

Name Brewster Road LLC  
Barney Kropf  
 Address 24305 Lawrence rd  
Harrisburg or Grudas  
barney.kropf@yahoo  
 Change in POD POD  
 Date Filed 9/27/2022  
 Initial notice date 10/11/2022  
 DPD issued date \_\_\_\_\_  
 PD issued date 9/26/2024  
 PD notice date 10/1/2024  
 Date of FO 11/12/2024 Vol 133 Page 335-339  
 C-Date \_\_\_\_\_  
 COBU due date \_\_\_\_\_  
 COBU Received date \_\_\_\_\_  
 Certificate issued \_\_\_\_\_

## DESCRIPTION OF WATER RIGHT(s)

Name of Stream	<u>S. Santram, Blue river res. Cottage grove</u>	Date	<u>9/27/22</u>	FEES PAID	
	<u>res. Lookout Pt, Hills Creek, Fern ridge</u>	Amount	<u>2450.00</u>	Receipt #	<u>139207</u>
Trib. of	<u>Santram, Blue river, coast fork, S. fork, raw r</u>				
	<u>fall creek, long tom</u>				
Use	<u>Irrigation</u>	County	<u>linn</u>		
Quantity of water (CFS)		No. of Acres			
Name of ditch					
App#	<u>573091</u>	Per #	<u>55923</u>	Cert #	<u>945410</u>
				PR Date	<u>12/23/1997</u>
App#		Per #		Cert #	
				PR Date	
App#		Per #		Cert #	
				PR Date	
App#		Per #		Cert #	
				PR Date	

FEES REFUNDED  
 Amount Receipt #

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

Irrigation District BOR  
 Agent Ted Hester  
 CWRE \_\_\_\_\_  
 CC's list linn canty

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



# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

November 12, 2024

Brewster Rd., LLC

C/O Barney Kropf

23495 Powerline Rd

Harrisburg, OR 97446

REFERENCE: Transfer Application T-14097

Enclosed is a copy of the final order approving your water right transfer application.

The time allowed to complete the transfer is specified in the final order. YOU SHOULD GIVE PARTICULAR ATTENTION TO THE TIME LIMIT. The water right for any portion of the authorized change in character of use or change in place of use NOT carried out within the time allowed will be lost.

An extension of the time limit can be allowed only upon a showing that diligent effort has been made to complete the actual change(s) within the time allowed.

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

If you have any questions related to the approval of this transfer, you may contact your caseworker, Joan Smith, by telephone at (503) 986-0892 or by e-mail at [Joan.m.smith@water.oregon.gov](mailto:Joan.m.smith@water.oregon.gov).

Sincerely,

Elyse D. Richman

Water Rights Services Support

Transfers and Conservation Section

cc: Gregory J. Wacker, Watermaster Dist. # 16 (via email)

Ted Ressler, Agent

U.S. Bureau of Reclamation, Interested Party

Linn County Planning Department, Local Government

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING
T-14097, Linn County	)	A CHANGE IN POINT OF DIVERSION AND
	)	CHANGE IN PLACE OF USE

**Authority**

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

**Applicant**

BREWSTER ROAD LLC  
ATTN: BARNEY KROFF  
24395 POWERLINE ROAD  
HARRISBURG, OR 97446

**Findings of Fact**

1. On September 27, 2022, BREWSTER ROAD LLC., ATTN: BARNEY KROFT filed an application to change the point of diversion and to change the place of use under Certificate 94546. The Department assigned the application number T-14097.
2. Notice of the application for transfer was published on October 11, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 9, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14097 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 11, 2023, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

4. On September 26, 2024, the Department issued a Preliminary Determination proposing to approve Transfer T-14097 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on October 1, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

5. The right to be transferred is as follows:

**Certificate:** 94546 in the name of JAMES L. FLEISHMAN AND KATHRYN FLEISHMAN (perfected under Permit S-51923)

**Use:** IRRIGATION OF 41.1 ACRES

**Priority Date:** DECEMBER 23, 1992

**Rate:** 0.51 CUBIC FOOT PER SECOND AND 92.2 ACRE-FEET STORED WATER ONLY

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** STORED WATER APRIL 1 TO SEPTMEBER 30 UNDER U.S. BOR CONTRACT, LIVE STREAM FLOW: APRIL 1-30 AND OCTOBER 1-31

**Source:** SOUTH SANTIAM RIVER AND WILLAMETTE BASIN PROJECT RESERVOIRS, UNDER PERMIT R-5363, TRIBUTARIES OF SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	POD 1 - SOUTH 83 DEGREES 15 MINUTES WEST; 148 FEET FROM THE NORTH 1/4 CORNER OF SECTION 25

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	25	NE NE	0.1
11 S	2 W	WM	25	NW NE	39.8
11 S	2 W	WM	25	SE NE	1.2
Total:					41.1

6. Transfer Application T-14097 proposes to move the authorized point of diversion for the entire right approximately 435 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	POD 2 - 390 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF THE NW QUARTER OF SECTION 25

7. Transfer Application T-14097 also proposes to change the place of use of 1.2 acres located in the SENE of Section 25 of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	25	NE NE	1.0
11 S	2 W	WM	25	NW NE	0.2
Total					1.2

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

***Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2), 690-380-2110(2), and 690-380-2200]***

9. Water has been used within the five-year period prior to submittal of Transfer Application T-14097 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A water delivery system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-14097.
11. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
12. The proposed point of diversion diverts water from the same source of surface water as the authorized point of diversion, as required by OAR 690-380-2110(2).
13. The proposed change as conditioned, would not result in enlargement of the right.
14. The proposed change as conditioned, would not result in injury to other existing water rights.
15. All other application requirements are met.

**Conclusions of Law**

The change in point of diversion and change in place of use proposed in Transfer Application T-14097 are consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

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

1. The change in point of diversion and change in place of use proposed in Transfer Application T-14097 are approved.

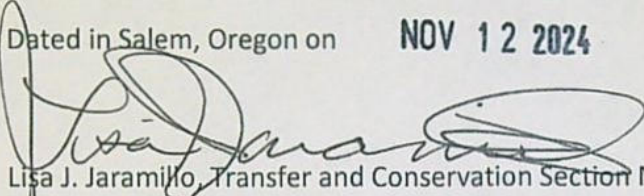
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 94546 and any related decree.
3. Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of diversion and the new place of use.
4. Water right Certificate 94546 is cancelled.
5. The quantity of water diverted at the new point of diversion (POD 2), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).
6. Water shall be acquired from the same source of surface water as the original point of diversion.
7. The former place of use of the transferred right shall no longer receive water under the right.
8. Water use measurement conditions:
  - 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.
  - 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.
9. Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the Oregon Water Resources Department (OWRD) a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.

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

10. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2026**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
11. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated in Salem, Oregon on

**NOV 12 2024**



Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
IVAN GALL, DIRECTOR  
Oregon Water Resources Department

Mailing date: **NOV 13 2024**

# WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 14097

Transfer Specialist: *Joan*

Transfer Type: Regular Transfer

<b>Applicant:</b> <i>BREWSTER RD LLC.</i> BARNEY KROPF ← <b>ATTN:</b> 23495 POWERLINE RD HARRISBURG, OR 97446 Email: _____ Phone: _____		<b>Agent:</b> <input type="checkbox"/> N/A TED RESSLER PO BOX 11268 PORTLAND, OR 97211 Email: _____ Phone: _____	
<b>Irrigation District:</b> <input checked="" type="checkbox"/> N/A Email: _____		<b>CWRE:</b> <input type="checkbox"/> N/A Email: _____	
<b>Affected Local Gov'ts:</b> <input checked="" type="checkbox"/> N/A E Gail McGarry Email: _____		<b>Affected Tribal Gov't:</b> <input type="checkbox"/> N/A UNAVAILABLE Email: _____	
<b>Current Landowner if other than Applicant:</b> <input type="checkbox"/> N/A Email: _____		<b>Receiving Landowner:</b> <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"/>	S-73091	S-51923	94546	<input type="checkbox"/> Yes <input checked="" 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 27, 2022	Proposed Action(s): POINT OF DIVERSION; PLACE OF USE	
Fees Pd: 2450.00	WM District: 16	ODFW District: <input checked="" type="checkbox"/>
Initial Public Notice: October 11, 2022	WM Review sent: <input checked="" type="checkbox"/> ↓	ODFW Review sent: <input checked="" type="checkbox"/>
Acknowledgement Letter Sent <input checked="" type="checkbox"/>	<i>Fish / screen now / measure ment devices.</i>	GW Review sent: <input checked="" type="checkbox"/> N/A
County sent cc: of Ack Letter <input type="checkbox"/>	BOR notified (date): <input checked="" type="checkbox"/> N/A	<i>Lebanon Express NP</i>
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: <i>7/21/23</i> Initials: <i>Joan</i>	Date: <i>8/1/23</i> Initials: <i>LF</i>	Date: _____ Initials: _____	Date: <i>8/9/23</i> Initials: <i>P/LS</i>	Date: <i>8/9/23</i> Initials: <i>Joan</i>	CW Sent: <i>8/9/23</i>	N/A
PD	Date: <i>8/14/23</i> Initials: <i>Joan</i>	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: <i>CC</i> Initials: <i>9/23/24</i>	Date: <i>JS</i> Initials: <i>9/24/24</i>	Date: <i>9/24/24</i>	Date: <i>9/26/24</i>
FO	Date: <i>10/24/24</i> Initials: <i>Joan</i>	Date: <i>10/25/24</i> Initials: <i>S. 2024</i>	Date: <i>11/10/24</i> Initials: <i>Corey</i>	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: <i>10/7/24</i>	Date: <i>11/12/2024</i>

Special Issues: \_\_\_\_\_

Special Order Volume: Vol. 133 Pages 335-339



# Oregon

Tina Kotek, Governor

September 26, 2024  
VIA CERTIFIED MAIL AND E-MAIL

BREWSTER ROAD LLC  
ATTN: BARNEY KROPF  
24395 POWERLINE ROAD  
HARRISBURG, OR 97446

SUBJECT: Water Right Transfer Application T-14097

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14097. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

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

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

Please don't hesitate to contact me at 503-986-0892 or [Joan.M.Smith@water.oregon.gov](mailto:Joan.M.Smith@water.oregon.gov), if I may be of assistance.

Sincerely,

Joan Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-14097  
Gregory J. Wacker, District 16 Watermaster (via e-mail)  
Ted Ressler, Agent for the applicant (via e-mail)

encs

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PS Form 3800, April 2015 PSN 7530-02-000-9047

See Reverse for Instructions

BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-14097, Linn County	)	PROPOSING APPROVAL OF A CHANGE IN
	)	POINT OF DIVERSION AND CHANGE IN
	)	PLACE OF USE

**Authority**

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

**Applicant**

BREWSTER ROAD LLC  
ATTN: BARNEY KROPF  
24395 POWERLINE ROAD  
HARRISBURG, OR 97446

**Findings of Fact**

1. On September 27, 2022, BREWSTER ROAD LLC., ATTN: BARNEY KROFT filed an application to change the point of diversion and to change the place of use under Certificate 94546. The Department assigned the application number T-14097.
2. Notice of the application for transfer was published on October 11, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On August 9, 2023, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14097 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of September 11, 2023, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, of this preliminary determination.

4. The right to be transferred is as follows:

**Certificate:** 94546 in the name of JAMES L. FLEISHMAN AND KATHRYN FLEISHMAN  
(perfected under Permit S-51923)

**Use:** IRRIGATION OF 41.1 ACRES

**Priority Date:** DECEMBER 23, 1992

**Rate:** 0.51 CUBIC FOOT PER SECOND AND 92.2 ACRE-FEET STORED WATER ONLY

**Limit/Duty:** The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

**Period of Use:** STORED WATER APRIL 1 TO SEPTMEBER 30 UNDER U.S. BOR CONTRACT, LIVE STREAM FLOW: APRIL 1-30 AND OCTOBER 1-31

**Source:** SOUTH SANTIAM RIVER AND WILLAMETTE BASIN PROJECT RESERVOIRS, UNDER PERMIT R-5363, TRIBUTARIES OF SANTIAM RIVER

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	POD 1 - SOUTH 83 DEGREES 15 MINUTES WEST; 148 FEET FROM THE NORTH 1/4 CORNER OF SECTION 25

**Authorized Place of Use:**

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	25	NE NE	0.1
11 S	2 W	WM	25	NW NE	39.8
11 S	2 W	WM	25	SE NE	1.2
Total:					41.1

5. Transfer Application T-14097 proposes to move the authorized point of diversion for the entire right approximately 435 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	POD 2 - 390 FEET SOUTH AND 350 FEET WEST FROM THE NE CORNER OF THE NW QUARTER OF SECTION 25

6. Transfer Application T-14097 also proposes to change the place of use of 1.2 acres located in the SENE of Section 25 of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	25	NE NE	1.0
11 S	2 W	WM	25	NW NE	0.2
Total					1.2

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

***Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2), 690-380-2110(2), and 690-380-2200]***

8. Water has been used within the five-year period prior to submittal of Transfer Application T-14097 according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
9. A water delivery system sufficient to use the full amount of water allowed under the existing right was present within the five-year period prior to submittal of Transfer Application T-14097.
10. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
11. The proposed point of diversion diverts water from the same source of surface water as the authorized point of diversion, as required by OAR 690-380-2110(2).
12. The proposed change as conditioned, would not result in enlargement of the right.
13. The proposed change as conditioned, would not result in injury to other existing water rights.
14. All other application requirements are met.

**Determination and Proposed Action**

The change in point of diversion and change in place of use proposed in Transfer Application T-14097 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-14097 is approved, the final order will include the following:*

1. *The change in point of diversion and change in place of use proposed in Transfer Application T-14097 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificate 94546 and any related decree.*

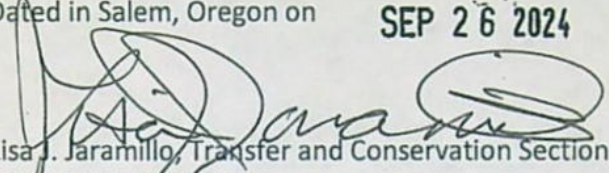
3. *Approval of this transfer application does not constitute nor grant legal access onto or through another person's property for purposes of accessing the new point of diversion and the new place of use.*
4. *Water right Certificate 94546 is cancelled.*
5. *The quantity of water diverted at the new point of diversion (POD 2), shall not exceed the quantity of water lawfully available at the original point of diversion (POD 1).*
6. *Water shall be acquired from the same source of surface water as the original point of diversion.*
7. *The former place of use of the transferred right shall no longer receive water under the right.*
8. *Water use measurement conditions:*
  - 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.*
  - 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.*
9. *Prior to diverting water, the water user shall install an approved fish screen at the new point of diversion and shall provide to the Oregon Water Resources Department (OWRD) a written statement from Oregon Department of Fish and Wildlife (ODFW) that the installed screen meets the state's criteria, or that ODFW has determined a screen is not necessary.*

*The water user shall operate and maintain the fish screen at the new point of diversion consistent with ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
10. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2026**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*

11. *After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

Dated in Salem, Oregon on

SEP 26 2024

  
Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
IVAN GALL, DIRECTOR  
Oregon Water Resources Department

This Preliminary Determination was prepared by Joan Smith. If you have questions about the information in this document, you may reach me at 503-986-0892 or [Joan.M.Smith@water.oregon.gov](mailto:Joan.M.Smith@water.oregon.gov)

### Protests

Under the provisions of ORS 540.520(6) & (7) and OAR 690-380-4030, within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later, any person may file, jointly or severally, a protest expressing opposition or approval of the transfer application and disagreement with this Preliminary Determination or a standing statement in support of this Preliminary Determination. If this Preliminary Determination determines that a change in point of diversion or appropriation would result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050. Protests and standing statements must be received by the Water Resources Department within 30 days after the last date of publication of the newspaper notice or the Department's weekly notice as prescribed by OAR 690-380-4020, whichever is later.

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

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;
- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and

- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

### Requests for Standing

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

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

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

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

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

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

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

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

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

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

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

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

## SMITH Joan M \* WRD

---

**From:** Ressler, Ted <tressler@summitwr.com>  
**Sent:** Tuesday, September 05, 2023 1:43 PM  
**To:** SMITH Joan M \* WRD  
**Cc:** Barney  
**Subject:** Water Right Transfer Application T-14097  
**Attachments:** T-14097-dpd-approve\_comments.pdf; Transfer map with supporting notes.pdf; 11S02W2500100.pdf; 11S02W2500300.pdf; Consent\_to\_Transfer\_TL100\_9-4-2023.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Joan

We have reviewed the Draft Preliminary Determination. Overall, the DPD reflects the changes requested; however, we noted the following errors listed below. Attached is a marked up version of the transfer map to support the noted errors and requested revisions (*Transfer map with supporting notes.pdf*)

- Findings of Fact 4 – scrivener's error in the measured distances for the new POD. See redline correction in the attached (*T-14097-dpd-approve\_comments.pdf*)
- Findings of Fact 5 – scrivener's error in the place of use listing. See redline correction in the attached. (*T-14097-dpd-approve\_comments.pdf*)

Please also find attached a report of land ownership for the FROM lands associated with the transfer (*11S02W2500100.pdf* and *11S02W2500300.pdf*)

Lastly, the ownership of tax lot 100 has changed since the transfer application was filed. Please find attached a replacement Consent from Deeded Landowner form which supersedes that provided in Attachment 4 of the transfer application (*Consent\_to\_Transfer\_TL100\_9-4-2023.pdf*). Do you need a hard copy of the consent form sent by mail?

Please let us know if there are questions or if additional information is needed.

Thank you!  
Ted

**Theodore R. Ressler, RG, CWRE, PG**  
Hydrogeologist and Water Resources Consultant

**Summit Water Resources, LLC**  
a Geo-Logic Company  
4784 SE 17th Avenue, Suite 111, Portland, OR 97202  
Office: 503-967-7050 | Mobile: 503.701.4535  
[tressler@summitwr.com](mailto:tressler@summitwr.com)

[www.summitwr.com](http://www.summitwr.com) | [www.geo-logic.com](http://www.geo-logic.com)

The contents of this e-mail message, including any attachments, are for the sole use of the intended recipient named above. This email may contain confidential and/or legally privileged information. If you are not the intended recipient of this message, be advised that any dissemination, distribution, or use of the contents of this message is strictly prohibited. If you receive this message in error, please notify the sender by return e-mail and permanently delete all copies of the original e-mail and any attached documentation. Thank you.

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



**From:** SMITH Joan M \* WRD  
**Sent:** Wednesday, August 09, 2023 3:27 PM  
**To:** [barney.kropf@yahoo.com](mailto:barney.kropf@yahoo.com)  
**Cc:** [tressler@summitwr.com](mailto:tressler@summitwr.com); WACKER Gregory J \* WRD <[Gregory.J.WACKER@water.oregon.gov](mailto:Gregory.J.WACKER@water.oregon.gov)>  
**Subject:**

Reference: Water Right Transfer Application T-14097

Your water right transfer is in the first of three phases of processing. Enclosed is a draft of the Department's Preliminary Determination regarding Transfer Application T-14097. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. Your response and submittal of the items outlined below are required by September 11, 2023.

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

Please carefully review the Draft Preliminary Determination to verify that it accurately reflects the changes you intend to make and to become familiar with the proposed conditions.

**Respond in writing** by September 11, 2023, with acknowledgement that you agree to the proposed action and conditions.

If you find any errors, please let me know.

**REQUIRED:** You must submit a **Report of Ownership** for the lands where the water right(s) are currently located (i.e., the FROM lands). This report:

Must be prepared by a title company;

Shall include a "prepared by" statement and the date the title company prepared the report printed on the cover sheet;

Must:

Be prepared no earlier than 3 months prior to the date of issuance of the Draft Preliminary Determination showing current ownership; **OR**

Be prepared within 3 months of the date the water right conveyance agreement was recorded; **OR**

Show ownership for the FROM land at the time a water right conveyance agreement was recorded.

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

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

Must include a list of owners at the time the report was generated; **AND**

Must include a legal description of the property where the water right to be transferred is currently located (i.e., the FROM lands).

You must provide a notarized statement of consent signed by any landowner listed in the Report of Ownership who is not already included in the transfer application. The Department's statement of consent form (**Consent By Deeded Landowner**) is available at: [https://www.oregon.gov/OWRD/WRDFormsPDF/consent to transfer form.pdf](https://www.oregon.gov/OWRD/WRDFormsPDF/consent%20to%20transfer%20form.pdf)

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

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

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

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

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

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

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

Your written response to the conditions and proposed action in the Draft Preliminary Determination (e-mail is acceptable); and

The Report of Ownership, including affidavits of consent from any landowners shown in the ownership report who have not signed the transfer application. The title company must indicate/state the date that they prepared the ownership report on the coversheet and/or first page of the report.

Please confirm the name of the newspaper you wish the Department to use for publication of the notice of the Preliminary Determination.

**If we do not receive the items listed above by September 11, 2023, a Preliminary Determination may be issued denying the application as incomplete.**

Please don't hesitate to contact me at if I may be of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Joan Smith', with a long horizontal stroke extending to the right.

Joan Smith  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-14097  
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)  
Ted Ressler, Agent for the applicant (*via e-mail*)



**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, 2022

BREWSTER RD LLC  
BARNEY KROPF  
23495 POWERLINE RD  
HARRISBURG, OR 97446

Reference: Application T-14097

On September 27, 2022, OWRD received your water right Permanent Transfer Application. The application was accompanied by \$2450.00. Our receipt number 139207 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the requested change. A review form will also be sent to Oregon Department of Fish and Wildlife to determine if a fish screen is needed .

This application may require publication of a notice for two consecutive weeks in a newspaper with general circulation in the area where the water right is located. If it is determined that newspaper notice will be required, the Department will prepare the notice and notify you of the cost. You will be responsible for submitting payment to the Department prior to publication of the notice.

Except as provided under ORS 540.510(3) for municipalities, you may not use water in the new place of use or from the new point of diversion until a final order approving the transfer application has been issued by the Department. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the application is approved, the buyer's consent to the application will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

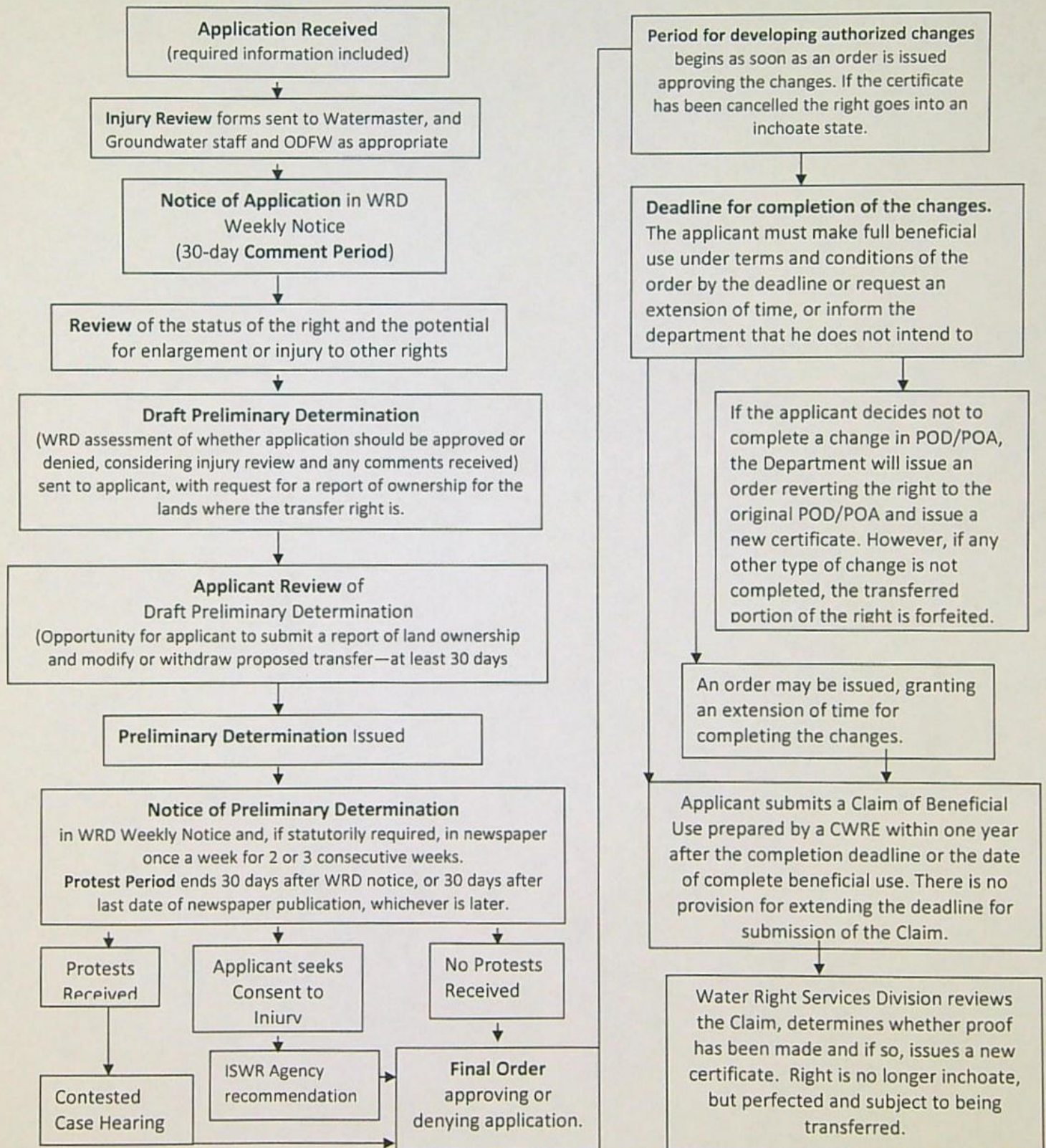
If you have any questions, please contact the Transfer Section at (503) 979-9931.

Cc: Watermaster Dist. #16, Gregory J. Wacker (*via email*)  
Linn County  
Ted Ressler, Agent  
Bureau of Reclamation

Enclosure

## Regular Transfer Process (including "Proving Up" on the changes)

OAR 690 Division 380



**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 # **139207**

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

RECEIVED FROM: Brewster Road LLC  
BY: Justin Smucker / Barnabas Kropf

APPLICATION	
PERMIT	
TRANSFER	1-14097

CASH: ☐ CHECK: # 1048 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 2,450.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

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

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

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

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

**WATER RIGHTS:**

	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$ _____	0202	\$ _____
0203 GROUND WATER	\$ _____	0204	\$ _____
0205 TRANSFER	\$ <u>2450.00</u>		

**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: **139207**

DATE: 9-27-2023 BY: M. Kropf

# Application for Permanent Water Right Transfer

## Part 1 of 5 – Minimum Requirements Checklist



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

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

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SEP 27 2022

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:  
[http://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator](http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator).
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: Certificate 94546**  
Please include a separate Part 5 for each water right. (See instructions on page 6)  
**NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.**

### Attachments:

- ☒ Completed Transfer Application Map.
- ☒ Completed Evidence of Use Affidavit and supporting documentation.
- ☒ ☐ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☐ ☒ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☒ ☐ N/A Oregon Water Resources Department's Land Use Information Form with approval and signature (or signed land use form receipt stub) from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if all of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- ☐ ☒ N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- ☐ ☒ N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

### (For Staff Use Only)

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

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

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

Staff: \_\_\_\_\_ 503- \_\_\_\_\_

14097/\_\_\_\_/\_\_\_\_

## Part 2 of 5 – Transfer Application Map

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

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

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

### Part 3 of 5 – Fee Worksheet

## FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

[illegible]

SEP 27 2022

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\*Example for Line 5a calculation to transfer 45.0 acres of Primary Certificate 12345 (total 1.25 cfs for 100 acres) and 45.0 acres of Supplemental Certificate 87654 (1/80 cfs per acre) on the same land:

1. For irrigation calculate cfs for each water right involved as follows:
  - a. Divide total authorized cfs by total acres in the water right (for C12345,  $1.25 \text{ cfs} \div 100 \text{ ac}$ ); then multiply by the number of acres to be transferred to get the transfer cfs ( $\times 45 \text{ ac} = 0.56 \text{ cfs}$ ).
  - b. If the water right certificate does not list total cfs, but identifies the allowable use as 1/40 or 1/80 of a cfs per acre; multiply number of acres proposed for change by either 0.025 (1/40) or 0.0125 (1/80). (For C87654,  $45.0 \text{ ac} \times 0.0125 \text{ cfs/ac} = 0.56 \text{ cfs}$ )
2. Add cfs for the portions of water rights on all the land included in the transfer; however **do not count cfs for supplemental rights on acreage for which you have already calculated the cfs fee for the primary right on the same land**. The fee should be assessed only once for each "on the ground" acre included in the transfer. (In this example, blank 5a would be only 0.56 cfs, since both rights serve the same 45.0 acres. Blank 5b would be 0 and Line 5 would then also become 0).

## FEE WORKSHEET for SUBSTITUTION

1	Base Fee (includes change to one well)	1	\$990.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$480 and enter » » » » » » » » » » » » » » » »	2	
3	Add entries on lines 1 through 2 above » » » » » » <b>Fee for Substitution:</b>	3	NA

## Part 4 of 5 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>Brewster Road, LLC; ATTN: Barney Kropf</b>		PHONE NO. <b>206-227-6412</b>	ADDITIONAL CONTACT NO. -
ADDRESS <b>24395 Powerline Road</b>		FAX NO. -	
CITY <b>Harrisburg</b>	STATE <b>OR</b>	ZIP <b>97446</b>	E-MAIL <b>barney.kropf@yahoo.com</b>
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

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

AGENT/BUSINESS NAME <b>THEODORE RESSLER, RG, CWRE – SUMMIT WATER RESOURCES, LLC</b>		PHONE NO. <b>503-701-4535</b>	ADDITIONAL CONTACT NO. -
ADDRESS <b>PO Box 11268</b>		FAX NO. -	
CITY <b>PORTLAND</b>	STATE <b>OR</b>	ZIP <b>97211</b>	E-MAIL <b>TRESSLER@SUMMITWR.COM</b>
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:

**The applicant requests to change the point of diversion for the entire water right and to change the place of use for a 1.2-acre portion of the water right.**

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

### Check One Box

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

**RECEIVED**

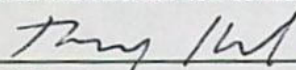
**SEP 27 2022**

**OWRD**

By my signature below, I confirm that I understand:

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

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

  
Applicant signature

Barney Kropf  
Print Name (and Title if applicable)

9/15/22  
Date

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

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

\_\_\_\_\_  
Date

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

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

Check the following boxes that apply:

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

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

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

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

[https://www.oregon.gov/owrd/WRDFormsPDF/Transfer\\_Property\\_Transactions.pdf](https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf)

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

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

IRRIGATION DISTRICT NAME	ADDRESS	
CITY	STATE	ZIP

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

ENTITY NAME U.S. Bureau of Reclamation	ADDRESS 1150 North Curtis Road	
CITY Boise	STATE ID	ZIP 83706



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

ENTITY NAME Linn County	ADDRESS 300 Fourth Ave SW	
CITY Albany	STATE OR	ZIP 97321

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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## Part 5 of 5 – Water Right Information

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

CERTIFICATE # 94546

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### Description of Water Delivery System

SEP 27 2022

System capacity: 0.51 cubic feet per second (cfs) OR

\_\_\_\_\_ gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. **Water was diverted from the river using a bankside 60 Hp pump with a fish screen on the suction intake. Water from the pump was conveyed by 8-inch mainline that delivered water to the field, where the water was used for irrigation using an Evergreen hose reel and Big Gun sprinkler. The hose reel and sprinkler are a mobile system that were moved to irrigate the place of use.**

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

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

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
POD 1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	NA	11 S	2 W	25	NE NW	300	South 83 Degrees 15 Minutes West, 148 feet from N1/4 corner, Section 25
POD 2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed	NA	11 S	2 W	25	NE NW	300	350 feet west, 390 feet south from the NE corner of the NW Quarter, Section 25

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

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input checked="" type="checkbox"/> Point of Diversion (POD)           | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

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

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

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 # 94546**

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	Acre	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	Acre	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date
11	S	2	W	25	NW	NE	300		39.8	IR	POD 1	12/23/1992	POD	11	S	2	W	25	NW	NE	300		40.0		POD 2	12/23/1992
11	S	2	W	25	NE	NE	300		0.1	IR	POD 1	12/23/1992	POD	11	S	2	W	25	NE	NE	300		1.1		POD 2	12/23/1992
11	S	2	W	25	SE	NE	100		1.2	IR	POD 1	12/23/1992	POD POU													
TOTAL ACRES:									41.1					TOTAL ACRES:									41.1			

Additional remarks: The applicant requests to change the point of diversion for the entire water right and to change the place of use for a 1.2-acre portion of the water right.

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**For Place of Use or Character of Use Changes**

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

If YES, list the certificate, water use permit, or ground water registration numbers: \_\_\_\_\_.

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

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

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

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

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

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

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

- ☐ Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

**Tip:** You may search for well logs on the Department's web page at:

[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

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

**Table 3. Construction of Point(s) of Appropriation**

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

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

Authorized and proposed PODs are surface water intakes, not wells

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# Application for Water Right Transfer

## Evidence of Use Affidavit



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

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

State of Oregon )  
County of LINN) ss

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I, BARNEY KROPE, in my capacity as WATER RIGHT HOLDER AND PROPERTY OWNER,  
mailing address 23495 POWERLINE ROAD, HARRISBURG, OREGON 97446  
telephone number (206)227-6412, being first duly sworn depose and say:

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

☒ Personal observation ☐ Professional expertise

2. I attest that:

☒ Water was used during the previous five years on the **entire** place of use for  
Certificate # 94546; **OR**

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

Certificate #	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

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

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(continues on reverse side)

3. The water right was used for: (e.g., crops, pasture, etc.): IRRIGATION OF ROW CROPS, PASTURE, AND LANDSCAPING

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

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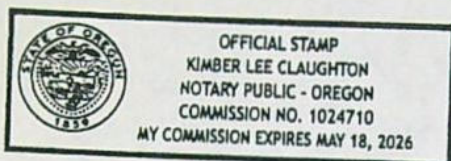
SEP 27 2022

Signature of Affiant

Date

OWRD

Signed and sworn to (or affirmed) before me this 15<sup>th</sup> day of Sept., 2022.



Notary Public for Oregon

My Commission Expires: May 18, 2026

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

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Place of Use, Google Earth 8/2020



Place of Use, Google Earth 10/2019



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# Land Use Information Form



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

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## NOTE TO APPLICANTS

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

**This form is NOT required if:**

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

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land use form and return it to the WRD. If no land use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0900.

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# Land Use Information Form



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

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## Applicant

NAME <b>Brewster Road, LLC; Attn: Barney Kropf</b>		PHONE (HM) -	
PHONE (WK) <b>206-227-6412</b>	CELL -	FAX -	
ADDRESS <b>23495 Powerline Road</b>			
CITY <b>Harrisburg</b>	STATE <b>OR</b>	ZIP <b>97446</b>	E-MAIL* <b>barney.kropf@yahoo.com</b>

## A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
11S	2W	25	NENW	00300	EFU	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input type="checkbox"/> Used	Irrigation
11S	2W	25	NWNE	00300	EFU	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Irrigation
11S	2W	25	NENE	00300	EFU	<input type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	Irrigation

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

**Linn County**

## B. Description of Proposed Use

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

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

Source of water: ☒ Reservoir/Pond    ☐ Groundwater    ☐ Surface Water (name) \_\_\_\_\_

Estimated quantity of water needed: 0 ☒ cubic feet per second    ☐ gallons per minute    ☒ acre-feet

Intended use of water: ☒ Irrigation    ☐ Commercial    ☐ Industrial    ☐ Domestic for \_\_\_\_\_ household(s)  
☐ Municipal    ☐ Quasi-Municipal    ☐ Instream    ☐ Other \_\_\_\_\_

Briefly describe:

The property is currently in farm use and the proposed use of water is intended to enhance the farm use on the property. The Applicant is requesting to change the point of diversion and change the place of use for a 1.2-acre portion of an existing water right, Certificate 94546. The existing rate and volume of water authorized for use by the applicant under the water right (0.51 cfs of live flow from the South Santiam River and 92.2 acre-feet of stored water for irrigation oof 41.1 acres) will not be modified by the proposed changes.

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

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## For Local Government Use Only

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

## Please check the appropriate box below and provide the requested information

☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): LCC 928.310(B)(1)

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

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

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

--

NAME <u>Kate Bertz</u>		TITLE: <u>Assistant Planner</u>
SIGNATURE <u>Kate Bertz</u>	PHONE: <u>541-967-3816</u>	DATE: <u>8/30/22</u>
GOVERNMENT ENTITY <u>Linn County</u>		

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

## Receipt for Request for Land Use Information

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

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

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

14097

# Application for Water Right Transfer



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

## Consent by Deeded Landowner

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State of Oregon )  
 )ss  
County of Linn )

SEP 27 2022

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I Soni and Shawn Mask in my/our capacity as Landowners,

mailing address 34466 Brewster Road, Lebanon, OR 97355,

telephone number 541-501-0305 and 503-930-7519, duly sworn depose and say that I/We

consent to the proposed change(s) to Water Right Certificate Number 94546

described in a Water Right Transfer Application (T-\_\_\_\_),

(transfer number, if known)

submitted by Brewster Road LLC

on the property in tax lot number(s) 100,

Section 25 Township 11 North/South Range 2 East/West, W.M.,

located at 34466 Brewster Road, Lebanon, OR 97355

(site address)

Signature of Affiant

Date

Signature of Affiant

Date

Subscribed and Sworn to before me this 26 day of August, 2022.



Katelyn Rose Lawrence  
Notary Public for Oregon

My commission expires April 24, 2023

## STATE OF OREGON

## COUNTY OF LINN

## CERTIFICATE OF WATER RIGHT

RECEIVED

SEP 27 2022

OWRD

## THIS CERTIFICATE ISSUED TO

JAMES L. FLEISHMAN  
KATHRYN FLEISHMAN  
34466 BREWSTER RD  
LEBANON OR 97355

confirms the right to the use of water perfected under the terms of Permit S-51923. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the point of diversion from the source. The specific limits and conditions of the use are listed below.

SOURCE OF WATER: SOUTH SANTIAM RIVER AND WILLAMETTE BASIN PROJECT RESERVOIRS, UNDER PERMIT R-5363, TRIBUTARIES OF SANTIAM RIVER

PURPOSE OR USE: IRRIGATION OF 41.1 ACRES

MAXIMUM RATE: 0.51 CUBIC FOOT PER SECOND FROM RIVER, AND 92.2 ACRE-FEET STORED WATER ONLY

PERIOD OF USE: STORED WATER APRIL 1 TO SEPTEMBER 30 UNDER USBOR CONTRACT, LIVE STREAM FLOW: APRIL 1-30 AND OCTOBER 1-31

DATE OF PRIORITY: DECEMBER 23, 1992

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	SOUTH 83 DEGREES 15 MINUTES WEST, 148 FEET FROM N1/4 CORNER, SECTION 25

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, (or its equivalent) and 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
11 S	2 W	WM	25	NE NE	0.1
11 S	2 W	WM	25	NW NE	39.8
11 S	2 W	WM	25	SE NE	1.2

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

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

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

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
11 S	2 W	WM	25	NE NW	SOUTH SANTIAM RIVER - SOUTH 47 DEGREES 30 MINUTES WEST, 625 FEET FROM N1/4 CORNER, SECTION 25

Measurement, recording, and reporting conditions:

- A. The water user shall maintain the meter or measuring device in good working order.
- B. The water user 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 water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

The use of water under this right is subject to the terms and conditions of Water Service Contract No. 5-07-10-W1082 or a satisfactory replacement between the Bureau of Reclamation and the water user, a copy of which is on file in the records of the Water Resources Department.

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

Notwithstanding the Oregon Department of Fish and Wildlife has made a determination that by-pass devices are not necessary at this time, the water user may be required in the future to install, maintain, and operate by-pass devices to prevent fish from entering the diversion, and to provide adequate upstream and downstream passage for fish.

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

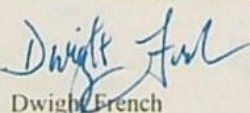
This right is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve the end.

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

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

This certificate is issued to confirm a change in POINT OF DIVERSION approved by an order of the Water Resources Director entered June 22, 2015, at Special Order Volume 96, Page 348, approving Transfer Application T-11980, supercedes Certificate 89407, State record of Water Right Certificates.

Issued SEP 27 2019



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

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September 23, 2022

Mr. P. Kelly Starnes  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271

**Subject:** Application for a Permanent Water Right Transfer  
Certificate 94546, Brewster Road LLC

Mr. Starnes:

On behalf of the applicant, Brewster Road LLC, please find enclosed an Application for a Permanent Water Right Transfer involving Certificate 94546 accompanied by a check in the amount of \$2,450 for payment of the application filing fee.

If you have any questions regarding the enclosed application, you can reach me at 503-701-4535. Please copy me on any correspondence regarding this application.

Respectfully submitted,

Theodore Ressler, RG, CWRE  
Summit Water Resources LLC.

Cc: Barney Kropf – Brewster Road LLC

Enclosures:

Application for a Permanent Water Right Transfer involving Certificate 94546  
Check # 1048 in the amount of \$2,450

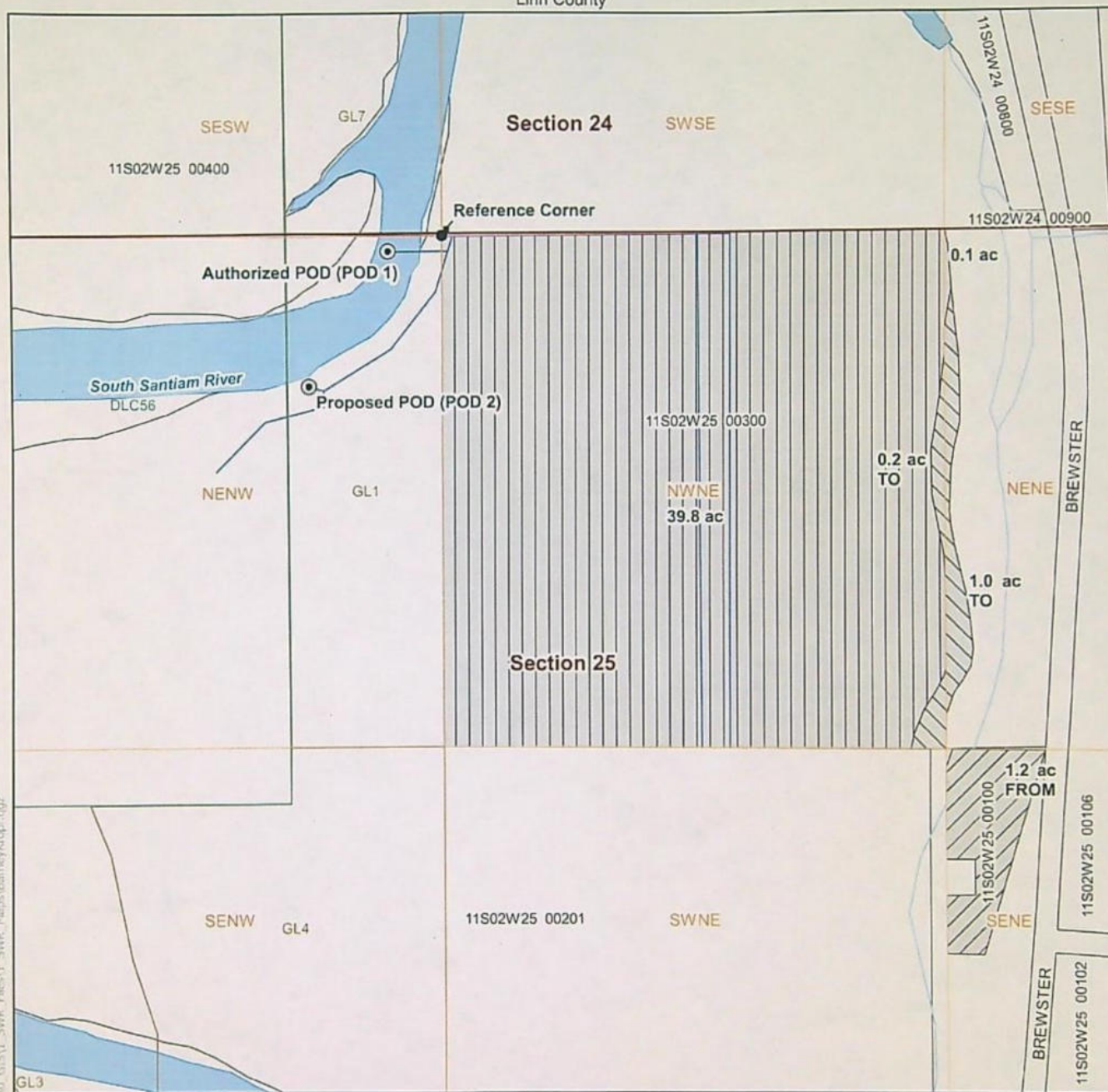
RECEIVED

SEP 27 2022

# Application for a Permanent Water Right Transfer Certificate 94546

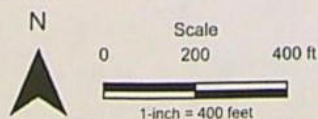
A Water Right held by Brewster Road LLC  
Township 11 South, Range 2 West, Section 25 (W.M.)  
Linn County

OWRD



## LEGEND

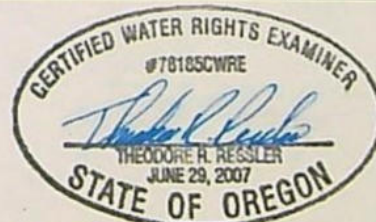
- Point of Diversion (POD)
- ▨ Portion of Authorized Place of Use (POU) to be served by POD 2, 39.8 ac.
- ▨ From Lands, 1.2 ac.
- ▨ TO Lands to be served by POD 2, 1.2 ac
- Government Lots (GLs)
- Donation Land Claims (DLCs)
- Section
- Property Lines
- ~ Watercourse
- ~ Mainline



## POD Location Description

Authorized Point of Diversion (POD 1):  
South 83 Degrees 15 Minutes West, 148 feet from N1/4 corner, Section 25

Proposed Point of Diversion (POD 2):  
350 feet west, 390 feet south from the NE corner of the NW Quarter, Section 25



RENEWES: 12-31-2022

CWRE Seal and Signature

14097

Date: 7/27/2022  
Data Sources: BLM, ESRI, OWRD, USGS, Coos. Co.  
Disclaimer: This map was prepared for the purpose of identifying the location of a water right only and is not intended to provide legal dimensions or location of property ownership lines.



# Permanent Transfer Application Intake Completion Checklist

Check the Certificate(s) in WRIS

Transfer # T- 14697

Checked by: <u>Scott</u> Date: <u>9-29-22</u>	Type of Change(s) Proposed: Mark the Proposed Changes	Substitution	Supplemental to Primary	<input checked="" type="checkbox"/> POU	<input checked="" type="checkbox"/> POD	APOD
Fee Received: <u>2450</u>		Gov Action	Surface to Ground	USE	POA	APOA
Calculated Fee: <u>2450</u>		How many rights to be Transferred? <u>1</u>				
		Certificate # <u>94546</u>				
Additional Observations: <u>POD to entirety</u> <u>POU partial</u>						

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

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

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