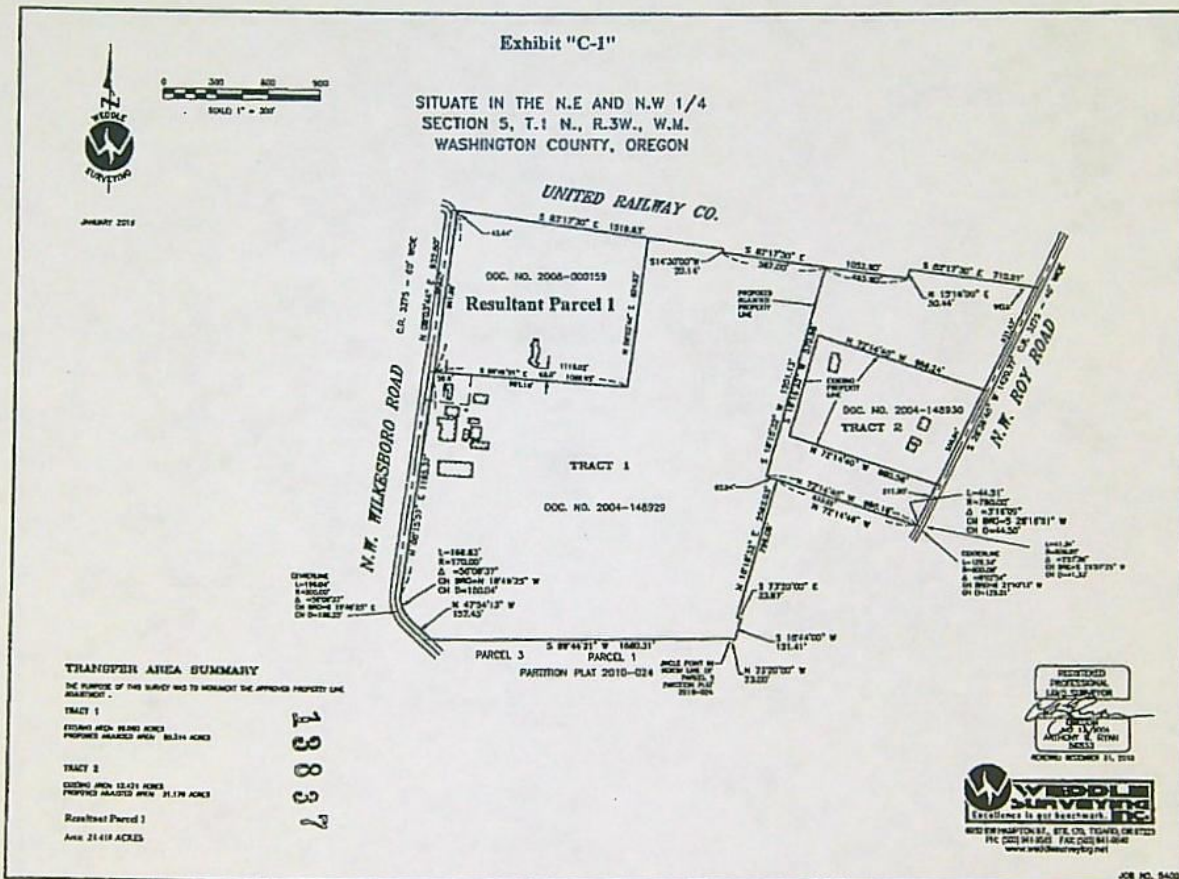
Actual construction of the well shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

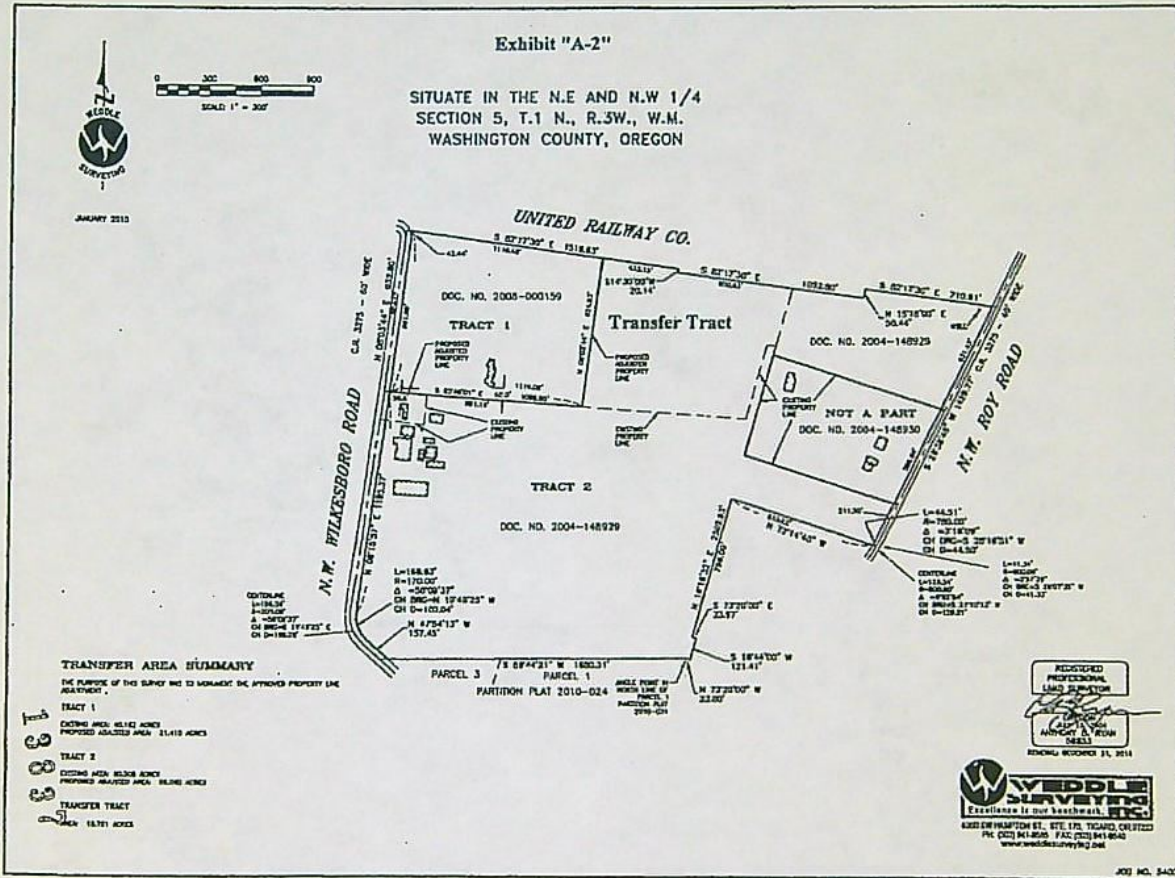
Issued July 17, 1996

Martha O. Pagel
for Martha O. Pagel, Director
Water Resources Department

Application G-14113 Water Resources Department
Basin 02 Volume 20A, E Fork Dairy Creek & Misc.
 MGMT.CODES 7BG, 7BR, 7EG, 7ER

PERMIT G-12612
District 18





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SEP 27 2021

01-7/9

Transfer Map

S5, T1N, R3W, Washington County
Certificate 88122

SEP 27 2021

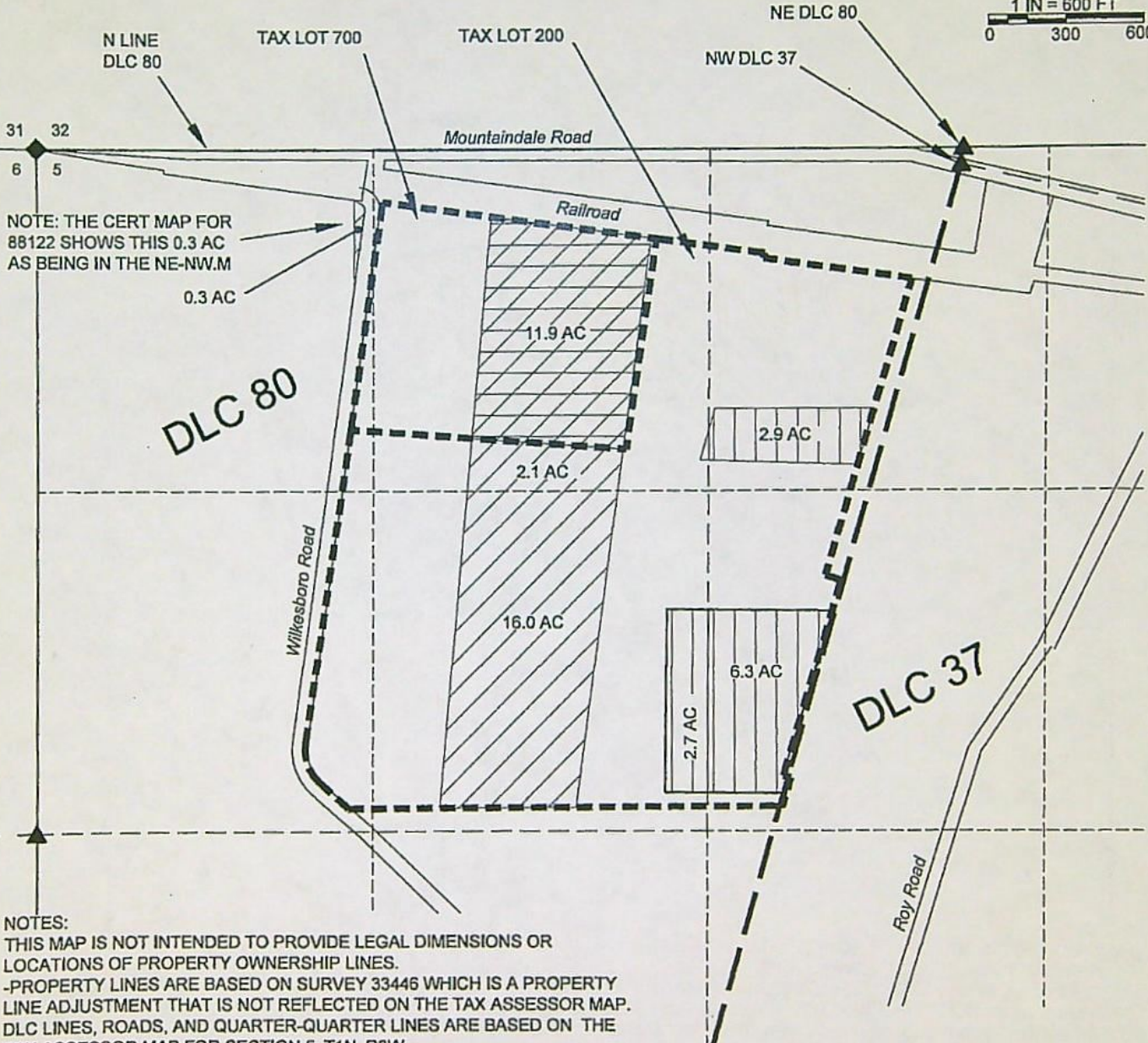
A-2/4

OWRD

N



1 IN = 600 FT
0 300 600



NOTES:
THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
-PROPERTY LINES ARE BASED ON SURVEY 33446 WHICH IS A PROPERTY LINE ADJUSTMENT THAT IS NOT REFLECTED ON THE TAX ASSESSOR MAP.
DLC LINES, ROADS, AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 5, T1N, R3W.
-WATER CONVEYANCE LINES SHALL BE ALL WITHIN THE PROPERTY AND THEREFORE ARE NOT SHOWN.

LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- - - SECTION LINE
- - - QUARTER-QUARTER LINE
- - - DLC LINES

- 88122 FROM (Primary Irrig)
- 88122 TO (Primary Irrig)
- 88122 AS CERTIFIED



MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

Transfer Map

S5, T1N, R3W, Washington County
permit G-12612

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A-1/4

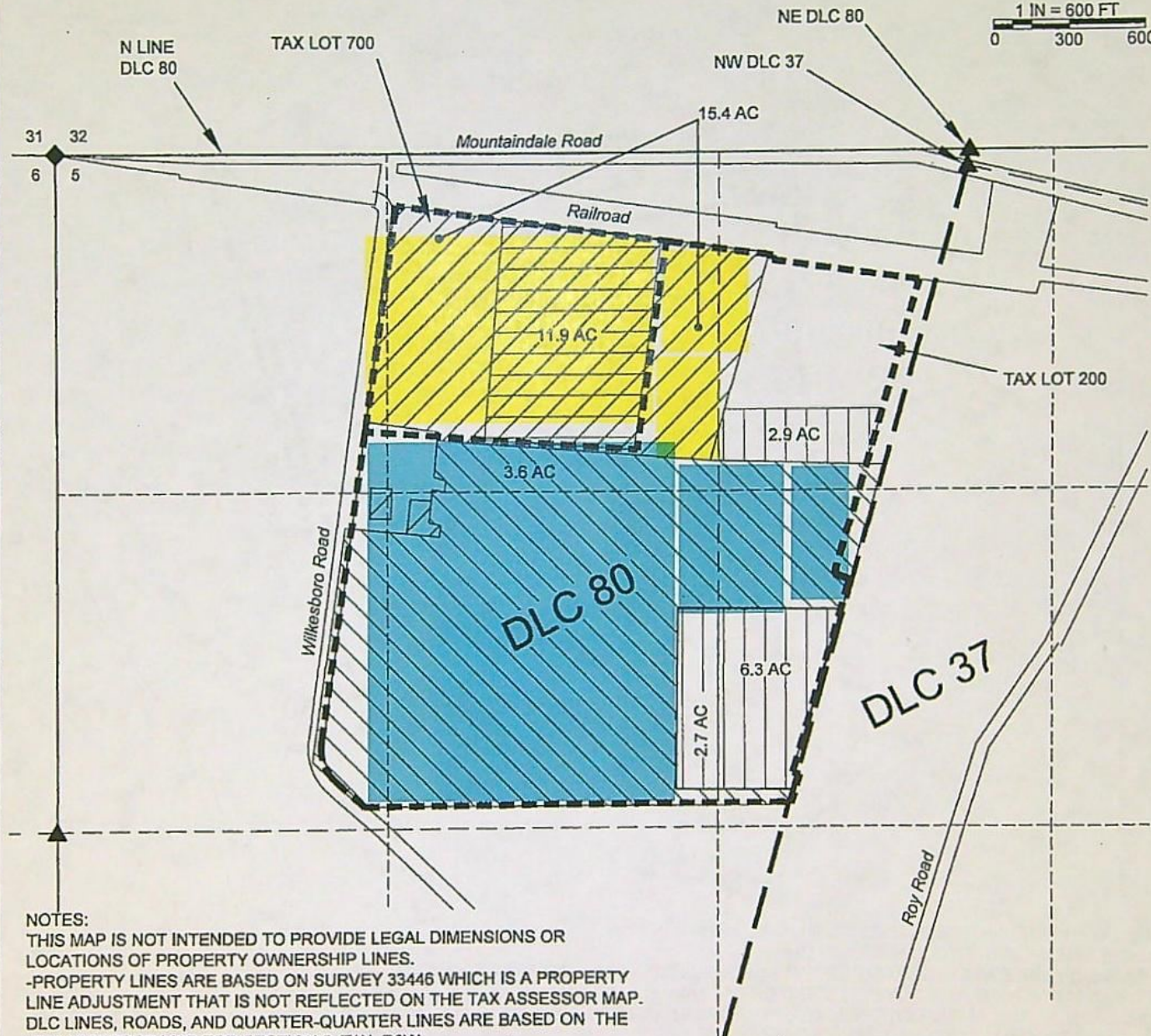
SEP 27 2021

OWRD

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1 IN = 600 FT
0 300 600



NOTES:

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LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- - - SECTION LINE
- - - QUARTER-QUARTER LINE
- - - DLC LINES

- G12612 per COBU (Agric & Primary Irrig)
- G12612 per COBU (Agric & Suppl Irrig)
- G12612 FROM land (Agric & Primary Irrig)
- G12612 TO land (Suppl Irrig after diminishment)



MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

Diminishment Map

S5, T1N, R3W, Washington County
permit G-12612

RECEIVED A-2/4

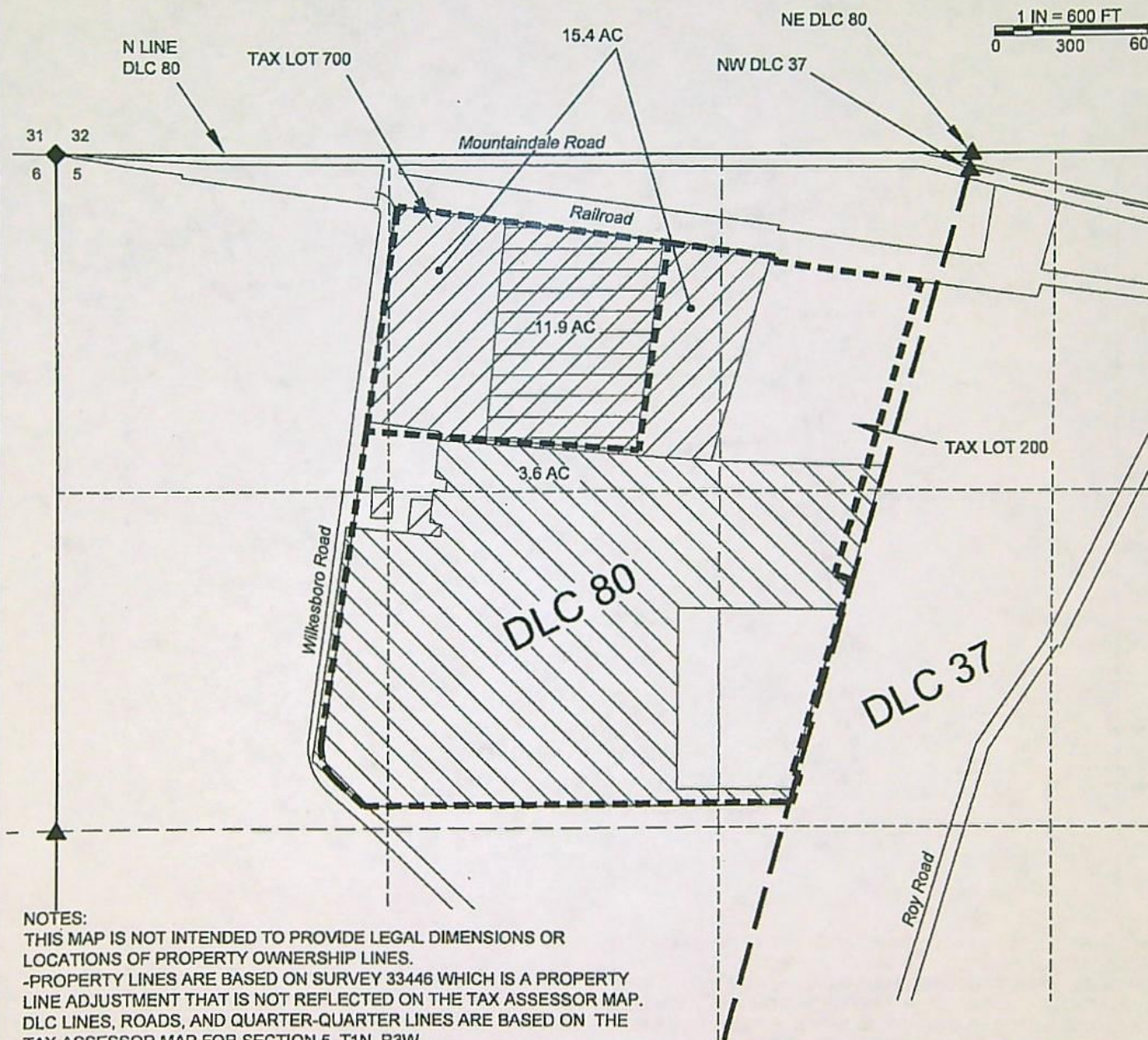
SEP 27 2021

OWRD

N



1 IN = 600 FT
0 300 600



NOTES:

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LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- SECTION LINE
- - - QUARTER-QUARTER LINE
- DLC LINES

- G12612 per COBU (Agric & Primary Irrig)
- G12612 per COBU (Agric & Suppl Irrig)
- G12612 being diminished to Suppl Irrig



ASPEN RURAL LAND
CONSULTING

ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

ATTACH A-1/4

Assignment Map

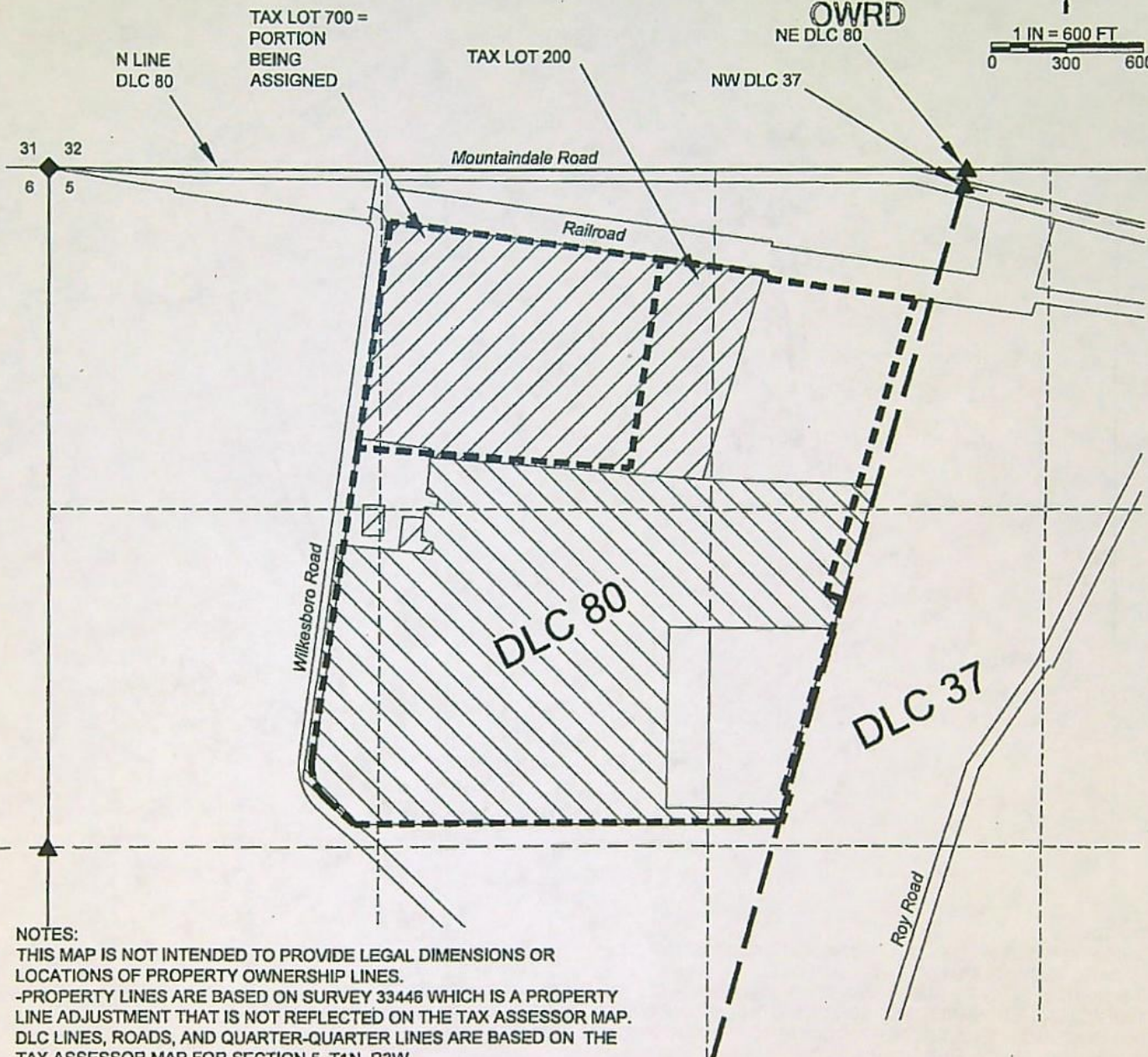
S5, T1N, R3W, Washington County
permit G-12612

RECEIVED

SEP 27 2021



1 IN = 600 FT
0 300 600

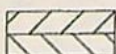


NOTES:

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LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
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- - - TAX LOT LINE
- SECTION LINE
- - - QUARTER-QUARTER LINE
- DLC LINES

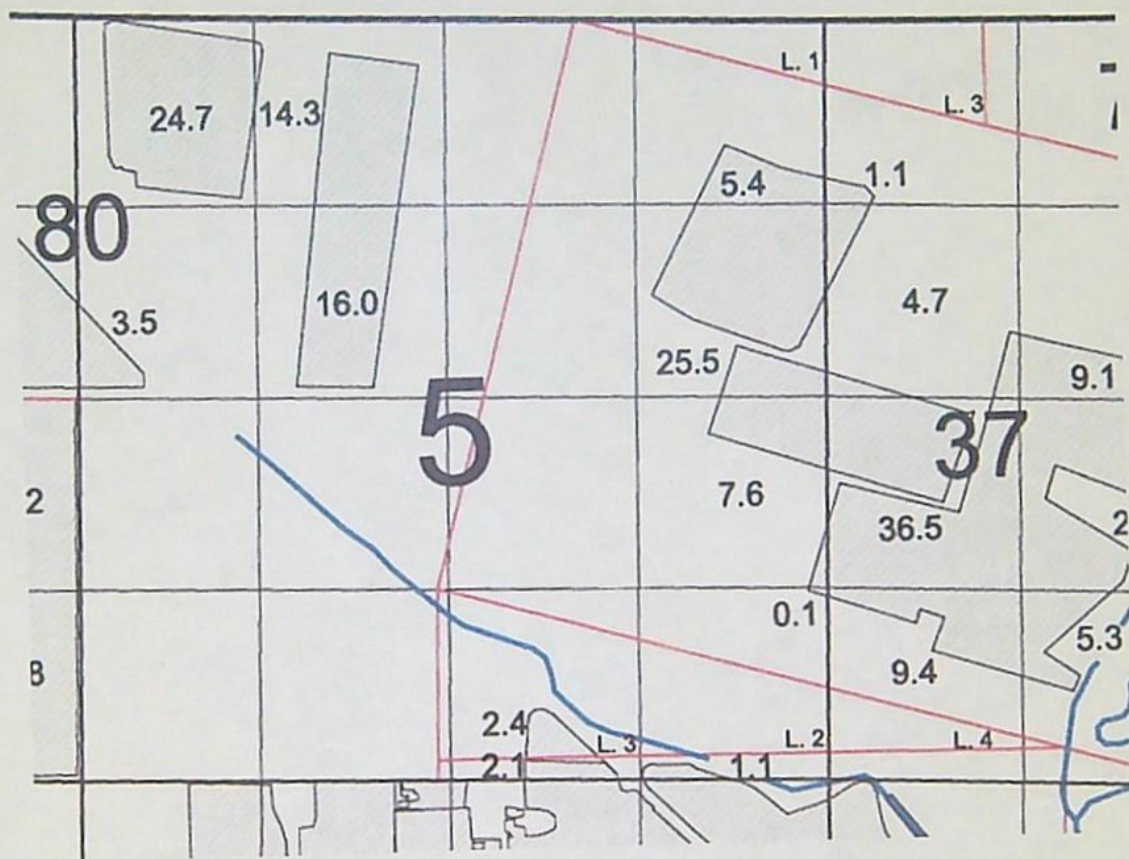


G12612 per COBU (Agric & Primary Irrig)
G12612 per COBU (Agric & Suppl Irrig)



MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

Final Proof Map for C. 88122 TVID



REECE Ann L * WRD

From: REECE Ann L * WRD
Sent: Tuesday, November 30, 2021 11:50 AM
To: Eric Urstadt
Subject: RE: Fishback - Is Agric use going with Irrigation use (T-13837)

Eric,

Thanks for the clarification. The application for T-13837 will include the transfer of 11.9 acres of Ag Use + irrigation use (primary diminished to supplemental) under Permit G-12612. Ann

Please note email address update: Ann.L.Reece@water.oregon.gov

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214



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

*****Teleworking *** Mon, Tu, Wed, Thurs 7:00 to 4:45; Fri 7:00 to 11AM**

email: Ann.L.Reece@water.oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Tuesday, November 30, 2021 11:40 AM
To: REECE Ann L * WRD <Ann.L.REECE@water.oregon.gov>
Subject: Fishback - Is Agric use going with Irrigation use (T-13837)

Ann,

Per your question via text:

The application is intended to move the 11.9 ac of irrigation (IR) and agricultural (AG) use per permit G-12612 together.

Only the IR was diminished to Supplemental IR because they wanted to keep the 88122 (TVID) IR right as primary for irrigation, and the AG use is not affected by TVID since TVID is not for AG use.

So, if needed, please amend the application to include moving the 11.9 ac of AG together with the diminished portion of IR of permit G-12612.

This corresponds to the transfer map for permit T-12612. Although I did not clearly specify AG in the TO land legend, perhaps it should read "Agric and Suppl Irrig after diminishment" instead of "Suppl Irrig after diminishment". [The comment in the legend for the TO lands was intended to confirm that the primary IR was changing to Suppl IR via the application, but did not intend to imply that the AG was not moving.]

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
(971) 250-1520 (cell, text, voicemail)

From: [Eric Urstadt](#)

Sent: Tuesday, November 30, 2021 9:10 AM

To: [REECE Ann L * WRD](#)

Subject: RE: pump test for Fishback

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
(971) 250-1520 (cell, text, voicemail)

From: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>

Sent: Thursday, October 7, 2021 7:51:51 AM

To: ericurstadt@hotmail.com <ericurstadt@hotmail.com>

Subject: pump test for Fishback

Eric,

Just an FYI, it looks like a pump test is needed before the claim of beneficial use will ever be processed for Permit G-12612.

ATTACH D1-1/9

GRANTOR'S NAME/ADDRESS:

Dan H. Fishback, Co-Trustee
Teresa L. Fishback, Co-Trustee
Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust
40065 NW Wilkesboro Rd
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

NISH Land, LLC
TD Farm, LLC
40065 NW Wilkesboro Rd
Banks, OR 97106

AFTER RECORDING, RETURN TO:

Larry D. Moomaw
Moomaw Mesirov & Godfrey, LLP
4145 SW Watson Ave., Suite 515
Beaverton, OR 97005

**UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:**

Keith R. Fishback
40065 NW Wilkesboro Rd
Banks, OR 97106

Washington County, Oregon **2021-064803**
D-DW **06/03/2021 03:48:30 PM**
SIn=2 S AKINS
\$45.00 \$11.00 \$5.00 \$60.00 **\$121.00**

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
Assessment and Taxation, Ex-Officio

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SEP 27 2021

OWRD

STATUTORY WARRANTY DEED

(Property Line Adjustment – Case File No. 18-219-PLA/PLA)

Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, own that certain real property in Washington County, Oregon described on the attached Exhibit A. Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, Grantor, convey and warrant to NISH Land, LLC, an Oregon limited liability company and TD Farm, LLC, an Oregon limited liability company, Grantee, that certain real property described on Exhibit A-1 and depicted on Exhibit A-2 (the "Phase 1 Transfer Parcel"), free of encumbrances except encumbrances of record this date.

The true consideration for the conveyance of the Phase 1 Transfer Parcel stated in terms of dollars is -0- but consists of other good and valuable consideration which is the whole consideration. This Statutory Warranty Deed ("Deed"), together with the Statutory Warranty Deed by NISH Land, LLC and TD Farm, LLC, as Grantor, referencing the "Phase 1 Transfer Parcel" of even date herewith, are to effectuate and clarify the Property Line Adjustment approved by the Washington County Department of Land Use and Transportation on July 20, 2018 in case File No. 18-219-PLA/PLA and the Statutory Warranty Deed recorded in Washington County, Oregon, as Instrument Number 2018-059413.

The parcel of the real property owned by Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, is the parcel described on Exhibit C to this Deed and depicted on Exhibit C-1 (the "Resultant Parcel 1").

This instrument filed for record by
Fidelity National Title as an accommodation
only. It has not been examined as to its
execution or as to its effect upon the title.

13837

FIDELITY NATIONAL TITLE 4514212076-01 COM

DI-2/9

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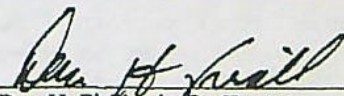
In compliance with ORS 92.190(4), the deed by which Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. and Teresa L. Fishback Revocable Living Trust acquired title to the property legally described on the attached Exhibit A-1 and which is being conveyed by this Deed is recorded in the official records of Washington County, Oregon as Document No. 2008-000159.

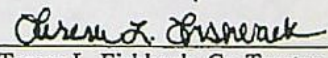
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007M SECTIONS 2 TO 9 AND 17, CHAPTER 855 OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this Statutory Warranty Deed as of June 3, 2021.

GRANTOR:

*The Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust dated November 13, 2007*


Dan H. Fishback, Co-Trustee


Teresa L. Fishback, Co-Trustee

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Dan H. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.

13837

DI - 3/9

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SEP 27 2021

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Nicolette Reite
Notary Public for Oregon

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Teresa L. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.



Nicolette Reite
Notary Public for Oregon

13837

DI-4/9

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SEP 27 2021

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EXHIBIT A

PORTIONS OF THOSE PARCELS OF LAND AS DESCRIBED IN DEED DOCUMENTS 97111928 AND 84081247, OF RECORD IN COUNTY OF WASHINGTON AND STATE OF OREGON; SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A PART OF THE ROBERT WALKER AND MANERVA WALKER DONATION LAND CLAIM (DLC) NO. 80, IN SECTION 5 TOWNSHIP 1 NORTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID WALKER DLC COMMON WITH THE WEST LINE OF THE WILLIAM WILSON DLC NO. 37, SAID POINT BEING S 16° 16' 32" W 464.83 FEET FROM THE MONUMENTED NORTHWEST CORNER OF SAID WILSON DLC AND ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY (ROW), (SAID ROW BEING 80.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS), SAID POINT IS MARKED BY A 5/8 INCH BY 30 INCH IRON ROD WITH ALUMINUM CAP MONUMENT (TYPICAL) SET; AND RUNNING THENCE S 16° 16' 32" W, ON SAID COMMON DLC LINE, 327.79 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 16° 16' 32" W 50.00 FEET; THENCE N 82° 17' 30" W 50.00 FEET TO A POINT; THENCE S 16° 16' 32" W, PARALLEL WITH SAID COMMON DLC LINE, 427.00 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 85° 49' 30" E 50.58 FEET; THENCE N 85° 49' 30" W 1806.98 FEET TO A MONUMENT SET; THENCE S 4° 53' 00" W 167.00 FEET TO A MONUMENT SET; THENCE N 83° 23' 00" W 259.13 FEET, MORE OR LESS, TO THE CENTER OF COUNTY ROAD, AS CALLED FOR IN DEED, FROM WHICH A REFERENCE MONUMENT IS SET S 33° 23' 00" E 35.00 FEET; THENCE N 08° 46' 40" E, (DEED BEARING N 8° 03'E) IN CENTER OF ROAD, 1049.65 FEET TO A POINT ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY; (SAID ROW BEING 60.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS) THENCE S 82° 17' 32" E, (DEED BEARING S 82° 23'E) ON SAID RIGHT-OF-WAY, 1549.01 FEET (DEED CALL 23.47 CH.) TO AN ANGLE POINT THEREON; THENCE S 14° 30' 00" W (DEED BEARING) 20.14 FEET TO AN ANGLE POINT THEREON; THENCE S 82° 17' 30" E, ON SAID RIGHT-OF-WAY, 650.63 FEET TO THE POINT OF BEGINNING.

EXCLUDING ANY PORTION IN COUNTY ROAD.

SAID PARCEL CONTAINS 40.23 ACRES, MORE OR LESS, EXCLUDING PORTION IN COUNTY ROAD.

FOR BASIS OF LAND SURVEY BEARINGS SEE U.S.B.T. BOOK 9, PAGE 292, NOTE (2) ENTRY NO.99, DATED SEPT 14, 1995, BEARING ON DLC LINE OF S 16° 16' 32" W ON WHICH JERRY S. MARIS, P.L.S. BASED HIS SURVEY IN DEC. OF 2004.

13837

D1-5/9

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SEP 27 2021

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EXHIBIT "A-1"

A tract of land for Property Line Adjustment purposes, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 & N.E. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet to the TRUE POINT OF BEGINNING of the herein described tract;

Thence continuing along said centerline, South 08°03'44" West, 38.82 feet to an angle point therein;

Thence continuing along said centerline, South 08°15'57" West, 117.94 feet;

Thence leaving said centerline, along the Southwesterly line of said Fishback tract, South 83°22'14" East, 246.89 feet;

Thence continuing along said Southwesterly line, North 04°56'38" East, 166.93 feet to the re-entrant corner thereof;

Thence North 85°49'01" West, 237.86 to the True Point of Beginning.

TOGETHER WITH the following described portion of said Fishback tract:

Beginning at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence leaving said right-of-way line South 08°03'44" West, 824.93 feet to the Northerly line of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Document No. 2004-148929, said Deed Records;

13837

DI-6/9

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Thence along the Northerly and Westerly lines of last said tract, South 85°49'01" East, 925.54 feet;

Thence North 16°16'32" East, 427.01 feet;

Thence South 82°17'30" East, 50.02 feet;

Thence North 16°16'32" East, 329.43 feet to the Point of Beginning.

Combined total of both above-described tracts containing therein 18.751 net acres, more or less (excluding the area within County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

13837

01-8/9

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EXHIBIT "C"

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeastly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet to the TRUE POINT OF BEGINNING of the tract herein described:

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet;

Thence leaving said centerline, South 85°49'01" East, 1119.02 feet;

Thence parallel with said County Road, North 08°03'44" East, 824.93 feet to the True Point of Beginning.

Containing therein 21.410 net acres, more or less, (excluding area within the right-of-way of County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

13837

ATTACH D2-1/4

GRANTOR'S NAME/ADDRESS:
Jessie Warner Properties, LLC
TD Farm, LLC
40065 NW Wilkesboro Road
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:
DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

AFTER RECORDING RETURN TO:
DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:
DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

Washington County, Oregon	2021-077854
D-DW	07/12/2021 01:33:51 PM
Stn=7 C LOUCKS	
\$25.00 \$11.00 \$5.00 \$60.00 \$1,984.00	\$2,085.00
I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.	
Joe Nelson, Interim Director of Assessment and Taxation, Ex-Officio	

RECEIVED

SEP 27 2021

OWRD

STATUTORY WARRANTY DEED

Jessie Warner Properties, LLC, an Oregon limited liability company, and TD Farm, LLC, an Oregon limited liability company, together, the "Grantor", convey and warrant to DCA Land Oregon, LLC, an Oregon limited liability company, "Grantee", the following described real property located in Washington County, Oregon (the "Property"):

See Exhibit A, attached hereto and incorporated herein.

The true consideration for this conveyance stated in terms of dollars is \$1,983,100.00.

The Property is free of encumbrances except (i) encumbrances listed on Exhibit B, attached hereto and incorporated herein; and (ii) any and all encumbrances allowed on the Property by Grantee or an affiliate of Grantee.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST

45142112076-01 COM
FIDELITY NATIONAL TITLE

AFFIDAVIT FOR THE PARTIAL DIMINUTION OF A WATER RIGHT PERMIT

State of Oregon)
) ss
County of Washington)

I/We (or authorized agent), Dan H. Fishback and Teresa L. Fishback Living Trust, residing at 40065 NW Wilkesboro Road, Banks, OR 97106, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 700, within the NE¼, NW¼, Section 5, Township 1N, Range 3W, of the Willamette Meridian, in Washington County, Oregon, as shown on the attached map and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right permit number G-12612 issued to Dan and Keith R. and Dan H. Fishback, with a date of priority of June 23, 1995 for use of 0.00370 CFS / AF ((= 0.16 for Irrig + 0.16 for Agric)/86.5) of water from a well in Dairy Creek basin (sources) for the purpose of Irrigation and Agriculture (uses) is appurtenant to my/our property;
3. The appurtenant water right is located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (if the right is located within a district or reclamation project, name it here: Tualatin Valley Irrigation District);
4. If the water right is issued in the name of an irrigation district, then the affiant must have the concurrence of the district to the diminishment of the portion of the water right. (Signature of district manager on the line below documents concurrence of the district.)

N/A	N/A	N/A
Signature of District Manager	Printed Name	Date
5. We have obtained a more economical (e.g., better, more economical) source of water for the primary irrigation of the portion of this water right shown on the attached map and described as follows: The right to the use of Irrigation 0.00185 CFS / AF (0.16/86.5 AC) from a well in Dairy Creek basin for the irrigation of 11.9 acres located:

NE ¼ NW¼ 11.9Acres
Section 5
Township 1 N, Range 3 W, WM;

**AFFIDAVIT FOR THE PARTIAL DIMINUTION OF A
WATER RIGHT PERMIT
(CONTINUED)**

6. We request the water right be diminished to a right for supplemental irrigation of the lands described above in item #5;

7. We agree that if this change is approved, it is permanent and the right to the use of water from a well in Dairy Creek basin (source) cannot be changed back to the primary source unless otherwise provided by law. We also agree that so long as there is sufficient water available from the new primary source, I am/we are not entitled to use any water from a well in Dairy Creek basin (source) for primary irrigation of these lands.

Don H. Fisher

Signature of legal owner as listed on deed, or authorized agent

9/29/21

Date

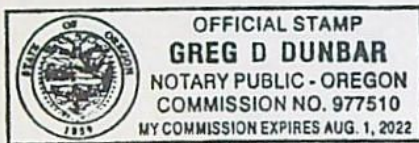
Christa L. Fisher

Signature of legal co-owner as listed on deed
(if applicable)

9/29/21

Date

Subscribed and Sworn to Before Me this 29 day of Sept. 2021.



[Signature]
Notary Public for Oregon

My Commission Expires

Aug 1, 2022

PLEASE ATTACH A LEGIBLE COPY OF : 1) A DEED WHICH LISTS LAND OWNERS AND INCLUDES A LEGAL DESCRIPTION OF AFFECTED LANDS, AND 2) AN ADJUDICATION MAP, WATER RIGHT FINAL PROOF MAP, OR A TAX LOT MAP WITH THE PORTION OF THE WATER RIGHT AND/OR LANDS TO BE DIMINISHED CLEARLY DRAWN AND IDENTIFIED. IF ACTING AS AN AUTHORIZED AGENT, INCLUDE COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTS GRANTING AUTHORITY TO ACT ON BEHALF OF LEGAL OWNER(S) AS LISTED ON THE DEED.

REECE Ann L * WRD

From: REECE Ann L * WRD
Sent: Wednesday, October 6, 2021 1:48 PM
To: Eric Urstadt
Subject: RE: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed

Categories: Red Category

Ok, all is good. I also see that Mary B processed the assignment. Ann

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214



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

******Teleworking *** Mon, Tu, Wed, Thurs 7:00 to 4:45; Fri 7:00 to 11AM**

email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Wednesday, October 6, 2021 1:47 PM
To: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>
Subject: Re: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed

Ann,

It was a three way PLA, and this is just a part of it. I haven't gone through all of the gyrations again, but the resultant of TL700 is owned by the D and T Fishback trust.

One of the maps shows the land transferred and one shows the resultant.

D & T trust previously owned A and conveyed A-1 to Nish Land and TD Farm, leaving C (the resultant) still with D & T trust.

I think this is the same as your understanding for the owner of the resultant TL700.

Sent from my iPhone
Eric Urstadt
Ericurstadt@hotmail.com

503.647.1919(h)
971.250.1520(c)

On Oct 6, 2021, at 11:50 AM, REECE Ann L * WRD <Ann.L.Reece@oregon.gov> wrote:

Please see if I am understanding this correctly:

Two parcels were owned by the Fishback trust, and there was a property line adjustment made affecting both parcels. The lower parcel was deeded to NISH Land LLC and the upper parcel (TL 700) (with an adjusted property line) stayed in the name of the Fishback trust.

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214

<image002.jpg>

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******Teleworking *** Mon, Tu, Wed, Thurs 7:00 to 4:45; Fri 7:00 to 11AM**

email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Wednesday, October 6, 2021 10:01 AM
To: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>
Cc: Keith Fishback <keithrfishback@gmail.com>; Dan Fishback <dan.fishback7@gmail.com>
Subject: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed

Ann,

This is a very confusing deed that resulted from a property line adjustment (PLA). Actually a series of PLA's (welcome to Washington County). I have sent you the whole TRIO this time. (The TRIO lists the owner wrong – WATCH OUT). This took me a while to figure out, too. I've highlighted some important parts.

You will see upon further review that there are a number of properties described in the recorded document (2021-064803). Below the portion of the page that you sent me (page 4 of 12) there is a detailed description of what is transferred to whom and who owns what. In the last paragraph of that page you will find that the "resultant Parcel 1" for the Dan and Teresa trust is on Exhibit C (page 11 of 12 of the attached file). The map on the last page shows the resultant parcel for Dan and Teresa.

I've copied Keith and Dan, just so they have a record of this. There will be more people confused by this, but I do believe that all is fine.

Let me know if you need anything else.

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
Licensed in Oregon and Washington
(971) 250-1520 (cell, text, voicemail)

From: [REECE Ann L * WRD](#)
Sent: Wednesday, October 6, 2021 8:04 AM
To: ericurstadt@hotmail.com
Subject: T-13837 TVID/FISHBACK: G-12612

Hi Eric,

I noticed that the deed is in the name of NISH Land, LLC and TD Farm, LLC for the land under G-12612. I should probably know this, but did you also send in an assignment for this permit? It is currently in the name of Keith R and Dan H Fishback.

The affidavit is in the name of Dan H and Teresa L Fishback Living Trust. Can you provide a nexus between these folks and the two LLC's on the deed?

<image003.png>

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214

<image002.jpg>

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******Teleworking *** Mon, Tu, Wed, Thurs 7:00 to 4:45; Fri 7:00 to 11AM**

email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

Washington County Parcel Information

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

**TICOR TITLE COMPANY**Parcel Information

Parcel #: R732862
 Tax Lot: 1N3050000700
 Site Address: 40065 NW Wilkesboro Rd
 Banks OR 97106 - 8104
 Owner: Nish Land LLC
 Owner2:
 Owner Address: 40065 NW Wilkesboro Rd
 Banks OR 97106 - 8104
 Twn/Range/Section: 01N / 03W / 05 / NW
 Parcel Size: 40.23 Acres (1,752,419 SqFt)
 Plat/Subdivision:
 Lot:
 Block:
 Map Page/Grid: 532-B7
 Census Tract/Block: 032800 / 1027

Assessment Information

Market Value Land: \$0.00
 Market Value Impr: \$882,950.00
 Market Value Special: \$618,070.00
 Market Value Total: \$1,501,020.00
 Assessment Year: 2021
 Assessed Value: \$644,650.00

Tax Information

Levy Code: 13.12
 Levy Rate: 12.0914
 Tax Year: 2020
 Annual Tax: \$7,794.73
 Exemption: \$0.00

Legal

ACRES 40.23, POTENTIAL ADD'L TAX LIABILITY

Land

Cnty Land Use: 5515 - Specially Assessed - Zoned Farmland - Improved
 Land Use Std: AFAR - Farms And Crops
 Neighborhood: Cpo 13 Roy/Verboort
 Watershed: Dairy Creek
 Primary School: Banks Elementary School
 High School: Banks High School

Cnty Bldg Use: R1 - Residence Single Family

Zoning: Washington Co.-EFU - Exclusive Farm Use District

Recreation:

School District: 13 - Banks

Middle School: Banks Middle School

Improvement

Year Built: 1956	Bedrooms: 4	Bathrooms: 3
1st Floor: 1,958 SqFt	2nd Floor: 976 SqFt	Building Total: 2,934 SqFt
Garage: Finished Garage - 624 SqFt	Attic Fin/Unfin: 976 SqFt / 1,047 SqFt	Building Fin: 7,842 SqFt
A/C: Yes	Basement Fin. SqFt: 0 SqFt	Basement Unfin:
Heat:	Exterior Walls: Wood Sheathing	Roof Covering: Composition Shingle

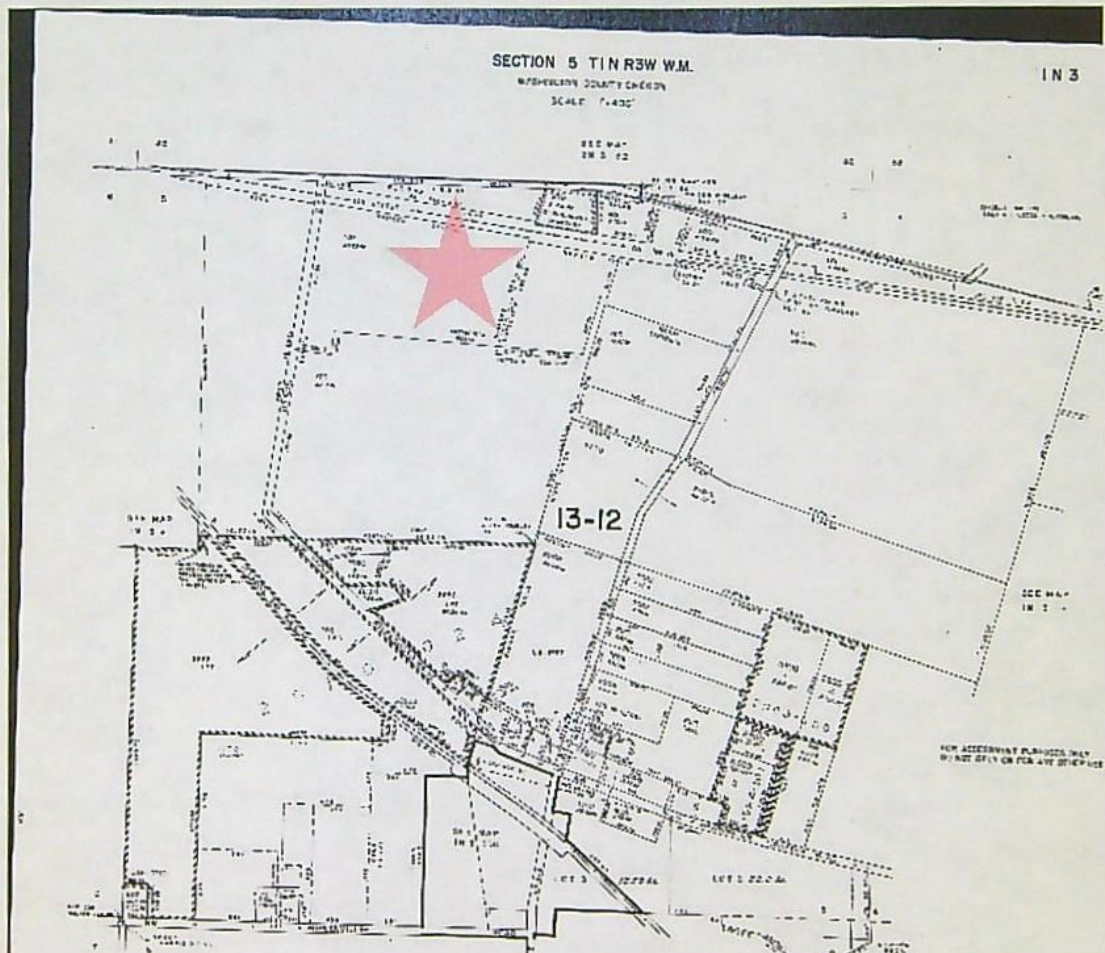
Transfer Information

Rec. Date: 06/03/2021	Sale Price:	Doc Num: 64803	Doc Type: Deed
Owner: Nish Land LLC		Grantor: FISHBACK D H & T L LVG TRUST	
Orig. Loan Amt:		Title Co: FIDELITY NATIONAL TITLE CO/OR	
Finance Type:	Loan Type:	Lender:	

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

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By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021



TICOR TITLE COMPANY

Parcel ID: R732862

Site Address: 40065 NW Wilkesboro Rd

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RECEIVED

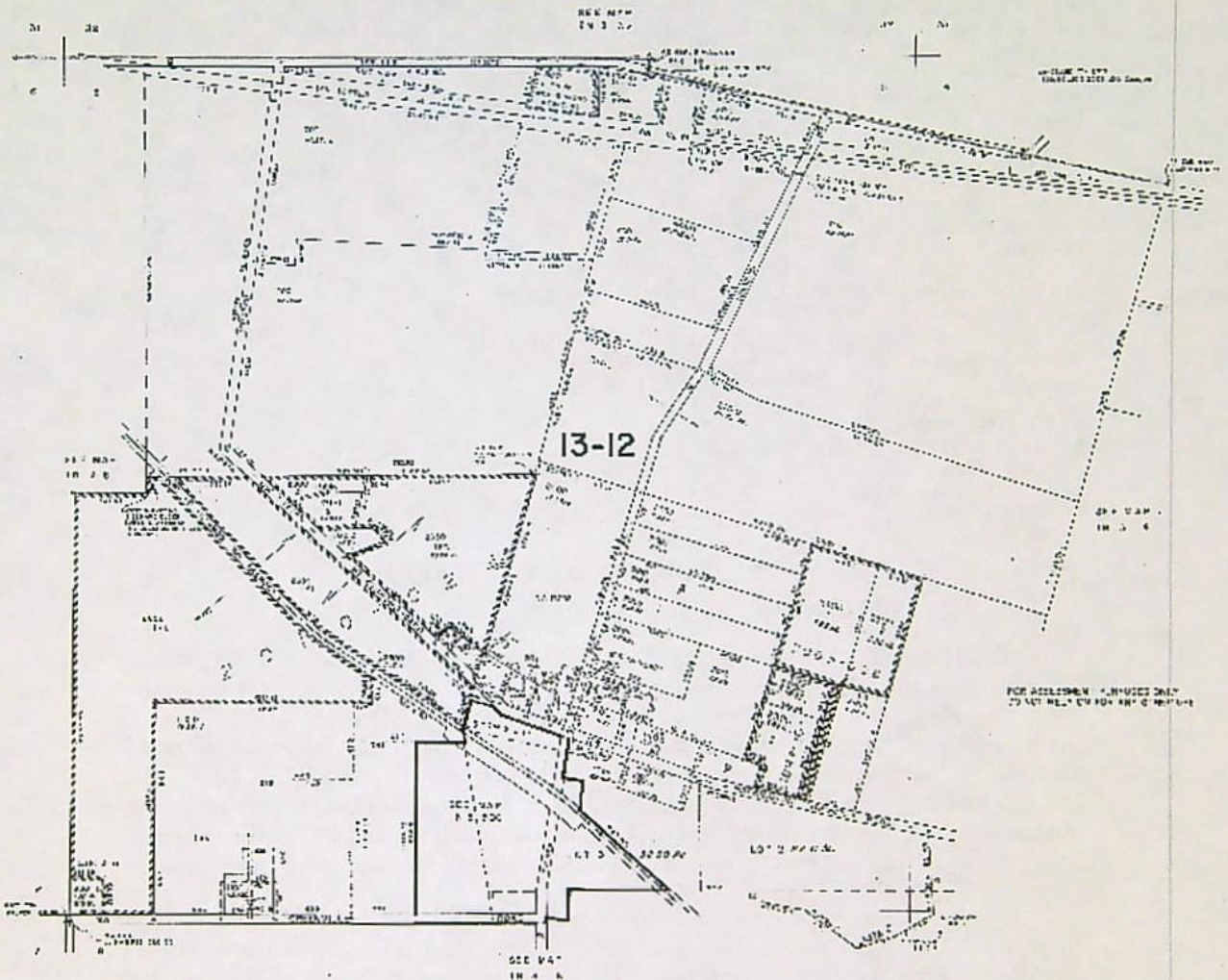
By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

SECTION 5 T1N R3W W.M.

WASHINGTON COUNTY OREGON

573 E 1-103

IN 3 5



IN 3 5



TICOR TITLE COMPANY

Parcel ID: R732862

Site Address: 40065 NW Wilkesboro Rd

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

FIDELITY NATIONAL TITLE 45142112076-01 com

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

GRANTOR'S NAME/ADDRESS:

Dan H. Fishback, Co-Trustee
Teresa L. Fishback, Co-Trustee
Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust
40065 NW Wilkesboro Rd
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

NISH Land, LLC
TD Farm, LLC
40065 NW Wilkesboro Rd
Banks, OR 97106

AFTER RECORDING, RETURN TO:

Larry D. Moomaw
Moomaw Mesirow & Godfrey, LLP
4145 SW Watson Ave., Suite 515
Beaverton, OR 97005

**UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:**

Keith R. Fishback
40065 NW Wilkesboro Rd
Banks, OR 97106

Washington County, Oregon

2021-064803

D-DW

Stn=2 S AKINS

06/03/2021 03:48:30 PM

\$45.00 \$11.00 \$5.00 \$60.00

\$121.00

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
Assessment and Taxation, Ex-Officio

STATUTORY WARRANTY DEED

(Property Line Adjustment – Case File No. 18-219-PLA/PLA)

Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, own that certain real property in Washington County, Oregon described on the attached Exhibit A. Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, Grantor, convey and warrant to NISH Land, LLC, an Oregon limited liability company and TD Farm, LLC, an Oregon limited liability company, Grantee, that certain real property described on Exhibit A-1 and depicted on Exhibit A-2 (the "Phase 1 Transfer Parcel"), free of encumbrances except encumbrances of record this date.

The true consideration for the conveyance of the Phase 1 Transfer Parcel stated in terms of dollars is -0- but consists of other good and valuable consideration which is the whole consideration. This Statutory Warranty Deed ("Deed"), together with the Statutory Warranty Deed by NISH Land, LLC and TD Farm, LLC, as Grantor, referencing the "Phase 1 Transfer Parcel" of even date herewith, are to effectuate and clarify the Property Line Adjustment approved by the Washington County Department of Land Use and Transportation on July 20, 2018 in case File No. 18-219-PLA/PLA and the Statutory Warranty Deed recorded in Washington County, Oregon, as Instrument Number 2018-059413.

The parcel of the real property owned by Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, is the parcel described on Exhibit C to this Deed and depicted on Exhibit C-1 (the "Resultant Parcel 1").

This instrument filed for record by
Fidelity National Title as an accommodation
only. It has not been examined as to its
execution or as to its effect upon the title.

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

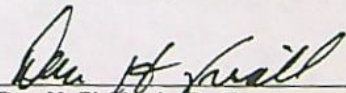
In compliance with ORS 92.190(4), the deed by which Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. and Teresa L. Fishback Revocable Living Trust acquired title to the property legally described on the attached Exhibit A-1 and which is being conveyed by this Deed is recorded in the official records of Washington County, Oregon as Document No. 2008-000159.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007M SECTIONS 2 TO 9 AND 17, CHAPTER 855 OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.


IN WITNESS WHEREOF, the undersigned have executed this Statutory Warranty Deed as of June 3, 2021.

GRANTOR:

*The Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust dated November 13, 2007*



Dan H. Fishback, Co-Trustee



Teresa L. Fishback, Co-Trustee

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Dan H. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.

RECEIVED

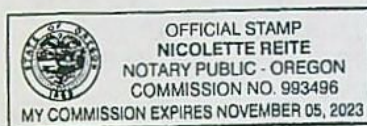
By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021



Nicolette Reite
Notary Public for Oregon

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Teresa L. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.



Nicolette Reite
Notary Public for Oregon

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

EXHIBIT A

PORTIONS OF THOSE PARCELS OF LAND AS DESCRIBED IN DEED DOCUMENTS 97111928 AND 94081247, OF RECORD IN COUNTY OF WASHINGTON AND STATE OF OREGON; SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A PART OF THE ROBERT WALKER AND MANERVA WALKER DONATION LAND CLAIM (DLC) NO. 80, IN SECTION 5 TOWNSHIP 1 NORTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE EAST LINE OF SAID WALKER DLC COMMON WITH THE WEST LINE OF THE WILLIAM WILSON DLC NO. 37, SAID POINT BEING S 16° 16' 32" W 464.83 FEET FROM THE MONUMENTED NORTHWEST CORNER OF SAID WILSON DLC AND ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY(ROW), (SAID ROW BEING 80.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS), SAID POINT IS MARKED BY A 5/8 INCH BY 30 INCH IRON ROD WITH ALUMINUM CAP MONUMENT (TYPICAL) SET; AND RUNNING THENCE S 16° 16' 32" W, ON SAID COMMON DLC LINE, 327.79 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 16° 16' 32" W 50.00 FEET; THENCE N 82° 17' 30" W 50.00 FEET TO A POINT; THENCE S 16° 16' 32" W, PARALLEL WITH SAID COMMON DLC LINE, 427.00 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 85° 49' 30" E 50.58 FEET; THENCE N 85° 49' 30" W 1806.98 FEET TO A MONUMENT SET; THENCE S 4° 53' 00" W 167.00 FEET TO A MONUMENT SET; THENCE N 83° 23' 00" W 259.13 FEET, MORE OR LESS, TO THE CENTER OF COUNTY ROAD, AS CALLED FOR IN DEED, FROM WHICH A REFERENCE MONUMENT IS SET S 33° 23' 00" E 35.00 FEET; THENCE N 08° 46' 40" E, (DEED BEARING N 8° 03'E) IN CENTER OF ROAD, 1049.65 FEET TO A POINT ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY; (SAID ROW BEING 60.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS) THENCE S 82° 17' 32" E, (DEED BEARING S82° 23'E) ON SAID RIGHT-OF-WAY, 1549.01 FEET (DEED CALL 23.47 CH.) TO AN ANGLE POINT THEREON; THENCE S 14° 30' 00" W (DEED BEARING) 20.14 FEET TO AN ANGLE POINT THEREON; THENCE S 82° 17' 30" E, ON SAID RIGHT-OF-WAY, 650.63 FEET TO THE POINT OF BEGINNING.

EXCLUDING ANY PORTION IN COUNTY ROAD.

SAID PARCEL CONTAINS 40.23 ACRES, MORE OR LESS, EXCLUDING PORTION IN COUNTY ROAD.
FOR BASIS OF LAND SURVEY BEARINGS SEE U.S.B.T. BOOK 9, PAGE 292, NOTE (2) ENTRY NO.99, DATED SEPT 14, 1995, BEARING ON DLC LINE OF S 16° 16' 32" W ON WHICH JERRY S. MARIS, P.L.S. BASED HIS SURVEY IN DEC. OF 2004.

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

EXHIBIT "A-1"

A tract of land for Property Line Adjustment purposes, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 & N.E. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet to the TRUE POINT OF BEGINNING of the herein described tract;

Thence continuing along said centerline, South 08°03'44" West, 38.82 feet to an angle point therein;

Thence continuing along said centerline, South 08°15'57" West, 117.94 feet;

Thence leaving said centerline, along the Southwesterly line of said Fishback tract, South 83°22'14" East, 246.89 feet;

Thence continuing along said Southwesterly line, North 04°56'38" East, 166.93 feet to the re-entrant corner thereof;

Thence North 85°49'01" West, 237.86 to the True Point of Beginning.

TOGETHER WITH the following described portion of said Fishback tract:

Beginning at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence leaving said right-of-way line South 08°03'44" West, 824.93 feet to the Northerly line of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Document No. 2004-148929, said Deed Records;

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

Thence along the Northerly and Westerly lines of last said tract, South 85°49'01" East, 925.54 feet;

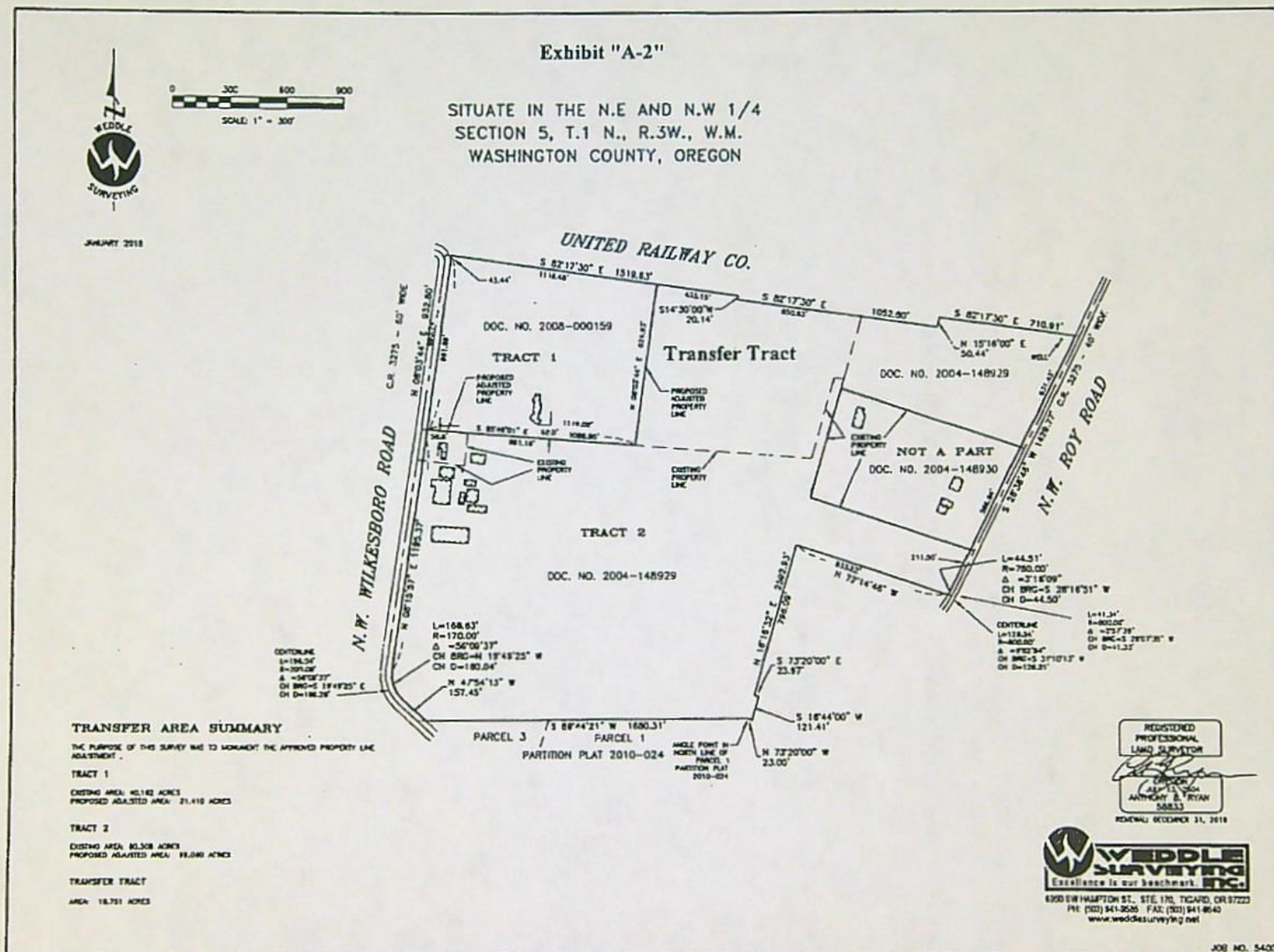
Thence North 16°16'32" East, 427.01 feet;

Thence South 82°17'30" East, 50.02 feet;

Thence North 16°16'32" East, 329.43 feet to the Point of Beginning.

Combined total of both above-described tracts containing therein 18.751 net acres, more or less (excluding the area within County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868. Washington County Survey Records.



RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

EXHIBIT "C"

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet to the TRUE POINT OF BEGINNING of the tract herein described:

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

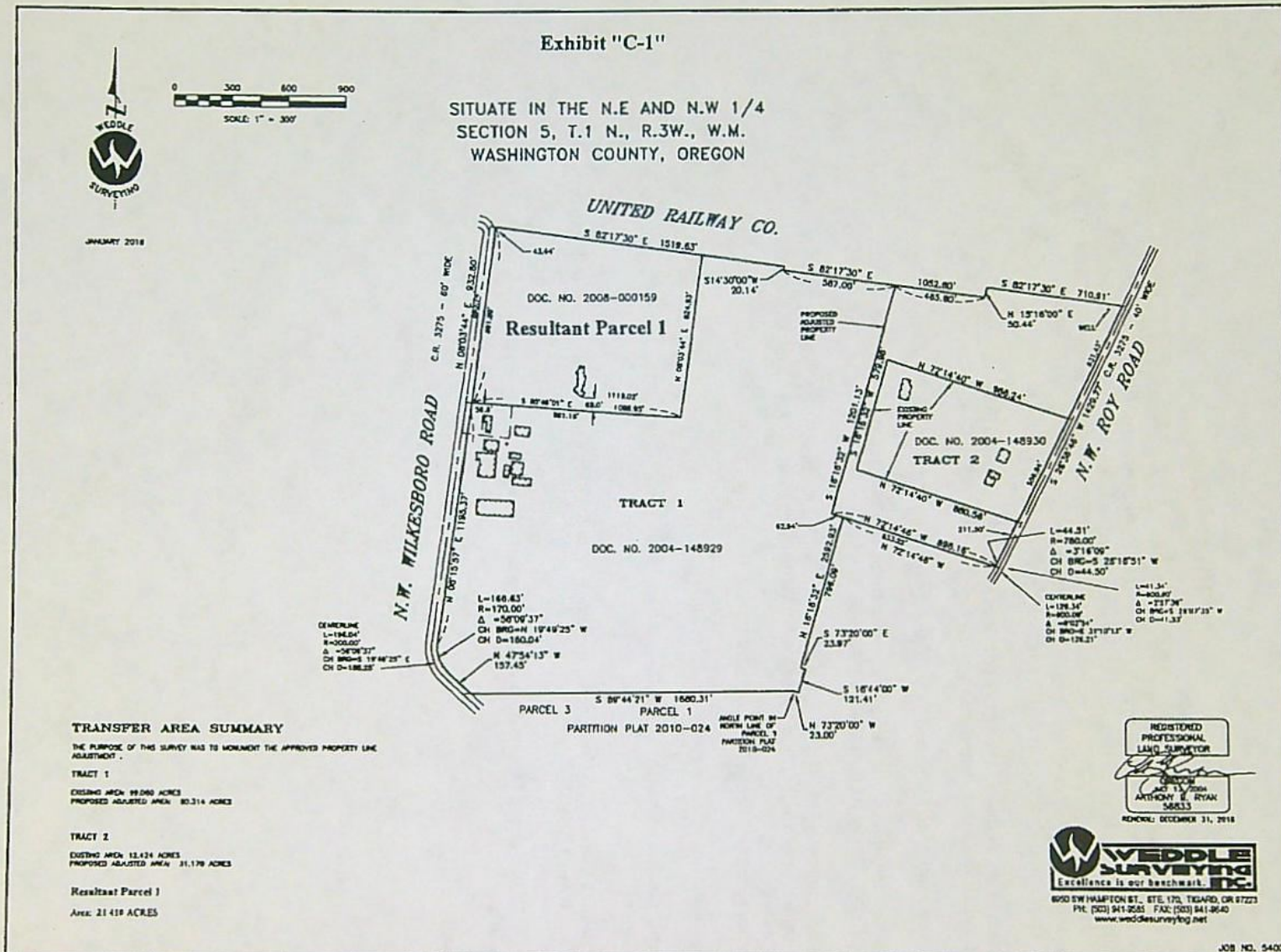
Thence along said centerline, South 08°03'44" West, 893.74 feet;

Thence leaving said centerline, South 85°49'01" East, 1119.02 feet;

Thence parallel with said County Road, North 08°03'44" East, 824.93 feet to the True Point of Beginning.

Containing therein 21.410 net acres, more or less, (excluding area within the right-of-way of County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.



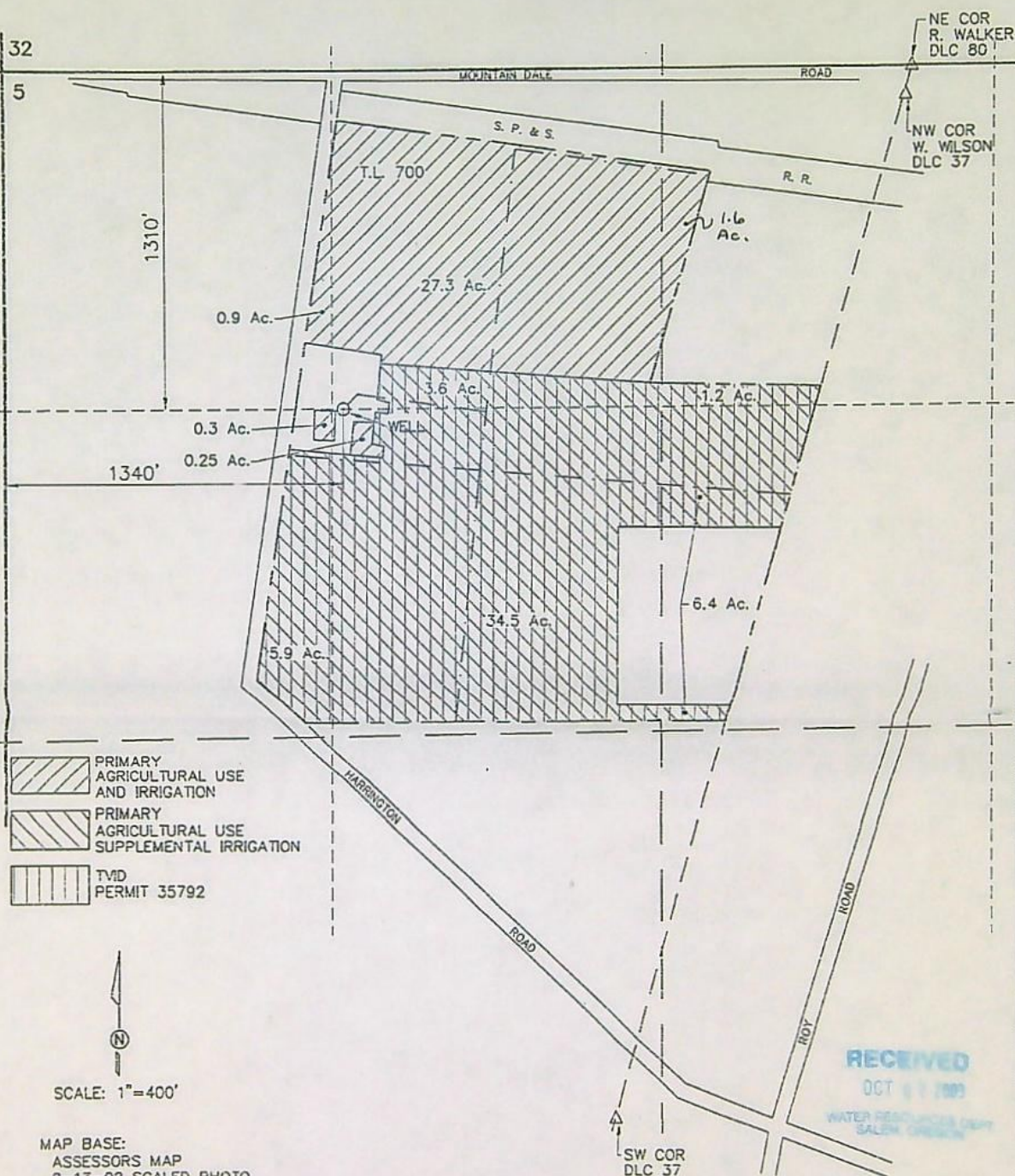
RECEIVED
By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

SECTION 5, T.1 N., R.3 W., W.M.

WASHINGTON COUNTY, OREGON

31 32

6 5



-  PRIMARY AGRICULTURAL USE AND IRRIGATION
-  PRIMARY AGRICULTURAL USE SUPPLEMENTAL IRRIGATION
-  TMD PERMIT 35792

FINAL PROOF SURVEY

UNDER

APPLICATION G-14113

PERMIT G-12612

SURVEYED SEPTEMBER 3, 2003

PREPARATION OF THIS MAP IS FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF THE WATER RIGHT ONLY. THERE IS NO INTENT TO PROVIDE DIMENSIONS OR LOCATION OF PROPERTY OWNERSHIP LINES.



VERBOORT ENGINEERING

AGRICULTURE · CIVIL · WATER RESOURCES
HILLSBORO, OREGON

	by	date
designed	WRV	09/10/03
drawn	ER	09/10/03
checked	WRV	09/10/03
drawing no.	03-B-16	
sheet no.	1 / 1	

KEITH R. and DAN H. FISHBACK

40065 NW WILKESBORO RD,
BANKS, OR 97106

LSU 10-8-03
entered in Pdx

CLAIM OF BENEFICIAL USE AND SITE REPORT

APPLICATION G-14113
PERMIT G-12612

The permittees are Keith R. and Dan H. Fishback. The new mailing address is 40065 NW Wilkesboro Road, Banks, OR 97106. The nursery location is as shown on the Proof Survey Map.

Keith Fishback was interviewed at the site by the CWRE on September 3, 2003. At that time the pump was operated, meter readings recorded and the irrigated area delineated on a 1"=400', 2002 scaled color photo.

SUMMARY OF FINDINGS

The permit allowed for irrigation and agricultural use (nursery operations) on 86.5 acres. Of this 81.95 acres were developed. As the mapping shows 30.35 acres are primary for agricultural use and irrigation and 51.6 acres are primary for agricultural use and supplemental for irrigation.

A totalizer meter is installed in the mainline in the pump well. Over a timed period of 20 minutes and 45 seconds the discharge of 1800 gallons averaged 86.7 gpm. During this test water was being pumped to the outlet used to fill spray tanks. The system has adequate capacity to meet or exceed the permit rate.

Static water levels have been recorded and provided to the groundwater section at the ODWR Salem office, beginning in July 2001 and then in March of 2002 and 2003. Static level measurements can be obtained through a port in the well head.

PURPOSE AND SOURCE

The permit is for irrigation and agricultural use (nursery operations) for 86.5 acres from a well in the Dairy Creek basin.

81.95 acres have been developed from the well noted in the permit.

DIVERSION POINT AND USE AREAS

The well and irrigated areas were located on a 1"=400' scaled color photo taken in August of 2002. The well and irrigated lands were easily identifiable on the photo.

In addition to the field irrigation/nursery use, water is used inside two large warehouses.

This water use is irrigation, humidity control and plant processing for the bare root trees that are processed and stored in the warehouses between digging and shipping the product.

Water from the well is also used for filling spray tanks and similar agricultural uses such as pre-digging field watering.

SYSTEM EQUIPMENT DATA

As noted on a billing statement the pump is a 7.5 Hp electric submersible turbine.

There is about 5500' of buried PVC mainline on the nursery. In addition there are about 200 sections (8000') of 3"-dia lateral lines with sprinklers. Sprinklers are primarily single nozzle type with 3/16" diameter nozzles. The nursery also has a big gun sprinkler. The big gun sprinkler operates only with water supplied by the Tualatin Valley Irrigation District (TVID).

The plant materials irrigated are primarily in-ground nursery stock. The irrigation system is 40'x60' semi solid set sprinklers. A typical set time is 4 hours depending on time of season. The return interval is typically 21 days.

As a check to the pump test, the permittee stated that when using the well they typically run 10 to 12 sprinklers. The well will then operate at about 50 to 55 psi at the well head. Assuming a 10% line loss (5psi) the sprinklers would deliver 7gpm for a total of 70 to 84 gpm delivered. The irrigation system was not running on 9-10-03 however the CWRE did assist with and observe the pump/meter test on that date.

PERMIT CONDITIONS

Measurement

A. A totalizer meter was located in the mainline near the pump when the CWRE did the proof survey. The meter was operating.

B. The watermaster may have access to the meter with reasonable notice to Mr. Fishback.

(A, B & C) The CWRE has been reporting static levels since 07-12-01 when a reminder was sent to the permittee by ODWR. March static levels were completed in 2002 and 2003 by the CWRE.

Permit Dates

The well was constructed prior to the permittee owning the property. Construction and application times have been met.

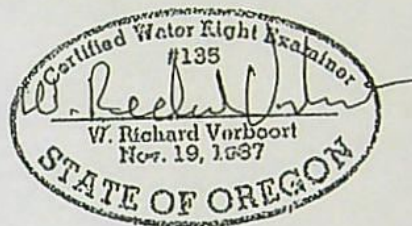
PLACE AND SOURCE OF USE

Water has been used from the well on the acreage shown on the final proof survey map. Water from the well has been used for other agricultural purposes as allowed by definition. Water has been used from TVID in accordance with its conditions.

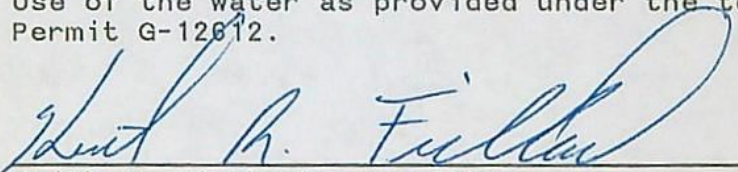
CERTIFICATION

The final proof survey and inspection of the use as found to be complete under the terms and conditions of Permit G-12612 was completed by me on September 3, 2003. The facts contained in this report and accompanying final proof map are correct to the best of my knowledge.

W. Richard Verboort, P.E.
CWRE



I, Keith R. Fishback the permittee, agree to the findings of the CWRE and submit this site report and map as Claim of Beneficial Use of the water as provided under the terms and conditions of Permit G-12612.


Keith R. Fishback, permittee

10/6/03
date

ATT: Computations, one page.

ENCLS: 11"x17" mylar map, Verboort Engineering No. 03-B-16

NOTE: The CWRE did not do a 4-hour pump down test. The permittee will make arrangements for that and provide the results to ODWR staff at a later date.

VERBOORT ENGINEERING
Agriculture • Civil • Water Resources
HILLSBORO, OREGON
(503) 670-9100

JOB KEITH FISHBACK
SHEET NO. 1 OF 1
CALCULATED BY R. VERBOORT DATE 7-2-03
CHECKED BY _____ DATE _____
SCALE _____

RE PERMIT G-12612

FROM OWNER

10-12 SPRINKLERS, 3/16" SINGLE NOZZLE

PRESSURE AT WELL HEAD 50-55 PSI

TRIAL

ASSUME 10% head loss in system

RAIN BIRD

50 PSI = 7.2 gpm (ie 55-5)

10 x 7.2 = 72 gpm

12 x 7.2 = 86.4 gpm

45 PSI = 6.8 gpm

12 x 6.8 = 81.6 gpm

CAN MEET OR EXCEED PERMIT. ✓

RECEIVED

OCT 07 2003

WATER RESOURCES DEPT.
SALEM, OREGON



Oregon
Kate Brown, Governor

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

October 5, 2021

TUALATIN VALLEY IRRIGATION DISTRICT
2330 ELM STREET
FOREST GROVE, OR 97116

Reference: District Permanent Transfer T-13837

On September 29, 2021, we received your district transfer application requesting PLACE OF USE changes. The application was accompanied by \$1970.00. Your receipt number 136491 is enclosed.

By copy of this letter, we are asking the Watermaster for their report regarding the potential for injury to existing water rights which may be caused by the change.

This application will be published on the Department's weekly notice dated October 5, 2021, viewable at http://apps.wrd.state.or.us/apps/misc/wrd_notice_view/?notice_id=21. A copy of the application can be assessed through this public notice link. Pursuant to Oregon administrative rules, the Department is requesting public comments on the recently filed district transfer application listed above. Comments may be submitted by any interested persons within 30 days of the weekly notice publication date. Comments must be received by the Department on or before November 4, 2021. For details on how to file comments please refer to the Department's weekly notice. Details for filing protests, if applicable, are also noted on the weekly notice.

If you have any questions, please call the Transfer Section, (503) 979-9931.

cc: Watermaster # 18, Jacob W. Constans (*via email*)
Eric Urstadt, Agent
File

Enclosure



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

September 13, 2021

Roy Nursery Inc.
40065 NW Wilkesboro Road
Banks, OR 97106

Reference: Application G-14113, Permit G-12612

The partial assignment from Keith R. and Dan H. Fishback to Dan H. Fishback and Teresa L. Fishback Revocable Living Trust has been recorded in the records of the Water Resources Department.

The Departments records will now show Keith R. and Dan H. Fishback, and Dan H. Fishback and Teresa L. Fishback Revocable Living Trust as the permit holders of record.

Our records have been changed accordingly and the original request is enclosed. Receipt number 136368 covering the recording fee is also enclosed.

A permit is not a perfected water right, and has conditions and timelines that must be satisfied prior to a Certificate of Water Right being issued. Please review the permit to be familiar with the conditions and timelines contained in the permit.

Please note that the Department has not received a Pump Test as required by the permit. Until such time that a Pump Test is submitted and approved, the Department is unable to complete the review of your Claim.

Sincerely,

Mary F. Bjork
Water Rights Program Analyst
Water Right Services Division

Enclosure: Original Request, Map & Receipt #136368

cc: Keith R. & Dan H. Fishback – 14985 NW Springville Road, Portland, OR 97229
Eric Urstadt, Aspen Rural Land Consulting – 39290 NW Murtaugh Rd., North Plains, OR 97133
Data Center, OWRD (cover letter & request)
File



AFFIDAVIT FOR THE PARTIAL DIMINUTION OF A WATER RIGHT PERMIT

State of Oregon)
) ss
County of Washington)

I/We (or authorized agent), Dan H. Fishback and Teresa L. Fishback Living Trust, residing at 40065 NW Wilkesboro Road, Banks, OR 97106, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 700, within the NE $\frac{1}{4}$, NW $\frac{1}{4}$, Section 5, Township 1N, Range 3W, of the Willamette Meridian, in Washington County, Oregon, as shown on the attached map and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right permit number G-12612 issued to Dan and Keith R. and Dan H. Fishback, with a date of priority of June 23, 1995 for use of 0.00370 CFS / AF ((= 0.16 for Irrig + 0.16 for Agric)/86.5) of water from a well in Dairy Creek basin (sources) for the purpose of Irrigation and Agriculture (uses) is appurtenant to my/our property;
3. The appurtenant water right is located within the boundaries of an irrigation, drainage, water improvement, or water control district, or federal reclamation project (if the right is located within a district or reclamation project, name it here: Tualatin Valley Irrigation District);
4. If the water right is issued in the name of an irrigation district, then the affiant must have the concurrence of the district to the diminishment of the portion of the water right. (Signature of district manager on the line below documents concurrence of the district.)

N/A	N/A	N/A
Signature of District Manager	Printed Name	Date
5. We have obtained a more economical (e.g., better, more economical) source of water for the primary irrigation of the portion of this water right shown on the attached map and described as follows: The right to the use of Irrigation 0.00185 CFS / AF (0.16/86.5 AC) from a well in Dairy Creek basin for the irrigation of 11.9 acres located:

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 11.9Acres
Section 5
Township 1 N, Range 3 W, WM;

**AFFIDAVIT FOR THE PARTIAL DIMINUTION OF A
WATER RIGHT PERMIT
(CONTINUED)**

6. We request the water right be diminished to a right for supplemental irrigation of the lands described above in item #5;

7. We agree that if this change is approved, it is permanent and the right to the use of water from a well in Dairy Creek basin (source) cannot be changed back to the primary source unless otherwise provided by law. We also agree that so long as there is sufficient water available from the new primary source, I am/we are not entitled to use any water from a well in Dairy Creek basin (source) for primary irrigation of these lands.

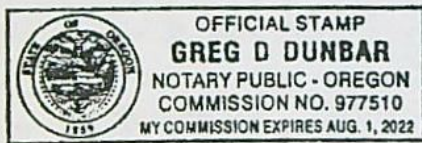
Don H. Fisher
Signature of legal owner as listed on deed, or authorized agent

9/29/21
Date

Olivera L. Fisherack
Signature of legal co-owner as listed on deed
(if applicable)

9/29/21
Date

Subscribed and Sworn to Before Me this 29 day of Sept. 2021.



[Signature]
Notary Public for Oregon

My Commission Expires Aug 1, 2022

PLEASE ATTACH A LEGIBLE COPY OF : 1) A DEED WHICH LISTS LAND OWNERS AND INCLUDES A LEGAL DESCRIPTION OF AFFECTED LANDS, AND 2) AN ADJUDICATION MAP, WATER RIGHT FINAL PROOF MAP, OR A TAX LOT MAP WITH THE PORTION OF THE WATER RIGHT AND/OR LANDS TO BE DIMINISHED CLEARLY DRAWN AND IDENTIFIED. IF ACTING AS AN AUTHORIZED AGENT, INCLUDE COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTS GRANTING AUTHORITY TO ACT ON BEHALF OF LEGAL OWNER(S) AS LISTED ON THE DEED.

Washington County Parcel Information

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

**TICOR TITLE COMPANY**Parcel Information

Parcel #: R732862
 Tax Lot: 1N3050000700
 Site Address: 40065 NW Wilkesboro Rd
 Banks OR 97106 - 8104
 Owner: Nish Land LLC
 Owner2:
 Owner Address: 40065 NW Wilkesboro Rd
 Banks OR 97106 - 8104
 Twn/Range/Section: 01N / 03W / 05 / NW
 Parcel Size: 40.23 Acres (1,752,419 SqFt)
 Plat/Subdivision:
 Lot:
 Block:
 Map Page/Grid: 532-B7
 Census Tract/Block: 032800 / 1027

Assessment Information

Market Value Land: \$0.00
 Market Value Impr: \$882,950.00
 Market Value Special: \$618,070.00
 Market Value Total: \$1,501,020.00
 Assessment Year: 2021
 Assessed Value: \$644,650.00

Tax Information

Levy Code: 13.12
 Levy Rate: 12.0914
 Tax Year: 2020
 Annual Tax: \$7,794.73
 Exemption: \$0.00

Legal

ACRES 40.23, POTENTIAL ADD'L TAX LIABILITY

Land

Cnty Land Use: 5515 - Specially Assessed - Zoned Farmland - Improved
 Land Use Std: AFAR - Farms And Crops
 Neighborhood: Cpo 13 Roy/Verboort
 Watershed: Dairy Creek
 Primary School: Banks Elementary School
 High School: Banks High School

Cnty Bldg Use: R1 - Residence Single Family
 Zoning: Washington Co.-EFU - Exclusive Farm Use District
 Recreation:
 School District: 13 - Banks
 Middle School: Banks Middle School

Improvement

Year Built: 1956	Bedrooms: 4	Bathrooms: 3
1st Floor: 1,958 SqFt	2nd Floor: 976 SqFt	Building Total: 2,934 SqFt
Garage: Finished Garage - 624 SqFt	Attic Fin/Unfin: 976 SqFt / 1,047 SqFt	Building Fin: 7,842 SqFt
A/C: Yes	Basement Fin. SqFt: 0 SqFt	Basement Unfin:
Heat:	Exterior Walls: Wood Sheathing	Roof Covering: Composition Shingle

Transfer Information

Rec. Date: 06/03/2021	Sale Price:	Doc Num: 64803	Doc Type: Deed
Owner: Nish Land LLC		Grantor: FISHBACK D H & T L LVG TRUST	
Orig. Loan Amt:		Title Co: FIDELITY NATIONAL TITLE CO/OR	
Finance Type:	Loan Type:	Lender:	

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

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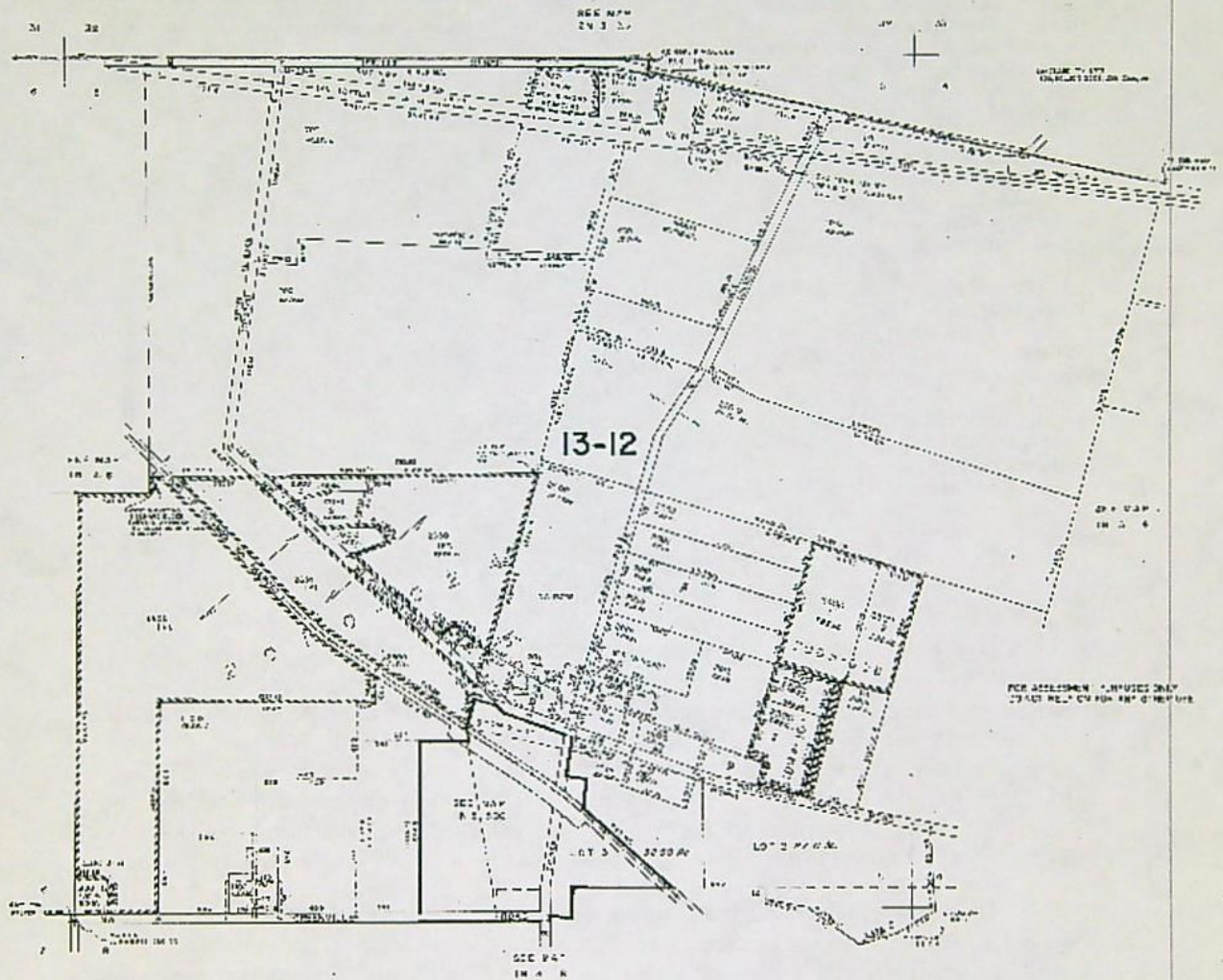
By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

SECTION 5 T1N R3W W.M.

WASHINGTON COUNTY OREGON

SCALE 1"=200'

IN 3 5



IN 3 5



TICOR TITLE COMPANY

Parcel ID: R732862

Site Address: 40065 NW Wilkesboro Rd

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

FIDELITY NATIONAL TITLE 4514212076-01 COM

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

GRANTOR'S NAME/ADDRESS:

Dan H. Fishback, Co-Trustee
Teresa L. Fishback, Co-Trustee
Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust
40065 NW Wilkesboro Rd
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

NISH Land, LLC
TD Farm, LLC
40065 NW Wilkesboro Rd
Banks, OR 97106

AFTER RECORDING, RETURN TO:

Larry D. Moomaw
Moomaw Mesirov & Godfrey, LLP
4145 SW Watson Ave., Suite 515
Beaverton, OR 97005

**UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:**

Keith R. Fishback
40065 NW Wilkesboro Rd
Banks, OR 97106

Washington County, Oregon

2021-064803

D-DW

06/03/2021 03:48:30 PM

Stn=2 S AKINS

\$45.00 \$11.00 \$5.00 \$60.00

\$121.00

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
Assessment and Taxation, Ex-Officio

STATUTORY WARRANTY DEED

(Property Line Adjustment – Case File No. 18-219-PLA/PLA)

Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, own that certain real property in Washington County, Oregon described on the attached Exhibit A. Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, Grantor, convey and warrant to NISH Land, LLC, an Oregon limited liability company and TD Farm, LLC, an Oregon limited liability company, Grantee, that certain real property described on Exhibit A-1 and depicted on Exhibit A-2 (the "Phase 1 Transfer Parcel"), free of encumbrances except encumbrances of record this date.

The true consideration for the conveyance of the Phase 1 Transfer Parcel stated in terms of dollars is -0- but consists of other good and valuable consideration which is the whole consideration. This Statutory Warranty Deed ("Deed"), together with the Statutory Warranty Deed by NISH Land, LLC and TD Farm, LLC, as Grantor, referencing the "Phase 1 Transfer Parcel" of even date herewith, are to effectuate and clarify the Property Line Adjustment approved by the Washington County Department of Land Use and Transportation on July 20, 2018 in case File No. 18-219-PLA/PLA and the Statutory Warranty Deed recorded in Washington County, Oregon, as Instrument Number 2018-059413.

The parcel of the real property owned by Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, is the parcel described on Exhibit C to this Deed and depicted on Exhibit C-1 (the "Resultant Parcel 1").

This instrument filed for record by
Fidelity National Title as an accommodation
only. It has not been examined as to its
execution or as to its effect upon the title.

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

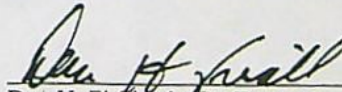
In compliance with ORS 92.190(4), the deed by which Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. and Teresa L. Fishback Revocable Living Trust acquired title to the property legally described on the attached Exhibit A-1 and which is being conveyed by this Deed is recorded in the official records of Washington County, Oregon as Document No. 2008-000159.


BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007M SECTIONS 2 TO 9 AND 17, CHAPTER 855 OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this Statutory Warranty Deed as of June 3, 2021.

GRANTOR:

*The Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust dated November 13, 2007*


Dan H. Fishback, Co-Trustee


Teresa L. Fishback, Co-Trustee

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Dan H. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.

RECEIVED

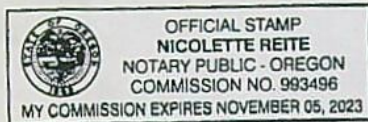
By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021



Nicolette Reite
Notary Public for Oregon

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Teresa L. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.



Nicolette Reite
Notary Public for Oregon

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

EXHIBIT A

PORTIONS OF THOSE PARCELS OF LAND AS DESCRIBED IN DEED DOCUMENTS 97111926 AND 94081247, OF RECORD IN COUNTY OF WASHINGTON AND STATE OF OREGON; SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A PART OF THE ROBERT WALKER AND MANERVA WALKER DONATION LAND CLAIM (DLC) NO. 80, IN SECTION 5 TOWNSHIP 1 NORTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE EAST LINE OF SAID WALKER DLC COMMON WITH THE WEST LINE OF THE WILLIAM WILSON DLC NO. 37, SAID POINT BEING S 16° 16' 32" W 464.83 FEET FROM THE MONUMENTED NORTHWEST CORNER OF SAID WILSON DLC AND ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY(ROW), (SAID ROW BEING 80.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS), SAID POINT IS MARKED BY A 5/8 INCH BY 30 INCH IRON ROD WITH ALUMINUM CAP MONUMENT (TYPICAL) SET; AND RUNNING THENCE S 16° 16' 32" W, ON SAID COMMON DLC LINE, 327.79 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 16° 16' 32" W 50.00 FEET; THENCE N 82° 17' 30" W 50.00 FEET TO A POINT; THENCE S 16° 16' 32" W, PARALLEL WITH SAID COMMON DLC LINE, 427.00 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 85° 49' 30" E 50.58 FEET; THENCE N 85° 49' 30" W 1806.98 FEET TO A MONUMENT SET; THENCE S 4° 53' 00" W 167.00 FEET TO A MONUMENT SET; THENCE N 83° 23' 00" W 259.13 FEET, MORE OR LESS, TO THE CENTER OF COUNTY ROAD, AS CALLED FOR IN DEED, FROM WHICH A REFERENCE MONUMENT IS SET S 33° 23' 00" E 35.00 FEET; THENCE N 08° 46' 40" E, (DEED BEARING N 8° 03'E) IN CENTER OF ROAD, 1049.65 FEET TO A POINT ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY; (SAID ROW BEING 60.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS) THENCE S 82° 17' 32" E, (DEED BEARING S82° 23'E) ON SAID RIGHT-OF-WAY, 1549.01 FEET (DEED CALL 23.47 CH.) TO AN ANGLE POINT THEREON; THENCE S 14° 30' 00" W (DEED BEARING) 20.14 FEET TO AN ANGLE POINT THEREON; THENCE S 82° 17' 30" E, ON SAID RIGHT-OF-WAY, 650.63 FEET TO THE POINT OF BEGINNING.

EXCLUDING ANY PORTION IN COUNTY ROAD.

SAID PARCEL CONTAINS 40.23 ACRES, MORE OR LESS, EXCLUDING PORTION IN COUNTY ROAD.
FOR BASIS OF LAND SURVEY BEARINGS SEE U.S.B.T. BOOK 9, PAGE 292, NOTE (2) ENTRY NO.99, DATED SEPT 14, 1995, BEARING ON DLC LINE OF S 16° 16' 32" W ON WHICH JERRY S. MARIS, P.L.S. BASED HIS SURVEY IN DEC. OF 2004.

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:40 am, Oct 06, 2021

EXHIBIT "A-1"

A tract of land for Property Line Adjustment purposes, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 & N.E. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet to the TRUE POINT OF BEGINNING of the herein described tract;

Thence continuing along said centerline, South 08°03'44" West, 38.82 feet to an angle point therein;

Thence continuing along said centerline, South 08°15'57" West, 117.94 feet;

Thence leaving said centerline, along the Southwesterly line of said Fishback tract, South 83°22'14" East, 246.89 feet;

Thence continuing along said Southwesterly line, North 04°56'38" East, 166.93 feet to the re-entrant corner thereof;

Thence North 85°49'01" West, 237.86 to the True Point of Beginning.

TOGETHER WITH the following described portion of said Fishback tract:

Beginning at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence leaving said right-of-way line South 08°03'44" West, 824.93 feet to the Northerly line of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Document No. 2004-148929, said Deed Records;

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

Thence along the Northerly and Westerly lines of last said tract, South 85°49'01" East, 925.54 feet;

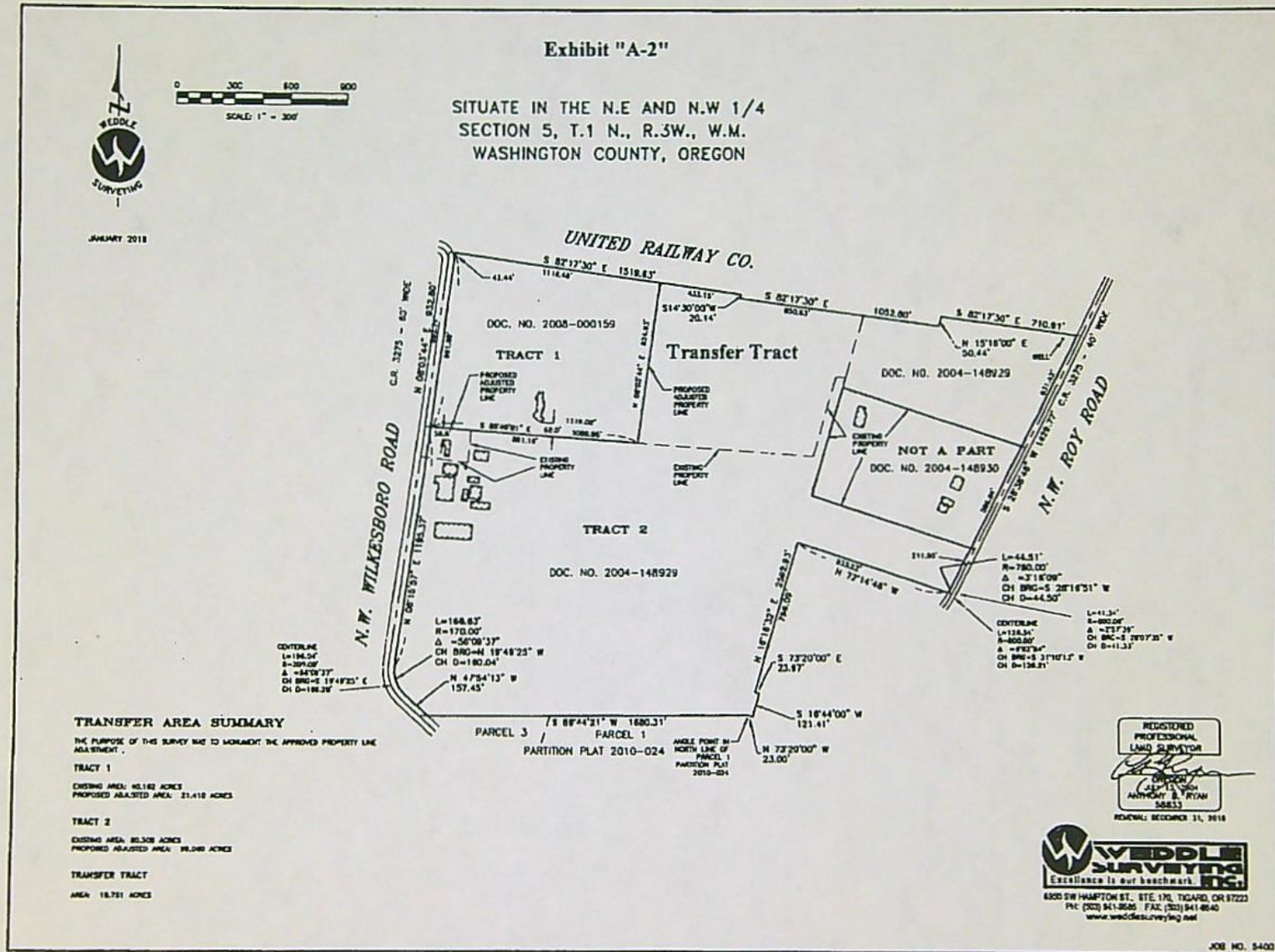
Thence North 16°16'32" East, 427.01 feet;

Thence South 82°17'30" East, 50.02 feet;

Thence North 16°16'32" East, 329.43 feet to the Point of Beginning.

Combined total of both above-described tracts containing therein 18.751 net acres, more or less (excluding the area within County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.



RECEIVED
By Ann Reece @ Oregon Water Resources Dept. at 11:41 am, Oct 06, 2021

RECEIVED

By Ann Reece @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

EXHIBIT "C"

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet to the TRUE POINT OF BEGINNING of the tract herein described:

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

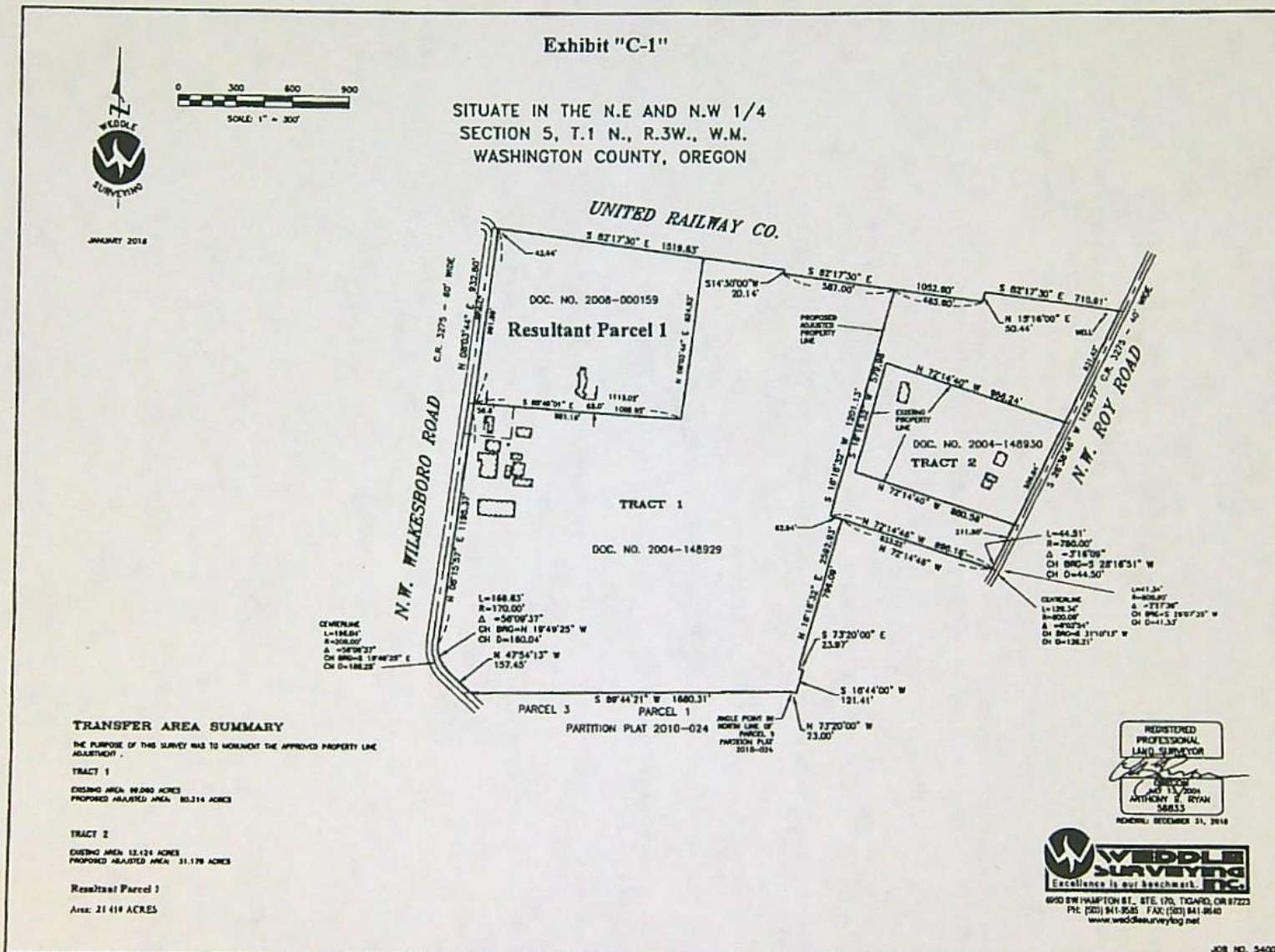
Thence along said centerline, South 08°03'44" West, 893.74 feet;

Thence leaving said centerline, South 85°49'01" East, 1119.02 feet;

Thence parallel with said County Road, North 08°03'44" East, 824.93 feet to the True Point of Beginning.

Containing therein 21.410 net acres, more or less, (excluding area within the right-of-way of County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.



RECEIVED
By Ann Reese @ Oregon Water Resources Dept at 11:41 am, Oct 06, 2021

Watermaster Review Form: Water Right Transfer



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

Transfer Application: T-13837

Review Due Date:

Applicant Name: Tualatin Valley Irrigation District

Proposed Changes: ☒ POU ☐ POD ☐ POA ☐ USE ☒ OTHER

Reviewer(s): Jake Constans

Date of Review: 11/30/2021

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☐ Yes ☒ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☒ Yes ☐ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
The Tualatin River Basin is regulated each year to meet the needs of senior water rights.
3. Have headgate notices been issued for the source that serves the transferred right(s)?
☐ Yes ☒ No ☐ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☐ Yes ☒ No If "Yes", explain:
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected:

6. Check here ☐ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

☒ N/A

7. 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:

☒ N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

☒ N/A Would the quantity be measureable into the receiving stream consistent with OAR 690-077-0015(8)? ☐ Yes ☐ No

9. For POU changes: ☐ N/A Is it likely the original place of use would continue to receive water from the same source? ☐ Yes ☒ No If "Yes", explain:

10. For POU or USE changes: ☐ N/A In your best judgment, 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:

11. For POU changes that involve micro-irrigation: ☒ N/A

- a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

☐ Yes ☐ No If "Yes", explain:

- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

☐ Yes ☐ No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:

- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:

- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- iv. Do you have any other observations regarding the temporary transfer?

☐ Yes ☐ No If "Yes", describe:

- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?

☐ Yes ☐ No If "Yes", explain:

- ii. "Enlargement" of the water right being transferred will occur?

☐ Yes ☐ No If "Yes", explain:

12. Are there other issues not identified through the above questions that should be considered in determining whether the change "can be effected without injury to other rights"?

☐ Yes ☒ No If "Yes", explain:

13. What alternatives may be available for addressing any issues identified above:

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? ☒ No ☐ Yes, as checked and provided below:

☐ For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

☐ A Headgate should be required prior to diverting water.

☐ Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

*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 (new and existing) OR at each new point of diversion/appropriation ☐ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

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.

☐ Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

*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:

<input type="checkbox"/> Weir	<input type="checkbox"/> Submerged Orifice
<input type="checkbox"/> Parshall Flume	<input type="checkbox"/> Flow Restrictor
<input type="checkbox"/> Other: _____	

Oregon Water Resources Department

Measurement Condition Information for the Applicant

(To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T-

☐ In order to avoid enlargement of the right or injury to other rights, a _____ will
be required to be installed prior to diversion of water, as a condition of this transfer:

☐ at each point of diversion/appropriation (new and existing) **OR**

☐ at each new point of diversion/appropriation.

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

Watermaster name:

District:

Address:

City/State/Zip:

Phone:

Email:

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

REECE Ann L * WRD

From: REECE Ann L * WRD
Sent: Tuesday, November 30, 2021 11:50 AM
To: Eric Urstadt
Subject: RE: Fishback - Is Agric use going with Irrigation use (T-13837)

Eric,

Thanks for the clarification. The application for T-13837 will include the transfer of 11.9 acres of Ag Use + irrigation use (primary diminished to supplemental) under Permit G-12612. Ann

Please note email address update: Ann.L.Reece@water.oregon.gov

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214



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******Teleworking *** Mon, Tu, Wed, Thurs 7:00 to 4:45; Fri 7:00 to 11AM**

email: Ann.L.Reece@water.oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Tuesday, November 30, 2021 11:40 AM
To: REECE Ann L * WRD <Ann.L.REECE@water.oregon.gov>
Subject: Fishback - Is Agric use going with Irrigation use (T-13837)

Ann,

Per your question via text:

The application is intended to move the 11.9 ac of irrigation (IR) and agricultural (AG) use per permit G-12612 together.

Only the IR was diminished to Supplemental IR because they wanted to keep the 88122 (TVID) IR right as primary for irrigation, and the AG use is not affected by TVID since TVID is not for AG use.

So, if needed, please amend the application to include moving the 11.9 ac of AG together with the diminished portion of IR of permit G-12612.

This corresponds to the transfer map for permit T-12612. Although I did not clearly specify AG in the TO land legend, perhaps it should read "Agric and Suppl Irrig after diminishment" instead of "Suppl Irrig after diminishment". [The comment in the legend for the TO lands was intended to confirm that the primary IR was changing to Suppl IR via the application, but did not intend to imply that the AG was not moving.]

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
(971) 250-1520 (cell, text, voicemail)

From: Eric Urstadt

Sent: Tuesday, November 30, 2021 9:10 AM

To: REECE Ann L * WRD

Subject: RE: pump test for Fishback

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
(971) 250-1520 (cell, text, voicemail)

From: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>

Sent: Thursday, October 7, 2021 7:51:51 AM

To: ericurstadt@hotmail.com <ericurstadt@hotmail.com>

Subject: pump test for Fishback

Eric,

Just an FYI, it looks like a pump test is needed before the claim of beneficial use will ever be processed for Permit G-12612.

REECE Ann L * WRD

From: REECE Ann L * WRD
Sent: Wednesday, October 6, 2021 1:48 PM
To: Eric Urstadt
Subject: RE: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed
Categories: Red Category

Ok, all is good. I also see that Mary B processed the assignment. Ann

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214



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email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

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From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Wednesday, October 6, 2021 1:47 PM
To: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>
Subject: Re: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed

Ann,

It was a three way PLA, and this is just a part of it. I haven't gone through all of the gyrations again, but the resultant of TL700 is owned by the D and T Fishback trust.

One of the maps shows the land transferred and one shows the resultant.

D & T trust previously owned A and conveyed A-1 to Nish Land and TD Farm, leaving C (the resultant) still with D & T trust.

I think this is the same as your understanding for the owner of the resultant TL700.

Sent from my iPhone
Eric Urstadt
Ericurstadt@hotmail.com

503.647.1919(h)
971.250.1520(c)

On Oct 6, 2021, at 11:50 AM, REECE Ann L * WRD <Ann.L.Reece@oregon.gov> wrote:

Please see if I am understanding this correctly:

Two parcels were owned by the Fishback trust, and there was a property line adjustment made affecting both parcels. The lower parcel was deeded to NISH Land LLC and the upper parcel (TL 700) (with an adjusted property line) stayed in the name of the Fishback trust.

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214

<image002.jpg>

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email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

From: Eric Urstadt <ericurstadt@hotmail.com>
Sent: Wednesday, October 6, 2021 10:01 AM
To: REECE Ann L * WRD <Ann.L.Reece@oregon.gov>
Cc: Keith Fishback <keithfishback@gmail.com>; Dan Fishback <dan.fishback7@gmail.com>
Subject: Fishback T-13837 TVID/FISHBACK: G-12612 - question on deed

Ann,

This is a very confusing deed that resulted from a property line adjustment (PLA). Actually a series of PLA's (welcome to Washington County). I have sent you the whole TRIO this time. (The TRIO lists the owner wrong – WATCH OUT). This took me a while to figure out, too. I've highlighted some important parts.

You will see upon further review that there are a number of properties described in the recorded document (2021-064803). Below the portion of the page that you sent me (page 4 of 12) there is a detailed description of what is transferred to whom and who owns what. In the last paragraph of that page you will find that the "resultant Parcel 1" for the Dan and Teresa trust is on Exhibit C (page 11 of 12 of the attached file). The map on the last page shows the resultant parcel for Dan and Teresa.

I've copied Keith and Dan, just so they have a record of this. There will be more people confused by this, but I do believe that all is fine.

Let me know if you need anything else.

Respectfully,

Eric Urstadt, PE, PLS, CWRE

Aspen Rural Land Consulting

Water Rights – Forestry – Rural Land Engineering – Land Surveying
Licensed in Oregon and Washington
(971) 250-1520 (cell, text, voicemail)

From: REECE Ann L * WRD
Sent: Wednesday, October 6, 2021 8:04 AM
To: ericurstadt@hotmail.com
Subject: T-13837 TVID/FISHBACK: G-12612

Hi Eric,

I noticed that the deed is in the name of NISH Land, LLC and TD Farm, LLC for the land under G-12612. I should probably know this, but did you also send in an assignment for this permit? It is currently in the name of Keith R and Dan H Fishback.

The affidavit is in the name of Dan H and Teresa L Fishback Living Trust. Can you provide a nexus between these folks and the two LLC's on the deed?

<image003.png>

Best Regards,

Ann Reece | District Transfer Program Advisor
725 Summer St NE Suite A | Salem OR 97301 | Cell Phone 503-979-3214

<image002.jpg>

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email: Ann.L.Reece@oregon.gov Web: <https://www.oregon.gov/OWRD/>
District Transfer home page: <https://www.oregon.gov/OWRD/programs/WaterRights/Transfers/DistTransfer/Pages/default.aspx>

Please Note: Under Oregon Law, messages to and from this e-mail address may be available to the public.

WORK COPY

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

KEITH R AND DAN H FISHBACK
14985 NW SPRINGVILLE RD
PORTLAND, OREGON 97229

(503) 645-1276

The specific limits for the use are listed below along with conditions of use:

APPLICATION FILE NUMBER: G-14113

SOURCE OF WATER: A WELL IN DAIRY CREEK BASIN

PURPOSE OR USE: IRRIGATION AND AGRICULTURAL USE (NURSERY OPERATIONS) ON 86.5 ACRES

QUANTITY OF USE: 0.16 CUBIC FOOT PER SECOND FOR EACH USE

PERIOD OF ALLOWED USE: MARCH 1 THROUGH OCTOBER 31 FOR IRRIGATION, AND YEAR ROUND FOR AGRICULTURAL USE

DATE OF PRIORITY: JUNE 23, 1995

POINT OF DIVERSION LOCATION: NE 1/4 NW 1/4, SECTION 5, T 1 N, R 3 W, W.M.; 1310 FEET SOUTH AND 1340 FEET EAST FROM THE NW CORNER OF SECTION 5

The amount of water used for NURSERY OPERATIONS is limited to a diversion of 0.15 cubic foot per second per acre. For the irrigation of containerized nursery plants, the amount of water diverted is limited to ONE-FORTIETH of one cubic foot per second (or its equivalent) and 5.0 acre feet per acre per year. For the irrigation of in ground nursery plants the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre per year. The use of water for NURSERY OPERATIONS may be made at anytime of the year that the use is beneficial. For the irrigation of any other crop, the amount of water diverted is limited to ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre feet per acre during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

86.5 acres total with 0.16 cfs		<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
for IR/IS + 0.16 for Ag Use	NW 1/4 NE 1/4	1.6 ACRES	1.2 ACRES +2.9
	SW 1/4 NE 1/4		6.4 ACRES +6.3
	NE 1/4 NW 1/4	27.3 ACRES -11.9	8.6 ACRES
.16cfs/86.5 x 11.9 = 0.02 cfs	NW 1/4 NW 1/4	1.0 ACRE	
for each use IS & Ag			

Application G-14113 Water Resources Department

PERMIT G-12612

SW 1/4 NW 1/4
SE 1/4 NW 1/4

5.9 ACRES
34.5 ACRES +2.7

SECTION 5
TOWNSHIP 1 NORTH, RANGE 3 WEST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Groundwater production under this permit shall be from no shallower than 300 feet below land surface.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to make and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Reference Water Level Determination

Following the first year of water use, the user shall submit one static water level measurement in the month specified above which will establish the reference level against which future annual measurements will be compared. The water user is not required to measure additional water levels after the reference level has been determined unless required by the Director. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- (A) Identify each well with its associated measurement; and
- (B) Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- (C) Specify the method used to obtain each well measurement; and
- (D) Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if annual water level measurements reveal any of the following events:

- (A) An average water level decline of three or more feet per year for five consecutive years; or
- (B) A water level decline of 15 or more feet in fewer than five consecutive years; or
- (C) A water level decline of 25 or more feet; or
- (D) Hydraulic interference leading to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non or restricted use shall continue until the annual water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to

occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

If, at any time, the well or its use:

- a) acts as a conduit for groundwater contamination,
- b) allows loss of artesian pressure,
- c) allows waste of groundwater,
- d) interferes with senior groundwater users, or
- e) interferes with nearby surface water sources,

the Department may require that the well be repaired in accordance with current well construction standards.

STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction of the well shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued July 17, 1996

Martha O. Pagel
for Martha O. Pagel Director
Water Resources Department

Application G-14113 Water Resources Department
Basin 02 Volume 20A, E Fork Dairy Creek & Misc.
 MGMT.CODES 7BG, 7BR, 7EG, 7ER

PERMIT G-12612
District 18

**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 # **136491**

INVOICE # _____

RECEIVED FROM: Roy Nursery Inc.

BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>1-13837</u>

CASH: ☐ CHECK# 33921 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,970.00

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 \$

WATER RIGHTS:

EXAM FEE

RECORD FEE

0201 SURFACE WATER \$ 0202 \$

0203 GROUND WATER \$ 0204 \$

0205 TRANSFER \$ 1970.00

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:

136491

DATED:

9-27-2021 BY: Mindy Carter



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

Application for
District Permanent **RECEIVED**
Water Right **SEP 27 2021**
Transfer **OWRD**

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 the application is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml#app_criteria_review.

Change in Place of Use Only

1A. APPLICANT INFORMATION

IRRIGATION DISTRICT Tualatin Valley Irrigation District		PHONE NO. (503) 357-3118	ADDITIONAL CONTACT NO. N/A
ADDRESS 2330 Elm St.		COUNTY Washington	
CITY Forest Grove	STATE OR	ZIP 97116	E-MAIL bobby.nuvolini@tvid.org
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

1B. AGENT INFORMATION

AGENT/BUSINESS NAME Aspen Rural Land Consulting c/o Eric Urstadt, PE, PLS		PHONE NO. 971.250.1520	ADDITIONAL CONTACT NO.
ADDRESS 39290 NW Murtaugh Road		FAX NO. N/A	
CITY North Plains	STATE OR	ZIP 97133	E-MAIL ericurstadt@hotmail.com
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

2. 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.)

	Certificate	Permit / Previous Transfer	Decree
1.	88122	- S-35792	N/A
2.	N/A	- G-12612	N/A
3.		-	
4.		-	
5.		-	
6.		-	

SEP 27 2021

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3. ATTACHMENTS

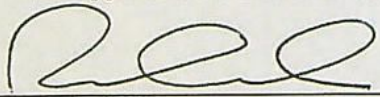
Check each of the following attachments included with this application. The application will be returned if all required attachments are not included.

<p>Supplemental Form A –</p> <p>Description of Proposed Change(s) to a Water Right</p> <p><input checked="" type="checkbox"/> A <u>separate</u> Supplemental Form A is enclosed for <u>each</u> water right to be affected by this transfer.</p> <p>Map</p> <p><input checked="" type="checkbox"/> Permanent Transfer A map meeting the requirements of OAR 690-385-3300 must be included but need not be prepared by a Certified Water Right Examiner (CWRE).</p>	<p>Fees:</p> <p><input checked="" type="checkbox"/> Amount enclosed: \$ <u>1970.00</u> See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.</p> <p>Land Use Compatibility Statement</p> <p><input checked="" type="checkbox"/> The Land Use Information Form is <u>not required</u> if water is to be diverted, conveyed and/or used only on federal lands or if <u>ALL</u> of the following apply: a) a change in place of use only, b) a change that does not involve the placement or modification of structures, c) <u>the use of water is for irrigation only</u> and d) <u>the use is located within an irrigation district or an exclusive farm use zone.</u></p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

4. SIGNATURES

The district certifies the following:

- (1) The water rights proposed for transfer are water rights subject to transfer and are not subject to forfeiture for nonuse under ORS 540.610;
- (2) Each user affected by the proposed transfer has provided written authorization for the transfer and such authorization is on file with the district;
- (3) For lands which are no longer irrigated or susceptible of irrigation that are included in this transfer under the authority of ORS 540.572 and OAR 690-385-5000, notices as required under ORS 540.572 and OAR 690-385-5100 have been given to the user and any security interest holder of record of intent to transfer the right and the user was provided an opportunity to resolve the matter in the manner described by ORS 540.572 and OAR 690-385-5400 and 690-385-5600.
- (4) On behalf of the district, I affirm to the best of my knowledge the information contained in this application is true and accurate.


District Manager signature

ROBERT NUVOLINI
name (print)

9/13/2021
date

OR

Authorized District Representative signature

name (print)

date

Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

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District Permanent Water Right Transfer Application

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Supplemental Form A

SEP 27 2021

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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.

1. CURRENT WATER RIGHT INFORMATION

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

<input checked="" type="checkbox"/> Certificated Right	88122 Certificate Number	
<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
<input type="checkbox"/> Permit for Supplemental Irrigation	- Permit Number	

- Name on Permit, Certificate, or Decree: US Bureau of Reclamation
- Priority Date(s): Febr. 20, 1963

If there are **multiple Priority Dates** identified on the water right, any information provided in Supplemental Form A of this application must identify which priority date is associated with each of the authorized points of diversion or appropriation and places of use.

Source(s) of Water to be Affected by Transfer: Scoggins Creek, Gales Creek, Scoggins Reservoir

Tributary to: Tualatin River

- Are there **other water rights**, Permits or Ground Water Registrations associated with this land?

☒ Yes ☐ No

If "Yes", what are the Permit, Registration or Certificate Numbers? G-12612

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.**

▪ Certificate Number or other identifying number: 88122

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer.

If a point of diversion or appropriation is not numbered on the decree or water right certificate or permit, assign it a unique number in the following table (e.g. POD #1 or POA(well) #1). Use the number to refer to the point of diversion or appropriation serving the place of use described in Tables I and II. Note: Permanent district transfers do not allow for a change in point of diversion or appropriation to serve the proposed place of use.

Government lot and donation land claim numbers must be included in the table below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion (POD) or Appropriation (POA):

(i.e., the allowed point(s) of diversion or appropriation listed on the water right for the "FROM" or "OFF" lands)

AUTHORIZED POINT(S) of DIVERSION (POD) or APPROPRIATION (POA)							
POD# or POA#	TWP (N or S)	RNG (E or W)	SEC	Q-Q	DLC	GOV'T LOT	MEASURED DISTANCES
SPP*	1S	3W	8	SW-SW	?	?	Lat: 45°29'32.73" N, Long: -123°05'33.85" W

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

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

Table 2. Description of Changes to Water Right Certificate # 88122

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.												Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.													
Twp	Rng	Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng	Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date				
1	N	3	W	5	NE	NW	700	80	11.9	Irrig	SPP*	1963	POU	1	N	3	W	5	NW	NE	200	80	2.9	Irrig	SPP*	1963
														1	N	3	W	5	SW	NE	200	80	6.3	Irrig	SPP*	1963
														1	N	3	W	5	SE	NW	200	80	2.7	Irrig	SPP*	1963
TOTAL ACRES:									11.9					TOTAL ACRES:									11.9			

Additional remarks: SPP* means Springhill Pump Plant as per certificate 88122. This right uses a re-diversion point that is serviced from underground pipelines used by Tualatin Valley Irrigation District that flows from SPP.



District Permanent Water Right Transfer Application

Supplemental Form A

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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.

1. CURRENT WATER RIGHT INFORMATION

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

<input type="checkbox"/> Certificated Right	Certificate Number	
<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
<input checked="" type="checkbox"/> Permit for Supplemental Irrigation	G-12612 (being diminished to suppl. with this transfer) Permit Number	

- Name on Permit, Certificate, or Decree: ??????????????? Dan & Teresa Fishback
Revocable Living Trust
- Priority Date(s): June 23, 1995

If there are **multiple Priority Dates** identified on the water right, any information provided in Supplemental Form A of this application must identify which priority date is associated with each of the authorized points of diversion or appropriation and places of use.

Source(s) of Water to be Affected by Transfer: a well in Dairy Creek basin

Tributary to: unknown

- Are there **other water rights**, Permits or Ground Water Registrations associated with this land?

☒ Yes ☐ No

If "Yes", what are the Permit, Registration or Certificate Numbers? Cert. 88122

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.**

Permit

■ ~~XXXXXX~~ Number or other identifying number: Permit G-12612

The following information must be provided only for those points of diversion or appropriation that are involved in the transfer.

If a point of diversion or appropriation is not numbered on the decree or water right certificate or permit, assign it a unique number in the following table (e.g. POD #1 or POA(well) #1). Use the number to refer to the point of diversion or appropriation serving the place of use described in Tables I and II. Note: Permanent district transfers do not allow for a change in point of diversion or appropriation to serve the proposed place of use.

Government lot and donation land claim numbers must be included in the table below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion (POD) or Appropriation (POA):

(i.e., the allowed point(s) of diversion or appropriation listed on the water right for the "FROM" or "OFF" lands)

AUTHORIZED POINT(S) of DIVERSION (POD) or APPROPRIATION (POA)							
POD# or POA#	TWP (N or S)	RNG (E or W)	SEC	Q-Q	DLC	GOV'T LOT	MEASURED DISTANCES
well	1N	3W	5	NW-NW	?	?	1310' S & 1340' E of NW S5 (per permit)

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Ba-2/3

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

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

Table 2. Description of Changes to Water Right Permit # G-12612

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.												Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.													
Twp	Rng	Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng	Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date				
1	N	3	W	5	NE	NW	700	80	11.9	Suppl.	well		1995	POU	1	N	3	W	5	NW	NE	200	80	2.9	Suppl	well
														1	N	3	W	5	SW	NE	200	80	6.3	Suppl	well	1995
														1	N	3	W	5	SE	NW	200	80	2.7	Suppl	well	1995
TOTAL ACRES:									11.9					TOTAL ACRES:									11.9			

Additional remarks: The primary irrigation portion of G-12612 is being diminished to supplemental as part of this transfer.

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

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

SUPERSEDED

Table 2. Description of Changes to Water Right Certificate # 88122

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Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date		
2	N	3	W	5	NE	NW	700	80	11.9	Irrig	SPP*		1963	2	N	3	W	5	NW	NE	200	80	2.9	Irrig	SPP*	1963
														2	N	3	W	5	SW	NE	200	80	6.3	Irrig	SPP*	1963
														2	N	3	W	5	SE	NW	200	80	2.7	Irrig	SPP*	1963
TOTAL ACRES:								11.9						TOTAL ACRES:								11.9				

Additional remarks: **SPP*** means Springhill Pump Plant as per certificate 88122. This right uses a re-diversion point that is serviced from underground pipelines used by Tualatin Valley Irrigation District that flows from SPP.

SUPERSEDED

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

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

SUPERSEDED

Table 2. Description of Changes to Water Right Permit # G-12612

List the change proposed for the acreage in each ¼ ¼. If more than one change is proposed, specify the acreage associated with each change.
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AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.												Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.													
Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date		
2	N	3	W	5	NE	NW	700	80	11.9	Suppl.	well	1995	POU	2	N	3	W	5	NW	NE	200	80	2.9	Suppl	well	1995
														2	N	3	W	5	SW	NE	200	80	6.3	Suppl	well	1995
														2	N	3	W	5	SE	NW	200	80	2.7	Suppl	well	1995
TOTAL ACRES:								11.9						TOTAL ACRES:								11.9				

Additional remarks: The primary irrigation portion of G-12612 is being diminished to supplemental as part of this transfer.

SUPERSEDED

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GRANTOR'S NAME/ADDRESS:

Dan H. Fishback, Co-Trustee
 Teresa L. Fishback, Co-Trustee
 Dan H. Fishback and Teresa L. Fishback
 Revocable Living Trust
 40065 NW Wilkesboro Rd
 Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

NISH Land, LLC
 TD Farm, LLC
 40065 NW Wilkesboro Rd
 Banks, OR 97106

AFTER RECORDING, RETURN TO:

Larry D. Moomaw
 Moomaw Mesirov & Godfrey, LLP
 4145 SW Watson Ave., Suite 515
 Beaverton, OR 97005

**UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:**

Keith R. Fishback
 40065 NW Wilkesboro Rd
 Banks, OR 97106

Washington County, Oregon **2021-064803**
 D-DW **06/03/2021 03:48:30 PM**
 Stn=2 S AKINS
 \$45.00 \$11.00 \$5.00 \$60.00 **\$121.00**

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
 Assessment and Taxation, Ex-Officio

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SEP 27 2021

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STATUTORY WARRANTY DEED

(Property Line Adjustment – Case File No. 18-219-PLA/PLA)

Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, own that certain real property in Washington County, Oregon described on the attached Exhibit A. Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, Grantor, convey and warrant to NISH Land, LLC, an Oregon limited liability company and TD Farm, LLC, an Oregon limited liability company, Grantee, that certain real property described on Exhibit A-1 and depicted on Exhibit A-2 (the "Phase 1 Transfer Parcel"), free of encumbrances except encumbrances of record this date.

The true consideration for the conveyance of the Phase 1 Transfer Parcel stated in terms of dollars is -0- but consists of other good and valuable consideration which is the whole consideration. This Statutory Warranty Deed ("Deed"), together with the Statutory Warranty Deed by NISH Land, LLC and TD Farm, LLC, as Grantor, referencing the "Phase 1 Transfer Parcel" of even date herewith, are to effectuate and clarify the Property Line Adjustment approved by the Washington County Department of Land Use and Transportation on July 20, 2018 in case File No. 18-219-PLA/PLA and the Statutory Warranty Deed recorded in Washington County, Oregon, as Instrument Number 2018-059413.

The parcel of the real property owned by Dan H. Fishback and Teresa L. Fishback, Co-Trustees, the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement dated November 13, 2007, is the parcel described on Exhibit C to this Deed and depicted on Exhibit C-1 (the "Resultant Parcel 1").

This instrument filed for record by
 Fidelity National Title as an accommodation
 only. It has not been examined as to its
 execution or as to its effect upon the title.

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FIDELITY NATIONAL TITLE 45142112076-01 com

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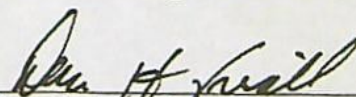
In compliance with ORS 92.190(4), the deed by which Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. and Teresa L. Fishback Revocable Living Trust acquired title to the property legally described on the attached Exhibit A-1 and which is being conveyed by this Deed is recorded in the official records of Washington County, Oregon as Document No. 2008-000159.

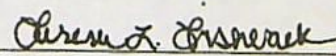
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007M SECTIONS 2 TO 9 AND 17, CHAPTER 855 OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301, AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this Statutory Warranty Deed as of June 3, 2021.

GRANTOR:

*The Dan H. Fishback and Teresa L. Fishback
Revocable Living Trust dated November 13, 2007*


Dan H. Fishback, Co-Trustee


Teresa L. Fishback, Co-Trustee

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Dan H. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.

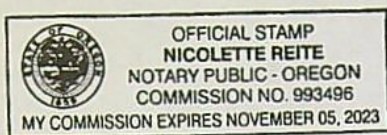
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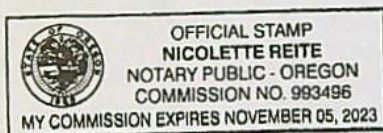
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Nicolette Reite
Notary Public for Oregon

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on June 3, 2021, by Teresa L. Fishback, as co-trustee of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust, dated November 13, 2007, on behalf of said trust.



Nicolette Reite
Notary Public for Oregon

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EXHIBIT A

PORTIONS OF THOSE PARCELS OF LAND AS DESCRIBED IN DEED DOCUMENTS 97111928 AND 94081247, OF RECORD IN COUNTY OF WASHINGTON AND STATE OF OREGON; SAID PORTION MORE PARTICULARLY DESCRIBED AS FOLLOWS;

A PART OF THE ROBERT WALKER AND MANERVA WALKER DONATION LAND CLAIM (DLC) NO. 80, IN SECTION 5 TOWNSHIP 1 NORTH, RANGE 3 WEST, WILLAMETTE MERIDIAN, WASHINGTON COUNTY, OREGON DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT ON THE EAST LINE OF SAID WALKER DLC COMMON WITH THE WEST LINE OF THE WILLIAM WILSON DLC NO. 37, SAID POINT BEING S 16° 16' 32" W 464.83 FEET FROM THE MONUMENTED NORTHWEST CORNER OF SAID WILSON DLC AND ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY (ROW), (SAID ROW BEING 80.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS), SAID POINT IS MARKED BY A 5/8 INCH BY 30 INCH IRON ROD WITH ALUMINUM CAP MONUMENT (TYPICAL) SET; AND RUNNING THENCE S 16° 16' 32" W, ON SAID COMMON DLC LINE, 327.79 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 16° 16' 32" W 50.00 FEET; THENCE N 82° 17' 30" W 50.00 FEET TO A POINT; THENCE S 16° 16' 32" W, PARALLEL WITH SAID COMMON DLC LINE, 427.00 FEET TO A POINT FROM WHICH A REFERENCE MONUMENT IS SET S 85° 49' 30" E 50.58 FEET; THENCE N 85° 49' 30" W 1806.98 FEET TO A MONUMENT SET; THENCE S 4° 53' 00" W 167.00 FEET TO A MONUMENT SET; THENCE N 83° 23' 00" W 259.13 FEET, MORE OR LESS, TO THE CENTER OF COUNTY ROAD, AS CALLED FOR IN DEED, FROM WHICH A REFERENCE MONUMENT IS SET S 33° 23' 00" E 35.00 FEET; THENCE N 08° 46' 40" E, (DEED BEARING N 8° 03' E) IN CENTER OF ROAD, 1049.65 FEET TO A POINT ON THE SOUTH LINE OF THE UNITED RAILWAY COMPANY'S RIGHT-OF-WAY; (SAID ROW BEING 60.00 FEET FROM, WHEN MEASURED AT RIGHT ANGLES TO, THE CENTER OF RAILS) THENCE S 82° 17' 32" E, (DEED BEARING S 82° 23' E) ON SAID RIGHT-OF-WAY, 1549.01 FEET (DEED CALL 23.47 CH.) TO AN ANGLE POINT THEREON; THENCE S 14° 30' 00" W (DEED BEARING) 20.14 FEET TO AN ANGLE POINT THEREON; THENCE S 82° 17' 30" E, ON SAID RIGHT-OF-WAY, 650.63 FEET TO THE POINT OF BEGINNING.

EXCLUDING ANY PORTION IN COUNTY ROAD.

SAID PARCEL CONTAINS 40.23 ACRES, MORE OR LESS, EXCLUDING PORTION IN COUNTY ROAD.

FOR BASIS OF LAND SURVEY BEARINGS SEE U.S.B.T. BOOK 9, PAGE 292, NOTE (2) ENTRY NO.99, DATED SEPT 14, 1995, BEARING ON DLC LINE OF S 16° 16' 32" W ON WHICH JERRY S. MARIS, P.L.S. BASED HIS SURVEY IN DEC. OF 2004.

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EXHIBIT "A-1"

A tract of land for Property Line Adjustment purposes, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 & N.E. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet to the TRUE POINT OF BEGINNING of the herein described tract;

Thence continuing along said centerline, South 08°03'44" West, 38.82 feet to an angle point therein;

Thence continuing along said centerline, South 08°15'57" West, 117.94 feet;

Thence leaving said centerline, along the Southwesterly line of said Fishback tract, South 83°22'14" East, 246.89 feet;

Thence continuing along said Southwesterly line, North 04°56'38" East, 166.93 feet to the re-entrant corner thereof;

Thence North 85°49'01" West, 237.86 to the True Point of Beginning.

TOGETHER WITH the following described portion of said Fishback tract:

Beginning at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet;

Thence leaving said right-of-way line South 08°03'44" West, 824.93 feet to the Northerly line of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Document No. 2004-148929, said Deed Records;

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Thence along the Northerly and Westerly lines of last said tract, South 85°49'01" East, 925.54 feet;

Thence North 16°16'32" East, 427.01 feet;

Thence South 82°17'30" East, 50.02 feet;

Thence North 16°16'32" East, 329.43 feet to the Point of Beginning.

Combined total of both above-described tracts containing therein 18.751 net acres, more or less (excluding the area within County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

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EXHIBIT "C"

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northeasterly corner of said Fishback tract, thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 650.63 feet;

Thence continuing along said South right-of-way line, North 14°30'00" East, 20.14 feet;

Thence continuing along said South right-of-way line, North 82°17'30" West, 433.15 feet to the TRUE POINT OF BEGINNING of the tract herein described:

Thence continuing along said South right-of-way line, North 82°17'30" West, 1116.48 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline, South 08°03'44" West, 893.74 feet;

Thence leaving said centerline, South 85°49'01" East, 1119.02 feet;

Thence parallel with said County Road, North 08°03'44" East, 824.93 feet to the True Point of Beginning.

Containing therein 21.410 net acres, more or less, (excluding area within the right-of-way of County Road 3275).

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

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GRANTOR'S NAME/ADDRESS:

Jessie Warner Properties, LLC
TD Farm, LLC
40065 NW Wilkesboro Road
Banks, OR 97106

GRANTEE'S NAME/ADDRESS:

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

AFTER RECORDING RETURN TO:

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

**UNTIL REQUESTED OTHERWISE,
SEND ALL TAX STATEMENTS TO:**

DCA Land Oregon, LLC
5609 N. Blue Valley Rd.
Independence, MO 64058

Washington County, Oregon **2021-077854**
D-DW
Stn=7 C LOUCKS **07/12/2021 01:33:51 PM**
\$25.00 \$11.00 \$5.00 \$60.00 \$1,984.00 **\$2,085.00**

I, Joe Nelson, Interim Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Joe Nelson, Interim Director of
Assessment and Taxation, Ex-Officio

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STATUTORY WARRANTY DEED

Jessie Warner Properties, LLC, an Oregon limited liability company, and TD Farm, LLC, an Oregon limited liability company, together, the "Grantor", convey and warrant to DCA Land Oregon, LLC, an Oregon limited liability company, "Grantee", the following described real property located in Washington County, Oregon (the "Property"):

See Exhibit A, attached hereto and incorporated herein.

The true consideration for this conveyance stated in terms of dollars is \$1,983,100.00.

The Property is free of encumbrances except (i) encumbrances listed on Exhibit B, attached hereto and incorporated herein; and (ii) any and all encumbrances allowed on the Property by Grantee or an affiliate of Grantee.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST

45142112076-01 COM
FIDELITY NATIONAL TITLE

PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Executed this 8th day of July, 2021.

Grantor:

*Jessie Warner Properties, LLC,
an Oregon limited liability company*

By: *David J. Fishback*
Name: David J. Fishback
Title: Manager

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on July 8th, 2021, by David J. Fishback, as Manager of Jessie Warner Properties, LLC, an Oregon limited liability company, on behalf of said company.



Suzanne M. Aspy
Notary Public for Oregon

*TD Farm, LLC,
an Oregon limited liability company*

By: *David J. Fishback*
Name: David J. Fishback
Title: Manager

STATE OF OREGON)
)ss.
County of Washington)

This instrument was acknowledged before me on July 8th, 2021, by David J. Fishback, as Manager of TD Farm, LLC, an Oregon limited liability company, on behalf of said company.



Suzanne M. Aspy
Notary Public for Oregon

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EXHIBIT A

Legal Description

A tract of land resulting from an approved Property Line Adjustment, being a portion of that tract of land described in Statutory Warranty Deed to TD Farm, LLC and NISH Land, LLC, as recorded in Doc. No. 2004-148929, together with a portion of that tract of land described in Warranty Deed to Dan H. Fishback and Teresa L. Fishback, Co-Trustees of the Dan H. Fishback and Teresa L. Fishback Revocable Living Trust Agreement, dated November 13, 2007, as recorded in Doc. No. 2008-000159, Washington County Deed Records, in the N.E. 1/4 & N.W. 1/4 of Section 5, Township 1 North, Range 3 West, Willamette Meridian, in Washington County, Oregon, being more particularly described as follows:

Commencing at the Northwestern corner of said TD Farm/NISH Land tract, also being the Northeasterly corner of said Fishback tract; thence along the South line of the United Railway Company's right-of-way line, North 82°17'30" West, 63.63 feet to the TRUE POINT OF BEGINNING of the tract herein described;

Thence leaving said South right-of-way line, South 16°16'32" West, 1201.13 feet;

Thence South 72°14'46" East, 62.94 feet to a re-entrant corner of said TD Farm/NISH Land tract of land;

Thence along the Southeasterly line thereof, South 16°16'32" West, 796.09 feet;

Thence South 73°20'00" East, 23.97 feet;

Thence South 16°44'00" West, 121.41 feet to a point on the North line of Parcel 1 of Partition Plat No. 2010-024, Washington County Plat Records;

Thence along the North line of said Partition Plat, North 73°20'00" West, 23.00 feet to an angle point therein;

Thence continuing along said North line and its Westerly extension, South 89°44'21" West, 1724.84 feet to the centerline of County Road 3275 (N.W. Wilkesboro Road, 60.00 feet wide);

Thence along said centerline North 47°54'13" West, 124.55 feet to the beginning of a curve to the right having a radius of 200.00 feet and a long chord bearing North 19°49'25" West, a distance of 188.28 feet;

Thence 196.04 feet along said curve through a central angle of 56°09'37";

Thence continuing along said centerline, North 08°15'57" East 1195.31 feet, to an angle point therein;

Thence continuing along said centerline, North 08°03'44" East 38.82 feet;

D2 - 4/4

EXHIBIT A (continued)

Legal Description

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Thence, leaving said centerline, South 85°49'01" East 1119.02 feet;

Thence, parallel with said County Road 3275, North 08°03'44" East 824.93 feet to said South railroad right of way line;

Thence, along said South right of way, South 82°17'30" East 433.15 feet;

Thence South 14°30'00" West 20.14 feet;

Thence South 82°17'30" East 587.00 feet to the true point of beginning.

The Basis of Bearing for this description is per S.N. 30,868, Washington County Survey Records.

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Request for Assignment



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

If the Department determines that the application is incomplete, fees have not been paid, or the required documents are not acceptable, the application and all fees submitted will be returned to the applicant.

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If for multiple rights, a separate form and fee for each right will be required.

I, Keith R. Fishback and Dan H. Fishback

(Name of Current Holder of Record)

14985 NW Springfield Road

(Mailing Address)

Portland OR 97229

(City)

(State) (Zip)

503.313.8079

(Phone #)

OWRD

- ☐ hereby assign all my interest in and to the entire application/permit/transfer order/limited license/groundwater statement; (example, sold all the land authorized under the right)
- ☒ hereby assign all my interest in and to a portion of application/permit/transfer order/limited license/groundwater statement; (*You must include a map showing the portion of the application/permit/transfer order/limited license/groundwater statement to be assigned. Example, sold a portion of the land authorized under the right*)
- ☐ hereby assign a portion of my interest in and to the entire application/permit/transfer order/limited license/groundwater statement; (example, adding an additional person)

Application # G-14113; Permit # G-12612; Transfer Order # N/A;

Limited License # N/A; Groundwater Statement # N/A;

as filed in the office of the Water Resources Director, to:

Dan H. Fishback and Teresa L. Fishback Revocable Living Trust

(Name of New Owner)

40065 NW Wilkesboro Road, Banks, OR 97106

(Mailing Address)

Banks OR 97106

(City)

(State) (Zip)

503.320.9671

(Phone #)

Note: If there are other owners of the property described in the application, permit, transfer order, limited license, or groundwater statement, you must provide a list of all other owners' names and mailing addresses and attach it to this form. Write the initials (first letters) of your first and last names at the spot indicated below.

KF
DF, TF I hereby certify that I have notified all other owners of the property described in this application, permit, transfer order, limited license, or groundwater statement of this Request of Assignment.

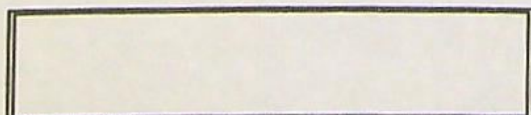
Witness my hand this 30th day of August, 20 21.
(Day) (Month) (Year)

Signature of Current Holder of Record

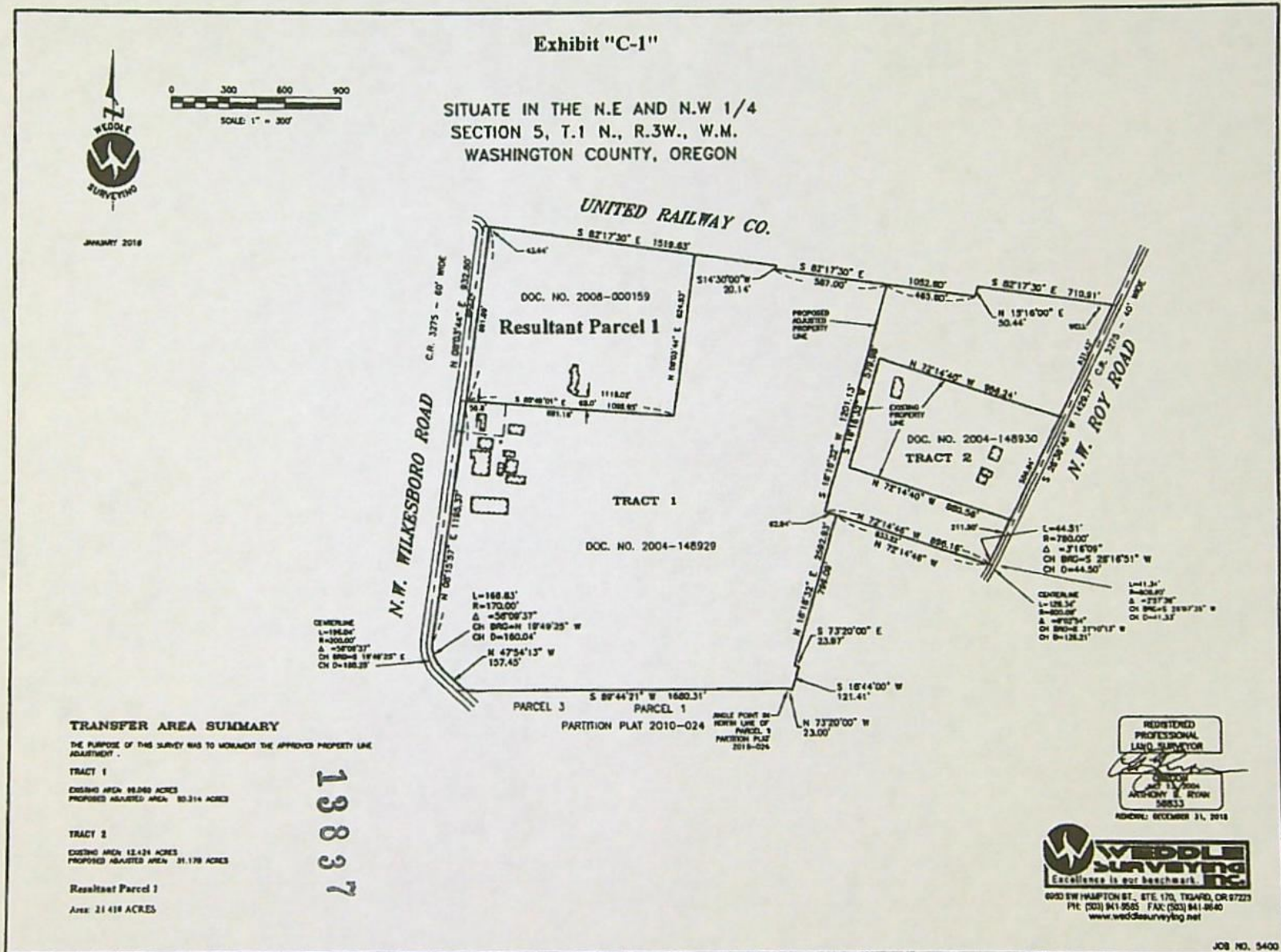
Keith R. Fishback, Dan H. Fishback
Dan H. Fishback

Failure to provide any of the required information will result in the return of your application.

DO NOT WRITE IN THIS BOX



The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of \$120.

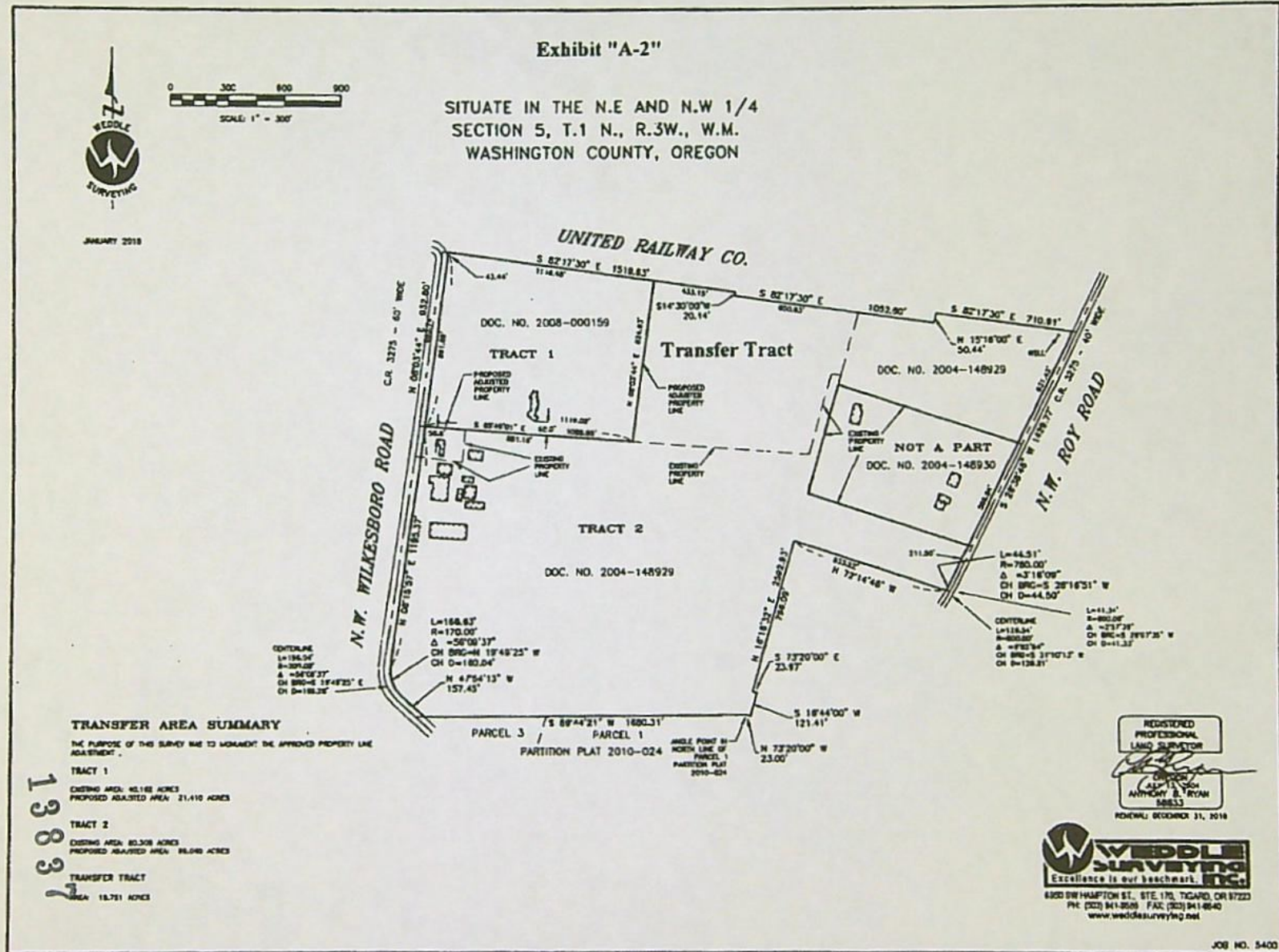


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Transfer Map

S5, T1N, R3W, Washington County
Certificate 88122

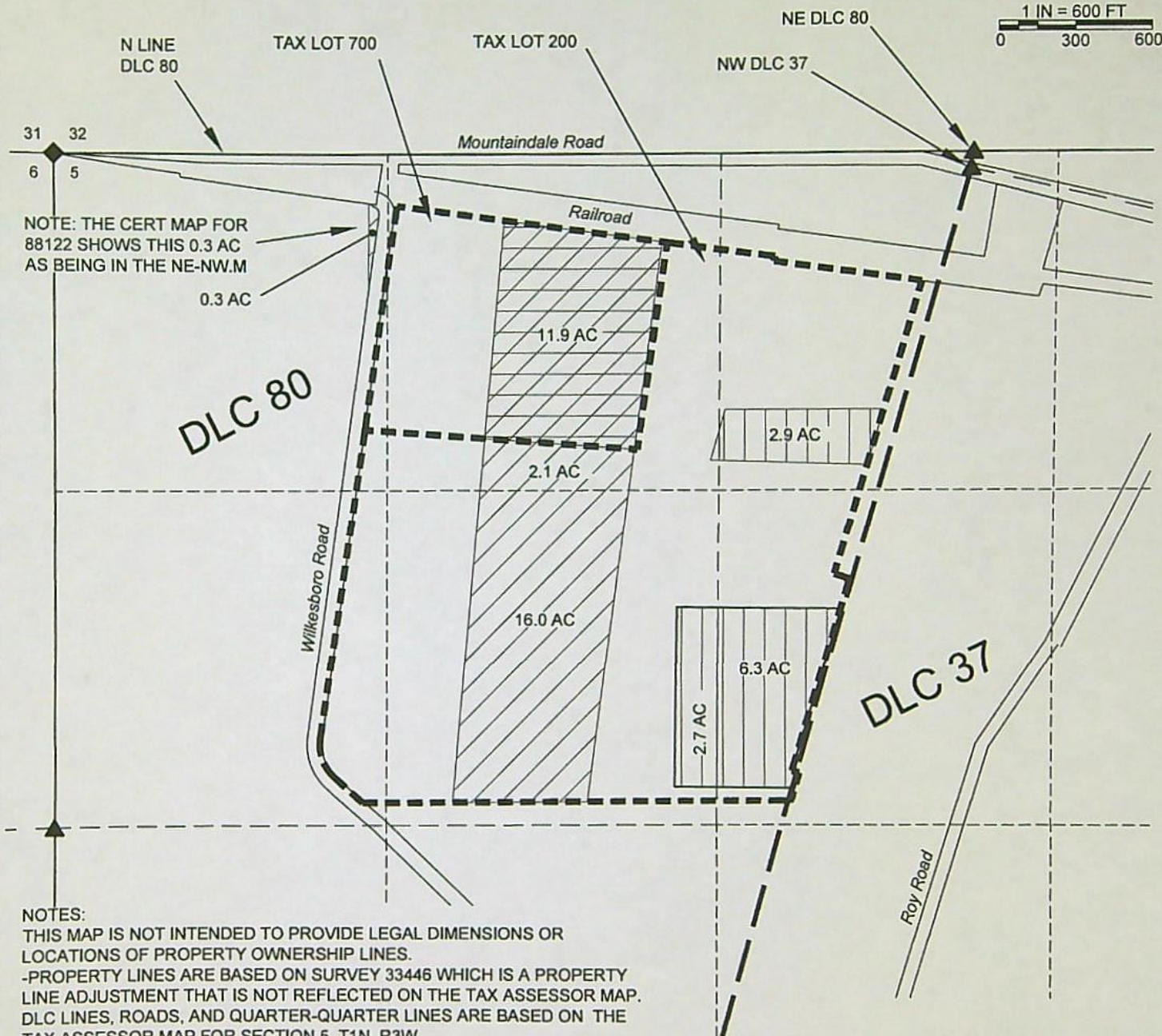
SEP 27 2021

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A-3/4

N

1 IN = 600 FT
0 300 600



NOTES:
THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
-PROPERTY LINES ARE BASED ON SURVEY 33446 WHICH IS A PROPERTY LINE ADJUSTMENT THAT IS NOT REFLECTED ON THE TAX ASSESSOR MAP.
DLC LINES, ROADS, AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 5, T1N, R3W.
-WATER CONVEYANCE LINES SHALL BE ALL WITHIN THE PROPERTY AND THEREFORE ARE NOT SHOWN.

LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- - - SECTION LINE
- - - QUARTER-QUARTER LINE
- - - DLC LINES

88122 FROM (Primary Irrig)
88122 TO (Primary Irrig)
88122 AS CERTIFIED



MAP BY:
ASPEN RURAL LAND CONSULTING

ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

Transfer Map

S5, T1N, R3W, Washington County
permit G-12612

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A-4/4

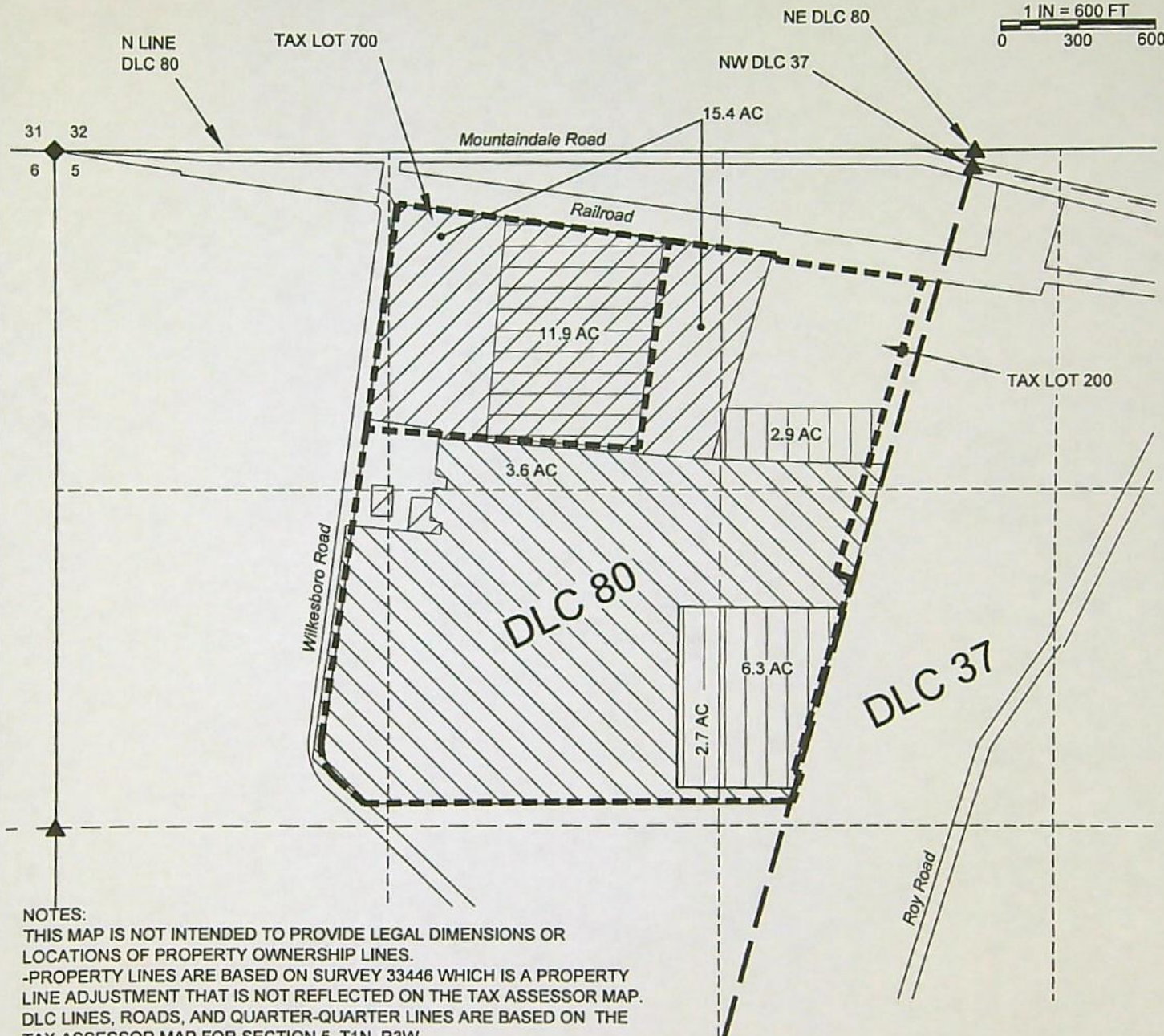
SEP 27 2021

OWRD

N



1 IN = 600 FT
0 300 600



NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
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LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- - - SECTION LINE
- - - QUARTER-QUARTER LINE
- - - DLC LINES

- G12612 per COBU (Agric & Primary Irrig)
- G12612 per COBU (Agric & Suppl Irrig)
- G12612 FROM land (Agric & Primary Irrig)
- G12612 TO land (Suppl Irrig after diminishment)



MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

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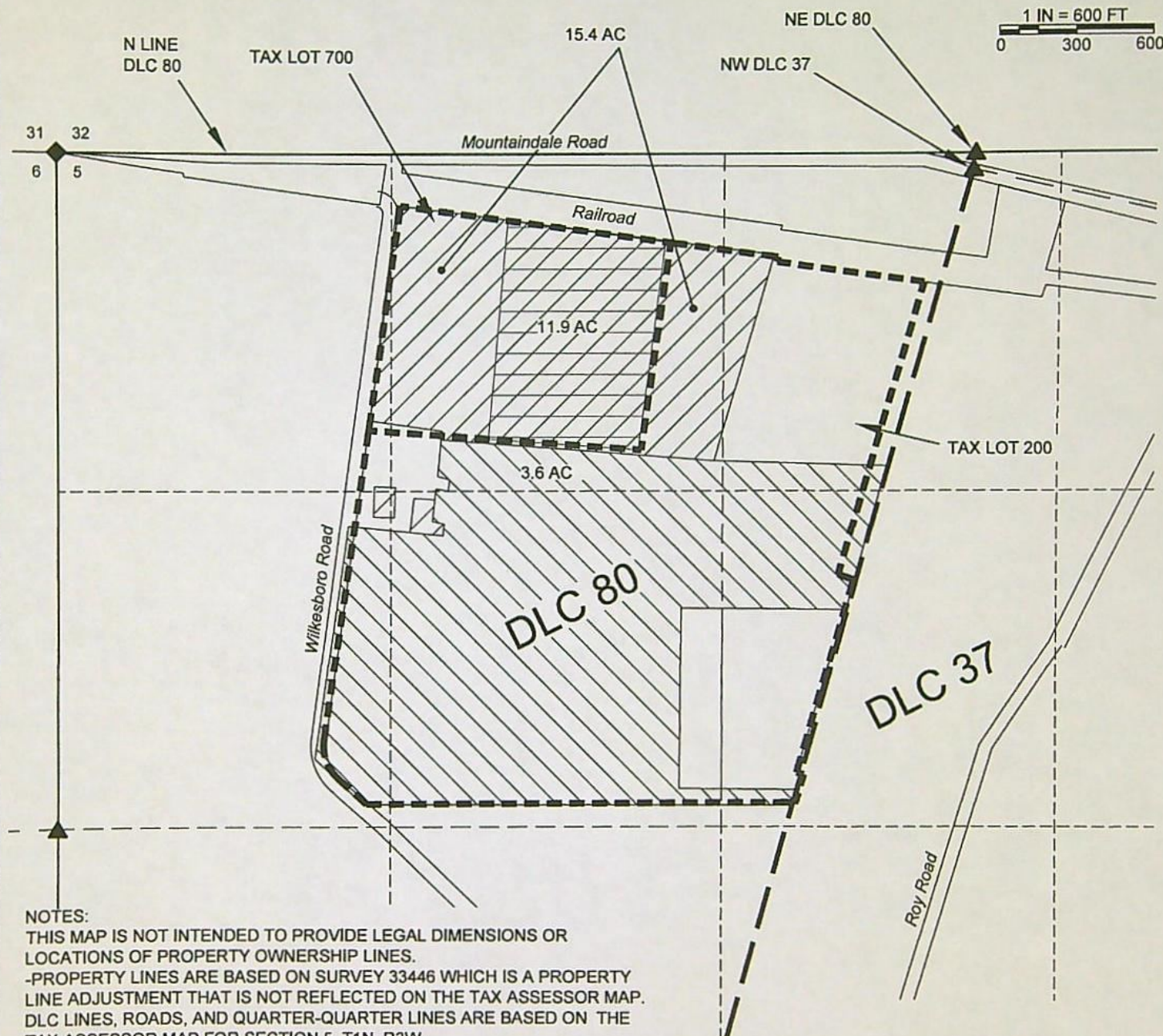
OWRD

N

1 IN = 600 FT
0 300 600

Diminishment Map

S5, T1N, R3W, Washington County
permit G-12612

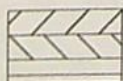


NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
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DLC LINES, ROADS, AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 5, T1N, R3W.
-WATER CONVEYANCE LINES SHALL BE ALL WITHIN THE PROPERTY AND THEREFORE ARE NOT SHOWN.

LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- - - TAX LOT LINE
- - - SECTION LINE
- - - QUARTER-QUARTER LINE
- - - DLC LINES



G12612 per COBU (Agric & Primary Irrig)
G12612 per COBU (Agric & Suppl Irrig)
G12612 being diminished to Suppl Irrig



ASPEN RURAL LAND
CONSULTING

ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

Assignment Map

S5, T1N, R3W, Washington County
permit G-12612

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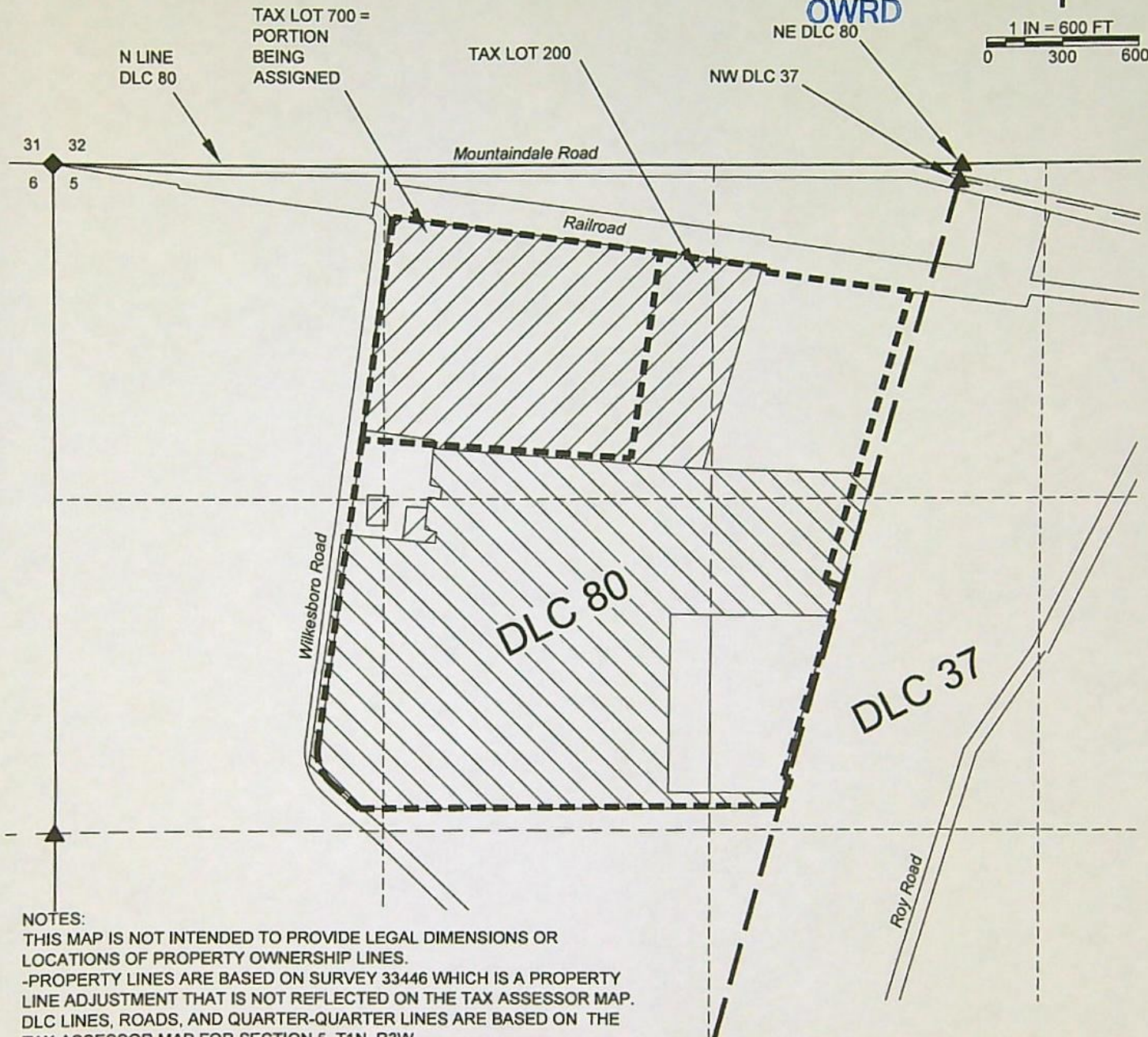
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NE DLC 80

NW DLC 37



1 IN = 600 FT
0 300 600



NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

-PROPERTY LINES ARE BASED ON SURVEY 33446 WHICH IS A PROPERTY LINE ADJUSTMENT THAT IS NOT REFLECTED ON THE TAX ASSESSOR MAP.

DLC LINES, ROADS, AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 5, T1N, R3W.

-WATER CONVEYANCE LINES SHALL BE ALL WITHIN THE PROPERTY AND THEREFORE ARE NOT SHOWN.

LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION (POD or POA)
- STREAM (NONE NEARBY)
- TAX LOT LINE
- SECTION LINE
- QUARTER-QUARTER LINE
- DLC LINES

- G12612 per COBU (Agric & Primary Irrig)
- G12612 per COBU (Agric & Suppl Irrig)



MAP BY:
**ASPEN RURAL LAND
CONSULTING**

ERIC URSTADT, PE, PLS
971-250-1520
Aug 2021
Fishback2F

ATTACH F - $\frac{V}{I}$

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Rural Land Consulting

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

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

Water Resources Department
Attn: District Transfers
725 Summer Street NE, Ste. A
Salem, OR, 97301

30 Aug 2021

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Subject: District Transfer with Suppl permit

To Whom It May Concern,

Enclosed is an application for a District Transfer together with the following attachments:

- A. Maps for transfer, assignment, and Partial Diminishment
- B. Two Supplemental Form A's
- C. Affidavit for Partial Diminution of permit
- D. Current Deeds
- E. Copy of Assignment Form (previously submitted)
- F. Fee Calculation Spreadsheet
- G. A check made out to "Oregon Water Resources Department" for \$1970.00.

Note: The tables for the Form A's are in the normal transfer format.

Please let me know if there are any concerns or you need any more information.

Respectfully,
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS

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