

Regular

RA

Name Countryside Nursery
Attn: Adam Farley
 Address 23800 Airport Road NE
Aurora, OR 97002

Change in APDA
 Date Filed 11-3-2022
 Initial notice date 11-15-2022
 DPD issued date
 PD issued date 12/10/2024
 PD notice date 12/17/2024
 Date of FO 3/6/2025 Vol 134 Page 11-15

C-Date
 COBU due date
 COBU Received date
 Certificate issued

Assignments:

Irrigation District _____

Agent Schroeder Law Offices - schroeder@water-law.com

CWRE _____

CC's list Clackamas County

DESCRIPTION OF WATER RIGHT(S)

Name of Stream A Well

Trib. of Pudding River Basin

Use Nursery Uses County Clackamas

Quantity of water (CFS) _____ No. of Acres _____

Name of ditch _____

App# G-13693 Per # G-12333 Cert # 89719 PR Date 5/20/1994

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

App# _____ Per # _____ Cert # _____ PR Date _____

FEES PAID		
Date	Amount	Receipt #
<u>11-3-2022</u>	<u>\$1,840.00</u>	<u>139479</u>
<u>11-3-2022</u>	<u>\$125.00</u>	<u>139470</u>
<u>2-12-2022</u>	<u>\$2,012.45</u>	<u>139733</u>

FEES REFUNDED		
Date	Amount	Receipt #

☐ - Oversized map - Location _____

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 14117

Transfer Specialist: *Scott*

Transfer Type: Regular Transfer

Applicant: ADAM FARLEY 23800 NE AIRPORT RD AURORA, OR 97002 Email: _____ Phone: _____		Agent: ☐ N/A SCHROEDER LAW OFFICES 1915 NE CESAR E CHAVEZ BLVD PORTLAND, OR 97212 Email: _____ Phone: _____	
Irrigation District: ☐ N/A Email: _____		CWRE: ☐ N/A Email: _____	
Affected Local Gov'ts: ☐ N/A County Of Clackamas Email: _____		Affected Tribal Gov't: ☐ N/A UNAVAILABLE Email: _____	
Current Landowner if other than Applicant: ☐ N/A Email: _____		Receiving Landowner: ☐ N/A Email: _____	

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
☐	G-13693	G-12333	89719	☐ Yes ☒ No	
☐				☐ Yes ☐ No	
☐				☐ Yes ☐ No	

Key Dates & Initial Actions:

Rec'd: November 3, 2022	Proposed Action(s): ADDITIONAL POINT OF APPROPRIATION	
Fees Pd: 1840.00	WM District: 16	ODFW District:
Initial Public Notice: November 15, 2022	WM Review sent:	ODFW Review sent:
Acknowledgement Letter Sent ☐		GW Review sent: ☐ N/A
County sent cc: of Ack Letter ☐	BOR notified (date): ☐ N/A	
Newspaper quote requested: 5/15/24	Request for news \$ sent:	News \$ received:
Request to publish sent:	Affidavit of publication received: 1/6/25	Last day of publication: 12/25/24

Canby Herald Pioneer **AFFIDAVIT REVID 1/6/25**

Document	Drafted	Peer Review	Changes Made	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: 9/25/23 Initials: <i>Scott</i>	Date: 9/26/23 Initials: <i>AW</i>	Date: _____ Initials: _____	Date: 3/24/24 Initials: <i>PKS</i>	Date: 2/28/24 Initials: <i>Scott</i>	CW Sent: 2/28/24	N/A
PD	Date: 4/4/24 Initials: <i>Scott</i>	Date: 5/9/24 Initials: <i>Scott</i>	Date: _____ Initials: _____	Date: 5/10/24 Initials: <i>Corey</i>	Date: 5/15/24 Initials: <i>Scott</i>	Date: 12/6/24	Date: 4/2/10/24
FO	Date: 12/23/24 Initials: <i>Scott</i>	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: 3/8/24 Initials: <i>Corey</i>	Date: 3/6/25 Initials: <i>Scott</i>	Date: 3/6/25	Date: 3/6/2025

Special Issues: **NEWS REQ 5/15/24**

DATA REQ 5/15/24

Special Order Volume: Vol. 134 Pages 11-15

Newspaper dates 12/18 + 12/25

CLEAR ON JAN 24 2025
Last Revised 10-29-18



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

March 6, 2025

Adam Farley
23800 NE Airport Rd
Aurora, OR 97002

REFERENCE: Transfer Application T-14117

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, Scott Grew, by telephone at (503) 986-0890 or by e-mail at Scott.a.grew@water.oregon.gov.

Sincerely,

David V. Jones Jr
Water Rights Services Support
Transfers and Conservation Section

cc: Gregory J. Wacker, Watermaster Dist. # 16 (via email)
Schroeder Law Offices, Agent
County of Clackamas, Local Government

Enclosure

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING AN
T-14117, Clackamas County	)	ADDITIONAL POINT OF APPROPRIATION

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

Findings of Fact

1. On November 3, 2022, ADAM FARLEY / COUNTRYSIDE NURSERY, filed an application for an additional point of appropriation under Certificate 89719. The Department assigned the application number T-14117.
2. Notice of the application for transfer was published on November 15, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 28, 2024, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14117 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 29, 2024, 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 March 29, 2024, the Department received the Agent's response letter stating:
"Countryside does not agree with the proposed action in paragraph 4. Countryside agrees with all other paragraphs in the proposed action. Within the Determination and Proposed Action section of the Draft PD paragraph 4, it states that Water right Certificate 89719 is cancelled with the approval of the transfer application. Countryside requests OWRD reconsider this proposed action or provide further clarification into why such cancellation is necessary for Transfer Application T-14117.
5. The Department cannot reconsider this proposed action. Pursuant to ORS 540.530(2)(a), if a certificate covering the water right has been previously issued, the commission shall cancel the previous certificate.
6. On December 10, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14117 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on December 17, 2024, and in the Canby Herald Pioneer newspaper on December 18 and 25, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notices.
7. On June 10, 2024, the agent for the applicant requested the completion date of October 1, 2026, because of the availability of a well driller to complete the new point of appropriation. The Department granted the longer time for completion per OAR 690-380-5140 (3).
8. The right to be transferred is as follows:

Certificate: 89719 in the name of COUNTRYSIDE NURSERY INC. (perfected under Permit G-12333)

Use: NURSERY OPERATIONS ON 47.5 ACRES

Priority Date: MAY 20, 1994

Rate: 3.0 CUBIC FEET PER SECOND (CFS), BEING 1.0 CFS FROM WELL 1 AND 2.0 FROM WELL 2

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

Source: TWO WELLS in PUDDING RIVER BASIN, within the WILLAMETTE BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	1 W	WM	36	NW SW	55	WELL 1 - 1785 FEET NORTH AND 895 FEET EAST FROM THE SW CORNER OF SECTION 36
3 S	1 W	WM	36	SW SW		WELL 2 - 320 FEET NORTH AND 1050 FEET EAST FROM THE SW CORNER OF SECTION 36

Authorized Place of Use:

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	36	NE SW	9.84
3 S	1 W	WM	36	NW SW	28.89
3 S	1 W	WM	36	SW SW	5.58
3 S	1 W	WM	36	SE SW	3.19
				Total	47.50

9. Transfer Application T-14117 proposes an additional point of appropriation approximately 0.14 mile west from Well 1 and 0.34 mi. northwest from Well 2 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	36	NW SW	WELL 3 - 1945 FEET NORTH AND 190 FEET EAST FROM THE SW CORNER OF SECTION 36

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

10. Water has been used within the last five years 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.
11. 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-14117.
12. The water right is subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
13. The proposed point of appropriation develops groundwater from the same aquifer as the authorized points of appropriation, as required by OAR 690-380-2110(2).
14. The proposed change, as conditioned, would not result in enlargement of the right.
15. The proposed change, as conditioned, would not result in injury to other existing water rights.
16. All other application requirements are met.

Conclusions of Law

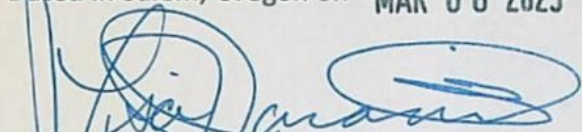
The additional point of appropriation proposed in Transfer Application T-14117 is consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional point of appropriation proposed in Transfer Application T-14117 is 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 89719 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 appropriation.
4. Water right Certificate 89719 is cancelled.
5. The quantity of water diverted at the new additional point of appropriation (Well 3), together with that diverted at the original points of appropriation (Wells 1 and 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1 and 2).
6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.
7. 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 appropriation (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
8. 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 change and full beneficial use of the water.
9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

10. Under OAR 690-380-6010(6), if use of the additional point of appropriation authorized by this order is not completed, the water right as previously evidenced by Certificate 89719 is not lost but shall instead revert to the last authorized points of appropriation prior to this transfer. If use of the additional point of appropriation is not completed, the Department shall issue a new water right certificate reflecting reversion of the water right to the last authorized points of appropriation prior to this transfer.

Dated in Salem, Oregon on **MAR 06 2025**



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

Mailing date: **MAR 07 2025**

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 # 143093

INVOICE #

RECEIVED FROM: Schroeder Law Offices, P.C.

BY:

CASH: ☐ CHECK: # 30440 OTHER: (IDENTIFY)

APPLICATION	
PERMIT	
TRANSFER	T-14117
TOTAL REC'D	\$ 67.21

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$
0207 OTHER: (IDENTIFY) Newspaper Notice \$ 67.21

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201 SURFACE WATER EXAM FEE 0202 RECORD FEE \$
0203 GROUND WATER EXAM FEE 0204 RECORD FEE \$
0205 TRANSFER EXAM FEE LICENSE FEE \$

WELL CONSTRUCTION

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

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: 143093

DATED: 6-12-24 BY: m mill

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

Attached is a check in the amount of \$ 67.21 (PCA #46118) for Newspaper Notice for Transfer T-14117 made out to Oregon Water Resources Department (or WRD)

- "for T-14117 NOTICE" written on front of check

Mail to: Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Caseworker: Scott Grew

SCHROEDER LAW OFFICES, P.C.
Vendor: 58.00 Oregon Water Resources Department

Date Description

06/10/2024 (1.03) Transfer Application T-14117
Newspaper Notice Fee

Invoice #

Amount

Disc

Net Amt

FEE

67.21

67.21

Check Date

Check #

Gross Amt

Disc Amt

Net Amt

06/10/2024

30440

67.21

0.00

67.21

Received
JUN 12 2024
OWRD

Received
JUN 12 2024
OWRD

30440

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 # **143238**

INVOICE # _____

RECEIVED FROM: *Countryside Nursery, Inc*

BY: _____

CASH: ☐CHECK: # ☒ **28811**OTHER: (IDENTIFY) ☐

APPLICATION _____

PERMIT _____

TRANSFER *T-14117*TOTAL REC'D \$ **67.21****1083 TREASURY 4170 WRD MISC CASH ACCT**0407 COPIES *46118*

\$

0707 OTHER: (IDENTIFY) *Newspaper Notice*\$ **67.21**

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES

\$

0410 RESEARCH FEES

\$

0408 MISC REVENUE: (IDENTIFY) _____

\$

TC162 DEPOSIT LIAB. (IDENTIFY) _____

\$

0240 EXTENSION OF TIME

\$

WATER RIGHTS:

0201 SURFACE WATER

EXAM FEE

\$

0202

RECORD FEE

\$

0203 GROUND WATER

\$

0204

\$

0205 TRANSFER

\$

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

\$

0219

LICENSE FEE

\$

LANDOWNER'S PERMIT

0220

\$

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$

CARD# _____

0210 MONITORING WELLS

\$

CARD# _____

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

\$

0231 HYDRO LICENSE FEE (FW/WRD)

\$

HYDRO APPLICATION

\$

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____

\$

RECEIPT: **143238**DATED: *7-1-2024*BY: *VB*

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

OWRD

PAYMENT RECORD

ACCOUNT NO.	VOUCHER	INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	CHECK NO.
	4492	PCS# 46118	06/18/2024	67.21	28811
PAID 6/27/2024					
CHECK TOTAL					
67.21					

Received

JUL 01 2024

PAID 6/27/2024

CHECK TOTAL

67.21

Received

JAN 06 2025

OWRD



SEE EXHIBIT A

P.O. Box 45 West Linn, OR 97068
Phone: 503-684-0360 Fax: 503-620-3433
E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Clackamas, ss I,
Kristine Humphries, being first duly sworn,
depose and say that I am the Principal Clerk
of the Carby Herald/Pioneer, a newspaper of
general circulation, published in Clackamas
County, Oregon, as defined by ORS 193.010
and 193.020, that

Ad#: 330435

**Owner: Oregon Water Resources Depart-
ment**

Plaintiff:

**Disc.: Notice of Preliminary Determination
for**

Water Right Transfer T-14117

Case #:

A copy of which is hereto annexed, was
published in the entire issue of said
newspaper for 2 week(s) in the
following issue:

12/18/2024, 12/25/2024

A handwritten signature in blue ink, appearing to read "Kristine Humphries", written over a horizontal line.

Kristine Humphries (Principal Clerk)

Subscribed and sworn to before me this
12/25/2024.

A handwritten signature in blue ink, appearing to read "Deseri Kim Cerruti", written over a horizontal line.

NOTARY PUBLIC FOR OREGON

Acct #: 149038
Attn: ELYSE D. RICHMAN
OREGON WATER RESOURCES DEPARTMENT
725 SUMMER STREET SE, SUITE A
SALEM, OR 97301

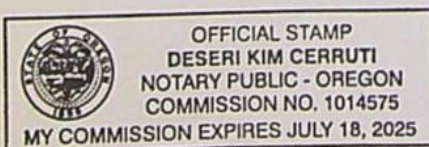


EXHIBIT A

Received

JAN 06 2025

OWRD

Notice of Preliminary Determination for Water Right Transfer T-14117

T-14117 filed by Adam Farley / Countryside Nursery, 23800 NE Airport Rd, Aurora, OR 97002, proposes an additional point of appropriation under Certificate 89719. The right allows the use of 3.0 cubic feet per second from Wells 1 and 2 in Sec. 36, T3S, R1W, WM for nursery operations in Sec. 36, T3S, R1W, WM. The applicant proposes an additional point of appropriation in Sec. 36, T3S, R1W, WM. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice, December 25, 2024. Call (503) 986-0935 to obtain additional information. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

Published Dec. 18 & 25, 2024.

CH330435

GREW Scott A * WRD

From: RICHMAN Elyse D * WRD
Sent: Wednesday, December 11, 2024 9:59 AM
To: GREW Scott A * WRD
Subject: T-14117 Publication dates`

Hi Scott,

The publication dates for this newspaper notice are 12/18 and 12/25.

Cheers,

Elyse D. Richman

she/her/hers

Transfer and Conservation Section Support

725 Summer Street NE, Suite A, Salem, OR 97301

Office: 503-986-0935 | Work Cell: 971-701-5485



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



Oregon

Tina Kotek, Governor

Water Resources Department

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

December 10, 2024

VIA CERTIFIED MAIL AND E-MAIL

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-14117

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14117. 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 and in the Canby Herald Pioneer newspaper, 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 last date of newspaper publication.

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 contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-14117
Gregory J. Wacker, District 16 Watermaster (via e-mail)
Schroeder Law Offices, Agent for the applicant (via e-mail)

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-14117, Clackamas County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF APPROPRIATION

Authority

Oregon Revised Statutes (ORS) 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, 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

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

Findings of Fact

1. On November 3, 2022, ADAM FARLEY / COUNTRYSIDE NURSERY, filed an application for an additional point of appropriation under Certificate 89719. The Department assigned the application number T-14117.
2. Notice of the application for transfer was published on November 15, 2022, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 28, 2024, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14117 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of March 29, 2024, 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. On March 29, 2024, the Department received the Agent's response letter stating:
"Countryside does not agree with the proposed action in paragraph 4. Countryside agrees with all other paragraphs in the proposed action. Within the Determination and Proposed Action section of the Draft PD paragraph 4, it states that Water right Certificate 89719 is cancelled with the approval of the transfer application. Countryside requests OWRD reconsider this proposed action or provide further clarification into why such cancellation is necessary for Transfer Application T-14117."
5. The Department cannot reconsider this proposed action. Pursuant to ORS 540.530(2)(a), if a certificate covering the water right has been previously issued, the commission shall cancel the previous certificate.
6. On June 10, 2024, the agent for the applicant requested the completion date of October 1, 2026, because of the availability of a well driller to complete the new point of appropriation. The Department granted the longer time for completion per OAR 690-380-5140 (3).
7. The right to be transferred is as follows:

Certificate: 89719 in the name of COUNTRYSIDE NURSERY INC. (perfected under Permit G-12333)

Use: NURSERY OPERATIONS ON 47.5 ACRES

Priority Date: MAY 20, 1994

Rate: 3.0 CUBIC FEET PER SECOND (CFS), BEING 1.0 CFS FROM WELL 1 AND 2.0 FROM WELL 2

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

Source: TWO WELLS in PUDDING RIVER BASIN, within the WILLAMETTE BASIN

Authorized Points of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	DLC	Measured Distances
3 S	1 W	WM	36	NW SW	55	WELL 1 - 1785 FEET NORTH AND 895 FEET EAST FROM THE SW CORNER OF SECTION 36
3 S	1 W	WM	36	SW SW		WELL 2 - 320 FEET NORTH AND 1050 FEET EAST FROM THE SW CORNER OF SECTION 36

Authorized Place of Use:

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
3 S	1 W	WM	36	NE SW	9.84
3 S	1 W	WM	36	NW SW	28.89
3 S	1 W	WM	36	SW SW	5.58
3 S	1 W	WM	36	SE SW	3.19
				Total	47.50

8. Transfer Application T-14117 proposes an additional point of appropriation approximately 0.14 mile west from Well 1 and 0.34 mi. northwest from Well 2 to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
3 S	1 W	WM	36	NW SW	WELL 3 - 1945 FEET NORTH AND 190 FEET EAST FROM THE SW CORNER OF SECTION 36

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

9. Water has been used within the last five years 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-14117.
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 appropriation develops groundwater from the same aquifer as the authorized points of appropriation, 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.

Determination and Proposed Action

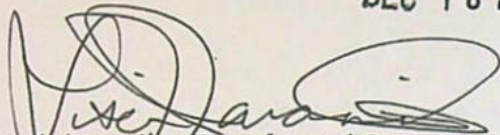
The additional point of appropriation proposed in Transfer Application T-14117 appears to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-14117 is approved the final order will include the following:

- 1. The additional point of appropriation proposed in Transfer Application T-14117 is 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 89719 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 appropriation.*
- 4. Water right Certificate 89719 is cancelled.*
- 5. The quantity of water diverted at the new additional point of appropriation (Well 3), together with that diverted at the original points of appropriation (Wells 1 and 2), shall not exceed the quantity of water lawfully available at the original points of appropriation (Wells 1 and 2).*
- 6. Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
- 7. 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 appropriation (new and existing).*
 - b. The water user shall maintain the meters or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 8. 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 change and full beneficial use of the water.*
- 9. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.*

10. Under OAR 690-380-6010(6), if use of the additional point of appropriation authorized by this order is not completed, the water right as previously evidenced by Certificate 89719 is not lost but shall instead revert to the last authorized points of appropriation prior to this transfer. If use of the additional point of appropriation is not completed, the Department shall issue a new water right certificate reflecting reversion of the water right to the last authorized points of appropriation prior to this transfer.

Dated in Salem, Oregon on **DEC 10 2024**



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

This Preliminary Determination was prepared by Scott Grew. If you have questions about the information in this document, you may reach him at scott.a.grew@water.oregon.gov or 503-986-0890.

Protests

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

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

- The person's name, address, and telephone number;
- All reasonably ascertainable issues and all reasonably available arguments supporting the person's position by the close of the protest period. Failure to raise a reasonably ascertainable issue in a protest or failure to provide sufficient specificity to afford the

Department an opportunity to respond to the issue may preclude consideration of the issue during the hearing;

- If you are the applicant, a protest fee of \$480 required by ORS 536.050; and
- If you are not the applicant, a protest fee of \$950 required by ORS 536.050 and proof of service of the protest upon the applicant.

Requests for Standing

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

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

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

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

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

If after hearing the Department issues a proposed Final Order finding that a change in point of diversion or appropriation will result in injury, the applicant may file a notification of intent to pursue approval of the transfer under OAR 690-380-5030 to 690-380-5050 within 15 days of

receipt of the proposed order. Notwithstanding 690-002-0175, if the applicant files a notification of intent to pursue approval of the transfer under 690-380-5030 to 690-380-5050, the deadline for filing exceptions to the proposed order shall be 30 days after the Department provides notice to the parties that the transfer does not meet the requirements of 690-380-5030 to 690-380-5050.

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

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

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

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

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

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

GREW Scott A * WRD

From: DAVIDSON Will D * WRD
Sent: Tuesday, December 3, 2024 9:53 AM
To: GREW Scott A * WRD; JARAMILLO Lisa J * WRD
Subject: RE: T-14117 Newspaper Notice Fee - Action Required
Attachments: RE: T-14117 Revised DPD --RE: Additional Language addressing "Failure to Complete"; T-14117-pd-FINAL-w-failure-to-complete-lang DRAFT.pdf

Hi Scott,

Lisa and I approved the language before we shared the draft with Schroeder Law Offices on August 28, 2024, as documented in the attached email chain. I have also attached a copy of the draft PD that we shared with Schroeder.

Thanks,

Will

Will Davidson

Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Sent: Monday, December 2, 2024 1:02 PM
To: JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Cc: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will and Lisa,

I wanted to resend this file because I don't think I ever received an e-mail confirmation that you both were OK with the language as written.

Thank you for your patience and understanding as I'm getting all caught up!

Best,
Scott

Scott Grew
Transfer Specialist
Oregon Water Resources Department
503-986-0890

From: JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>
Sent: Monday, October 14, 2024 1:41 PM
To: SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>; GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Cc: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Subject: FW: T-14117 Newspaper Notice Fee - Action Required

Hi Scott and Joan,

Can you remind Will and I what stage of processing we're at on this one? I seem to recall Joan was shepherding it through while Scott was on vacation. Just need to know what stage it's at.

Thanks,
Lisa

Lisa J. Jaramillo

Transfer and Conservation Section Manager
725 Summer Street NE, Suite A, Salem, OR 97301 | Phone: 503-871-1889 (work cell)



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

NOTE: OWRD offices are now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, however, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day (M-F). OWRD's Salem office is closed for customer service drop-ins from Noon – 1 pm. **Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members.** Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

From: Kelsey Seibel <k.seibel@water-law.com>
Sent: Monday, October 14, 2024 11:29 AM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will,

We wanted to follow up on the PD for T-14117 discussed below. Will the PD be issued sometime soon?

Thank you,

Kelsey Seibel

Associate Attorney
Schroeder Law Offices, P.C.
1915 NE Cesar E Chavez Blvd Portland, OR 97212
P: (503) 281-4100 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Wednesday, September 11, 2024 5:10 PM
To: Kelsey Seibel <k.seibel@water-law.com>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Kelsey,

Thanks for letting us know and for your work on this. I am glad we were able to resolve the issue without the need for a protest.

Best,

Will

Will Davidson
Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: Kelsey Seibel <k.seibel@water-law.com>
Sent: Wednesday, September 11, 2024 2:21 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will, we have no concerns or comments for the draft PD. Thank you for your assistance in this matter.

Kelsey Seibel
Associate Attorney
Schroeder Law Offices, P.C.
1915 NE Cesar E Chavez Blvd Portland, OR 97212
P: (503) 281-4100 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Wednesday, August 28, 2024 3:33 PM
To: Kelsey Seibel <k.seibel@water-law.com>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>; DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Subject: T-14117 Newspaper Notice Fee - Action Required

Kelsey,

A revised draft of the T-14117 Preliminary Determination including draft revised language to address the issue we discussed is attached. The revised language is at #10 in the "Determination and Proposed Language" section. Please let Lisa and I know if you have questions or comments.

Best,

Will

Will Davidson

Protest Program Coordinator

725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749

Email: will.d.davidson@water.oregon.gov



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From: Kelsey Seibel <k.seibel@water-law.com>

Sent: Tuesday, August 27, 2024 1:25 PM

To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>

Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will,

We are wondering if you have an update on the draft language to be included in the preliminary determination after our discussion on June 27th?

Thank you,

Kelsey Seibel

Associate Attorney

Schroeder Law Offices, P.C.

1915 NE Cesar E Chavez Blvd Portland, OR 97212

P: (503) 281-4100 | F: (877) 600-4971

From: Kelsey Seibel

Sent: Thursday, June 20, 2024 4:26 PM

To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; Laura Schroeder <schroeder@water-law.com>;

Tara Lomacz <t.lomacz@water-law.com>

Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Great. We can do 3:30pm-5pm on 6/27 as well. Thank you for your flexibility.

Kelsey Seibel

Associate Attorney
Schroeder Law Offices, P.C.
1915 NE Cesar E Chavez Blvd Portland, OR 97212
P: (503) 281-4100 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Thursday, June 20, 2024 3:22 PM
To: Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Actually, in addition to 2:00 to 3:00, we are also available between 3:30 and 5:00 next Thursday.

Will Davidson

Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>
Sent: Thursday, June 20, 2024 3:17 PM
To: Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Kelsey,

Lisa and I are both still available next Thursday, 6/27, between 2:00 and 3:00.

Will

Will Davidson

Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: Kelsey Seibel <k.seibel@water-law.com>
Sent: Thursday, June 20, 2024 1:37 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>
Cc: Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; JARAMILLO Lisa J * WRD

<Lisa.J.JARAMILLO@water.oregon.gov>; Rachel Shahidzadeh <rachels@water-law.com>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will,

Laura unfortunately now has a conflict with both of those times. Do you still have availability on Wednesday-Friday of next week?

Thank you,

Kelsey Seibel

Associate Attorney

Schroeder Law Offices, P.C.

1915 NE Cesar E Chavez Blvd Portland, OR 97212

P: (503) 281-4100 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>

Sent: Friday, June 14, 2024 5:17 PM

To: Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>; Kelsey Seibel <k.seibel@water-law.com>

Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Thanks Laura – I will send out invitations to hold both times, and you can let me know which one to cancel.

-Will

From: Laura Schroeder <schroeder@water-law.com>

Sent: Friday, June 14, 2024 5:06 PM

To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; Tara Lomacz <t.lomacz@water-law.com>; Kelsey Seibel <k.seibel@water-law.com>

Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will-

Let's schedule for **either Tuesday, 6/25 – at 2:30 pm to 3:30 pm, and 4:15 pm to 5:00 pm** if either **Bob or Ian** is available then (I know they are out of the office now for the weekend so I will hold these dates on our calendar until we hear from them.

Thanks Laura

Laura A. Schroeder

Shareholder

Schroeder Law Offices, P.C.

1915 NE Cesar Chavez Blvd., Portland OR 97212

P: (503) 281-4100 | Cell: (503) 887-4753 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>

Sent: Friday, June 14, 2024 4:55 PM

To: Laura Schroeder <schroeder@water-law.com>; Tara Lomacz <t.lomacz@water-law.com>; Kelsey Seibel <k.seibel@water-law.com>
Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Laura,

Lisa and I can be available at the following dates and times during the week of 6/24:

- Tuesday, 6/25 – 9:00 am to 10:00 am, 2:30 pm to 3:30 pm, and 4:15 pm to 5:00 pm
- Thursday, 6/27 – 2:00 pm to 3:00 pm and 3:30 pm to 5:00 pm

Do any of those times work for you?

Best,

Will

Will Davidson

Protest Program Coordinator
Oregon Water Resources Department
725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749
Email: will.d.davidson@water.oregon.gov

From: Laura Schroeder <schroeder@water-law.com>
Sent: Friday, June 14, 2024 2:58 PM
To: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; Tara Lomacz <t.lomacz@water-law.com>; Kelsey Seibel <k.seibel@water-law.com>
Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Will-

We would be happy to listen.

Given our current experience with representing Bridgeview and OWRD's entire water right cancellation based upon Bridgeview's transfer application for a POA change and a POU change for only 7 of 125 acres when the COBU was not submitted, we are firm in advising that the requested language must be included in any transfer involving a POA transfer. Perhaps first listening to others at OWRD who handled the Bridgeview situation might further inform as to our concern as applied to other POA transfers.

We likely could schedule a call M-Th during the week of June 24th. Let us know if given the above information, you would like to schedule suggestion dates and times

All the best, Laura

Laura A. Schroeder

Shareholder
Schroeder Law Offices, P.C.
1915 NE Cesar Chavez Blvd., Portland OR 97212

P: (503) 281-4100 | Cell: (503) 887-4753 | F: (877) 600-4971

From: DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>

Sent: Friday, June 14, 2024 2:42 PM

To: Tara Lomacz <t.lomacz@water-law.com>; Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>

Cc: Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Laura, Tara, and Kelsey,

I hope you are all well. Would it be possible to schedule a short call between whomever of the Applicant's representatives would like to attend and Lisa Jaramillo and I to discuss this issue? I think it would be helpful for Lisa and I to provide some information about the Department's procedures with respect to approving and issuing new certificates for changes in points of diversion or appropriation. I am hopeful that having a short discussion will clear up any misunderstandings and allow the Applicant to avoid the cost of preparing and filing a protest.

If you are open to scheduling a call, please let me know and I will send you some times in the coming weeks when Lisa and I can available.

Best,

Will Davidson

Protest Program Coordinator

Oregon Water Resources Department

725 Summer St NE Suite A | Salem, OR 97301 | Work Cell: (503) 507-2749

Email: will.d.davidson@water.oregon.gov

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>

Sent: Thursday, June 13, 2024 9:32 AM

To: Tara Lomacz <t.lomacz@water-law.com>

Cc: Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>; WACKER Gregory J * WRD <Gregory.J.WACKER@water.oregon.gov>; Ian Godwin <lgodwin@cwmmh2o.com>; Bob Long <Bob.Long@cwmmh2o.com>; DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Good morning Laura and Tara,

The Department will consider the request and let you know in the Preliminary Determination.

Scott Grew

Transfer Specialist

Oregon Water Resources Department

503-986-0890

From: Tara Lomacz <t.lomacz@water-law.com>

Sent: Tuesday, June 11, 2024 10:13 AM

To: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>

Cc: Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>; WACKER Gregory J * WRD

<Gregory.J.WACKER@water.oregon.gov>; Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>;
DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; JARAMILLO Lisa J * WRD
<Lisa.J.JARAMILLO@water.oregon.gov>
Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Dear Mr. Grew:

Thank you for accommodating our client's request for a later completion date and the information on the Department's position on our request for reconsideration of paragraph 4 of the determination and proposed action section of the draft PD.

We have reviewed ORS 540.530(2)(a). However, the Department's transfer rules provide protections to the original right in cases where only the POA is changed. Specifically, OAR 690-380-5110 omits changes to POD/POA from its text, as follows "Approval of a change in use or place of use terminates the right to use water for the existing character of use or place of use under the original water right as described in the transfer application form required under OAR 690-380-3000." Similarly, OAR 690-380-6010(2), specifically omits changes in POD/POA from the following statement "Any part of a transferred water use that is not applied to beneficial use under the terms of the transfer order for change in use or place of use...is lost." Additionally, OAR 690-380-6010(6), specifically states that if the change in POD/POA is not completed the POD/POA shall revert back to the last authorized POD/POA.

Given the inconsistency between the language of the statute and the language of the OARs, and the directive provided in OAR 690-380-6010(6), we request that the PD and subsequently issued transfer FO include the following additional language (see red):

"Water right certificate 89719 is cancelled but will be reinstated should the water user fail to perfect the new additional point of appropriation (Well 3) per OAR 690-380-6010(6)."

Please let us know if the Department is able to accommodate this request.

Sincerely,

Laura & Tara

Tara J. Lomacz

Paralegal

Schroeder Law Offices, P.C.

1915 NE Cesar E. Chavez Blvd., Portland, OR 97212

P: (503) 281-4100 | F: (877) 600-4971

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>

Sent: Monday, June 10, 2024 3:09 PM

To: Tara Lomacz <t.lomacz@water-law.com>

Cc: Kelsey Seibel <k.seibel@water-law.com>; Laura Schroeder <schroeder@water-law.com>; WACKER Gregory J * WRD <Gregory.J.WACKER@water.oregon.gov>; Ian Godwin <lgodwin@cwmh2o.com>; Bob Long <Bob.Long@cwmh2o.com>; DAVIDSON Will D * WRD <Will.D.DAVIDSON@water.oregon.gov>; JARAMILLO Lisa J * WRD <Lisa.J.JARAMILLO@water.oregon.gov>; GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>

Subject: RE: T-14117 Newspaper Notice Fee - Action Required

Good afternoon Tara,

1) The request is addressed in the forthcoming Preliminary Determination.

1. On March 29, 2024, the Department received the Agent's response letter stating: "Countryside does not agree with the proposed action in paragraph 4. Countryside agrees with all other paragraphs in the proposed action. Within the Determination and Proposed Action section of the Draft PD paragraph 4, it states that Water right Certificate 89719 is cancelled with the approval of the transfer application. Countryside requests OWRD reconsider this proposed action or provide further clarification into why such cancellation is necessary for Transfer Application T-14117.
2. The Department cannot reconsider this proposed action. Pursuant to ORS 540.530(2)(a), if a certificate covering the water right has been previously issued, the commission shall cancel the previous certificate.

2) The Department can accommodate the completion date extension request to October 1, 2026, pursuant to OAR 690-380-5140(3).

Thank you for your e-mail and for sending the publication fee.

Scott Grew
Transfer Specialist
Oregon Water Resources Department
503-986-0890

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You don't often get email from t.lomacz@water-law.com. [Learn why this is important](#)

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Additionally, we did not receive a response from the Department to our letter dated March 29, 2024, requesting reconsideration of paragraph 4 of the determination and proposed action section of the draft preliminary determination (attached again here for your convenience). Thus, we are writing to confirm our request was denied and will need to be further addressed by protest. Additionally, since we last corresponded, our client has investigated the availability of a well driller to complete the new point of appropriation proposed under the transfer and has found the wait period to be considerable, thus we kindly request the completion date outlined in the draft preliminary determination be extended by one year, until October 1, 2026.

Sincerely,

Laura & Tara

Tara J. Lomacz
Paralegal

Schroeder Law Offices, P.C.
1915 NE Cesar E. Chavez Blvd., Portland, OR 97212
P: (503) 281-4100 | F: (877) 600-4971

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Sent: Monday, June 10, 2024 9:40 AM
To: Laura Schroeder <schroeder@water-law.com>
Cc: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>; WACKER Gregory J * WRD <Gregory.J.WACKER@water.oregon.gov>
Subject: T-14117 Newspaper Notice Fee - Action Required

June 10, 2024

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-14117

Your water right transfer will be ready for issuance of the Preliminary Determination, once the Department receives payment for publication of the newspaper notice.

Items needed before the next phase of processing...

At this time you need to:

1. submit a check in the amount of \$ 67.21 (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. **write "for T-14117 NOTICE" on the front of your check, and**
3. submit it with the tracking stub at the bottom of this letter.

Mail the check to 725 Summer St. NE, Suite A, Salem, OR 97301-1266, **no later than July 10, 2024.**

What happens next...

Shortly after receiving payment, the Department will issue the Preliminary Determination, initiate publication in the Canby Herald Pioneer newspaper, and also publish the notice on the Department's weekly notice. Publication of the notice will initiate a protest period during 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.

If we do not receive payment for newspaper notice by July 10, 2024, a Preliminary Determination may be issued, denying the application as incomplete.

Please contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-14117
Gregory J. Wacker, District 16 Watermaster (via e-mail)
Schroeder Law Offices, Agent for the applicant (via e-mail)

✂-----

Attached is a check in the amount of \$ 67.21 (PCA #46118) for Newspaper Notice for Transfer T-14117 made out to Oregon Water Resources Department (or WRD)

- "for T-14117 NOTICE" written on front of check

Mail to: Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Caseworker: Scott Grew

GREW Scott A * WRD

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To: GREW Scott A * WRD
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We have reviewed ORS 540.530(2)(a). However, the Department's transfer rules provide protections to the original right in cases where only the POA is changed. Specifically, OAR 690-380-5110 omits changes to POD/POA from its text, as follows "Approval of a change in use or place of use terminates the right to use water for the existing character of use or place of use under the original water right as described in the transfer application form required under OAR 690-380-3000." Similarly, OAR 690-380-6010(2), specifically omits changes in POD/POA from the following statement "Any part of a transferred water use that is not applied to beneficial use under the terms of the transfer order for change in use or place of use...is lost." Additionally, OAR 690-380-6010(6), specifically states that if the change in POD/POA is not completed the POD/POA shall revert back to the last authorized POD/POA.

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Please let us know if the Department is able to accommodate this request.

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<Lisa.J.JARAMILLO@water.oregon.gov>; GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
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Thank you for your e-mail and for sending the publication fee.

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Transfer Specialist
Oregon Water Resources Department
503-986-0890

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Paralegal
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Oregon Water Resources Department
503-986-0890

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Subject: RE: T-14117 Newspaper Notice Fee - Action Required

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Oregon

Tina Kotek, Governor

Water Resources Department

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

June __, 2024

VIA CERTIFIED MAIL AND E-MAIL

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-14117

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14117. 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 and in the Canby Herald Pioneer newspaper, 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 last date of newspaper publication.

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 contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-14117
Gregory J. Wacker, District 16 Watermaster (via e-mail)
Schroeder Law Offices, Agent for the applicant (via e-mail)

encs

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Sent: Monday, June 10, 2024 1:09 PM
To: GREW Scott A * WRD
Cc: Kelsey Seibel; Laura Schroeder; WACKER Gregory J * WRD; Ian Godwin; Bob Long
Subject: RE: T-14117 Newspaper Notice Fee - Action Required
Attachments: SLO to OWRD re Response to Draft Preliminary Determination for Transfer Application T14117.pdf

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Laura & Tara

Tara J. Lomacz

Paralegal

Schroeder Law Offices, P.C.

1915 NE Cesar E. Chavez Blvd., Portland, OR 97212

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Sent: Monday, June 10, 2024 9:40 AM
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Cc: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>; WACKER Gregory J * WRD <Gregory.J.WACKER@water.oregon.gov>
Subject: T-14117 Newspaper Notice Fee - Action Required

June 10, 2024

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-14117

Your water right transfer will be ready for issuance of the Preliminary Determination, once the Department receives payment for publication of the newspaper notice.

Items needed before the next phase of processing...

At this time you need to:

1. submit a check in the amount of \$ 67.21 (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. **write "for T-14117 NOTICE" on the front of your check, and**
3. submit it with the tracking stub at the bottom of this letter.

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What happens next...

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Please contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist
Transfer and Conservation Section

cc: Transfer Application file T-14117
Gregory J. Wacker, District 16 Watermaster (via e-mail)
Schroeder Law Offices, Agent for the applicant (via e-mail)

X-----
Attached is a check in the amount of \$ 67.21 (PCA #46118) for Newspaper Notice for Transfer T-14117 made out to Oregon Water Resources Department (or WRD)

- **"for T-14117 NOTICE" written on front of check**

Mail to: Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Caseworker: Scott Grew

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June 10, 2024

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

SUBJECT: Water Right Transfer Application T-14117

GREW Scott A * WRD

From: RICHMAN Elyse D * WRD
Sent: Thursday, June 6, 2024 8:41 AM
To: GREW Scott A * WRD
Subject: RE: Newspaper Estimate for Transfer Application T-14117

Hi Scott,

The quote for this legal notice finally came in. The total due from the applicant is \$67.21 😊

Cheers,

[Elyse D. Richman](#)

She/Her/Hers

Transfer and Conservation Section Support

725 Summer Street NE, Suite A, Salem, OR 97301

Office: 503-986-0898 | Work Cell: 971-701-5485



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

From: RICHMAN Elyse D * WRD <Elyse.D.RICHMAN@water.oregon.gov>
Sent: Monday, June 03, 2024 9:21 AM
To: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Subject: RE: Newspaper Estimate for Transfer Application T-14117

Happy Monday, Scott!

I reached out to them on Friday to inquire about the quote, and my contact with that newspaper said that their software system crashed last week. He said they are hopeful to have it up and running today. Weirdly, that happened with another newspaper last week too – they must be using the same software system. I'll keep you posted!

Best,

[Elyse D. Richman](#)

She/Her/Hers

Transfer and Conservation Section Support

725 Summer Street NE, Suite A, Salem, OR 97301

Office: 503-986-0898 | Work Cell: 971-701-5485



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

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Sent: Friday, May 31, 2024 5:59 PM
To: RICHMAN Elyse D * WRD <Elyse.D.RICHMAN@water.oregon.gov>

GREW Scott A * WRD

From: GREW Scott A * WRD
Sent: Wednesday, May 15, 2024 10:07 AM
To: STARNES Patrick K * WRD
Cc: GREW Scott A * WRD
Subject: T-14117 Newspaper Fee Quote Request
Attachments: T-14117-pd-notice-Final.docx

Hello Kelly,

I hereby request a quote from the Canby Herald Pioneer newspaper for a two week run for Transfer T-14117.

Thank you, *Sir!*

Scott Grew
Transfer Specialist
Oregon Water Resources Department
503-986-0890

GREW Scott A * WRD

From: ELLIOTT Chloe * WRD
Sent: Wednesday, May 15, 2024 3:23 PM
To: GREW Scott A * WRD; WRD_DL_is_data_techs
Subject: RE: PD review for Transfer Application T-14117

Good Afternoon Scott,

Data has completed work on PD T 14117.

Best Wishes,



Chloe Elliott

Data Tech 1
Oregon Water Resources Department
725 Summer St. NE, Suite A
Salem, Oregon 97301



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

From: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Sent: Wednesday, May 15, 2024 10:13 AM
To: WRD_DL_is_data_techs <WRD_DL_is_data_techs@water.oregon.gov>
Cc: GREW Scott A * WRD <Scott.A.GREW@water.oregon.gov>
Subject: PD review for Transfer Application T-14117

Hello Datafriends,

Please review the PD for Transfer Application T-14117. There is no remaining right.

Thank you so much!

Scott

GREW Scott A * WRD

From: GREW Scott A * WRD
Sent: Wednesday, May 15, 2024 10:13 AM
To: WRD_DL_is_data_techs
Cc: GREW Scott A * WRD
Subject: PD review for Transfer Application T-14117
Attachments: T-14117-pd-FINAL.docm

Hello Datafriends,

Please review the PD for Transfer Application T-14117. There is no remaining right.

Thank you so much!

Scott

Scott Grew
Transfer Specialist
Oregon Water Resources Department
503-986-0890

GREW Scott A * WRD

From: COURCHANE Corey A * WRD
Sent: Friday, May 10, 2024 11:15 AM
To: GREW Scott A * WRD
Subject: RE: need peer review for --T-14117-pd RA

Scott,

I have completed peer review of the PD for T-14117, saving a copy in the PD Peer Review folder. Great job! Don't forget the cover letter.

Thank you,

Corey

COREY A COURCHANE | ALLOCATION OF CONSERVED WATER

Water Resources Department | 725 Summer St. NE, Suite A | Salem, Oregon 97301
Work cell: 503 979-3917 | Fax: 503 986-0901
Email: corey.a.courchane@water.oregon.gov | Web: <http://www.oregon.gov/OWRD>

From: SMITH Joan M * WRD <Joan.M.SMITH@water.oregon.gov>
Sent: Thursday, May 9, 2024 4:25 PM
To: COURCHANE Corey A * WRD <Corey.A.COURCHANE@water.oregon.gov>; HENDERSON Sarah A * WRD <Sarah.A.HENDERSON@water.oregon.gov>
Subject: need peer review for --T-14117-pd RA

Corah, this PD needs to be reviewed. Thanks

JOAN M. SMITH | TRANSFER SPECIALIST

TRANSFER & CONSERVATION SECTION

725 Summer Street NE, Suite A Salem, OR 97301 | Phone 503-986-0892

NOTE: OWRD offices are now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, however, availability of staff in the office is not guaranteed 8 a.m. - 5 p.m. every day (M-F). OWRD's Salem office is closed for customer service drop-ins from Noon - 1pm. Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members. Alternative methods for meeting, such as by phone or virtually via Teams, are also available.

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

Therese A. Ure Stix
Oregon & Nevada

Caitlin R. Skulan
Nevada & Idaho



SCHROEDER
LAW OFFICES, P.C.

William F. Schroeder
(1928 - 2015)

James Browitt
Of Counsel
Idaho & Washington

March 29, 2024

VIA ELECTRONIC MAIL ONLY

Oregon Water Resources Department
Scott Grew, Transfer Specialist
Email: scott.a.grew@water.oregon.gov

RE: Response to Draft Preliminary Determination for Transfer Application T-14117

Dear Mr. Grew:

Adam Farley and Countryside Nursery (hereinafter, "Countryside") have reviewed the Draft Preliminary Determination ("Draft PD") for Transfer Application T-14117. Countryside agrees to the conditions listed by Oregon Water Resources Department ("OWRD") and has enclosed the Report of Ownership with this letter. Countryside does not agree with the proposed action in paragraph 4. Countryside agrees with all other paragraphs in the proposed action.

Within the Determination and Proposed Action section of the Draft PD paragraph 4, it states that Water right Certificate 89719 is cancelled with the approval of the transfer application. Countryside requests OWRD reconsider this proposed action or provide further clarification into why such cancellation is necessary for Transfer Application T-14117.

OWRD's approval of a transfer application for "a change in use or place of use terminates the right to use water for the existing character of use or place of use" described by the underlying certificate. OAR 690-380-5110. However, transfer application T-14117 requests OWRD approve an additional point of appropriation ("POA") for Certificate 89719, there are no changes to the place of use or character of use in this transfer application. There are two other POAs for the certificate, neither of which are modified by transfer application T-14117. Certificate 89719 should not be subject to cancellation or termination under OAR 690-380-5110 due to transfer application T-14117.

Moreover, if Countryside does not complete its change for the POA due to an unexpected event, the water use subject to the transfer is not cancelled, and the POAs revert to the last authorized POAs. OAR 690-380-6010(3), (6). None of the available materials from OWRD nor their regulations support the cancellation of a water right if an applicant only requests a POA change.

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

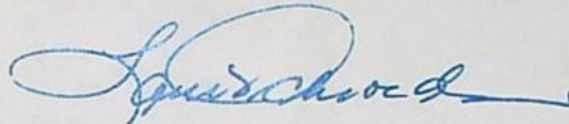
10615 Double R Boulevard, Suite 100, Reno, Nevada 89521 (775) 786-8800

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

Oregon Water Resources Department
March 29, 2024
Page 2 of 2

Countryside requests OWRD reconsider paragraph 4 of the proposed action and not cancel Certificate 89719 due to the lack of regulation supporting a cancellation of a water right when only a POA is added to a certificate.

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



Laura A. Schroeder

LAS:kjs

Enclosures

cc: Client
Bob Long
Ian Godwin

Ticor Title Company of Oregon
Order No. 36262400833



1455 SW Broadway, Suite 1450
(503)646-4444

OWNERSHIP AND ENCUMBRANCES REPORT WITH GENERAL INDEX LIENS
Informational Report of Ownership and Monetary and Non-Monetary Encumbrances

To ("Customer"): Countrywide Nursery
23800 NE Airport Road
Aurora, OR 97002

Customer Ref.: 23800 NE Airport Road, Aurora OR 9700
Order No.: 36262400833
Effective Date: March 18, 2024 at 08:00 AM
Charge: \$250.00

The information contained in this report is furnished by Ticor Title Company of Oregon (the "Company") as a real property information service based on the records and indices maintained by the Company for the county identified below. THIS IS NOT TITLE INSURANCE OR A PRELIMINARY TITLE REPORT FOR, OR COMMITMENT FOR, TITLE INSURANCE. No examination has been made of the title to the herein described property, other than as specifically set forth herein. Liability for any loss arising from errors and/or omissions is limited to the lesser of the charge or the actual loss, and the Company will have no greater liability by reason of this report. THIS REPORT IS SUBJECT TO THE LIMITATIONS OF LIABILITY STATED BELOW, WHICH LIMITATIONS OF LIABILITY ARE A PART OF THIS REPORT.

THIS REPORT INCLUDES MONETARY AND NON-MONETARY ENCUMBRANCES.

Part One - Ownership and Property Description

Owner. The apparent vested owner of property ("the Property") as of the Effective Date is:

Countrywide Nursery, Inc., an Oregon Corporation

Premises. The Property is:

(a) Street Address:

23800 NE Airport Road, Aurora, OR 97002

(b) Legal Description:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

Part Two - Encumbrances

Encumbrances. As of the Effective Date, the Property appears subject to the following monetary and non-monetary encumbrances of record, not necessarily listed in order of priority, including liens specific to the subject property and general index liens (liens that are not property specific but affect any real property of the named person in the same county):

EXCEPTIONS

1. The Land has been classified as Farmland, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.
2. The Clackamas County Tax Records disclose a potential additional tax on this account.

Account No.: 00835485

3. Any adverse claim based on the assertion that any portion of the subject land has been removed from or brought within the subject land's boundaries by the process of accretion or reliction or any change in the location of unnamed creek.

Rights of the public, riparian owners and governmental bodies as to the use of the waters of unnamed creek and the natural flow thereof on and across that portion of the subject land lying below the high water line of said waterway.

Any adverse claim based on the assertion that any portion of the subject land has been created by artificial means or has accreted to such portions so created, or based on the provisions of ORS 274.905 through 274.940.

4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Adjacent property owner
Purpose: Ingress and Egress
Recording Date: January 3, 1994
Recording No: 94-0256
Affects: Reference is hereby made to said document for full particulars.

5. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Adjacent property owner
Purpose: Sewer
Recording Date: January 3, 1994
Recording No: 94-0257
Affects: Reference is hereby made to said document for full particulars.

6. Rights of tenants, as tenants only, in unrecorded leaseholds.
7. Please be advised that our search did not disclose any open Deeds of Trust of record.

Ticor Title Company of Oregon
Order No. 36262400833

Note: Property taxes for the fiscal year shown below are paid in full.

Fiscal Year:	2023-2024
Amount:	\$4,790.33
Levy Code:	086-006
<u>Account No.:</u>	[REDACTED]
Map No.:	31W36 00801

End of Reported Information

There will be additional charges for additional information or copies. For questions or additional requests, contact:

Aaron Merkel
503-336-9173
aaron.merkel@titlegroup.fntg.com

Ticor Title Company of Oregon
1455 SW Broadway, Suite 1450
Portland, OR 97201

EXHIBIT "A"

Legal Description

A tract of land situated in the Southwest one-quarter of Section 36, Township 3 South, Range 1 West of the Willamette Meridian, in the County of Clackamas and State of Oregon, being more particularly described as follows:

Beginning at a 5/8 inch iron rod on the Easterly right of way line of NE Airport Road (County Road No. 1233) which bears North 00°00'40" West 1631.53 feet and South 89°51'14" East 30.00 feet from the Southwest corner of said Section 36, Township 3 South, Range 1 West of the Willamette Meridian; thence North 00°00'40" West, along said Easterly right of way line of NE Airport Road, 986.09 feet to the intersection with the Southerly right of way line of NE Country Side Road (County Road No. 395); thence North 89°08'24" East, along said Southerly right of way line, parallel with and 20.00 feet Southerly of the North line of the South one-half of said Section 36, 1804.23 feet to the East line of that certain tract of land conveyed to George Samuel Oki and Lorence R. Oki as described in Fee No. 85 22721, Clackamas County Records; thence, along the Easterly line of said Oki tract, the following courses and distances: South 26°00'56" West 507.74 feet; thence South 15°26'56" West 266.00 feet; thence South 54°35'04" East 311.80 feet; thence South 78°33'04" East 548.30 feet; thence South 35°53'04" East 59.00 feet; thence South 27°56'56" West 230.00 feet; thence South 30°03'56" West 185.70 feet; thence South 38°31'56" West 309.00 feet; thence South 53°12'56" West 66.30 feet; thence South 36°49'56" West 306.00 feet; thence South 78°57'56" West 232.30 feet; thence South 44°18'56" West 99.90 feet; thence South 46°01'56" West 199.30 feet; thence South 13°16'56" West 178.30 feet; thence South 43°41'56" West 78.70 feet; thence South 35°09'56" West 72.64 feet to a point on the Northerly right of way line of NE Arndt Road (County Road No. 619); thence, along said right of way line, North 30°03'21" West 66.34 feet; thence South 82°17'00" West 151.60 feet to a 5/8 inch iron rod; thence, leaving said right of way line, North 00°00'42" West 311.17 feet to a 5/8 inch iron rod at the Northeast corner of a tract of land conveyed to H. Gary Meyer and Diane H. Meyer as described in Fee No. 89-50168; thence North 89°54'37" East, on the Easterly extension of the North line of said Meyer tract, 27.59 feet to a 5/8 inch iron rod; thence North 00°00'40" West, parallel with the West line of said Section 36, a distance of 107.07 feet to a 5/8 inch iron rod; thence North 89°59'20" East 59.00 feet to a 5/8 inch iron rod; thence North 00°00'40" West 12.00 feet to a 5/8 inch iron rod; thence South 89°59'20" West 59.00 feet to a 5/8 inch iron rod; thence North 00°00'40" West, parallel with said West line of Section 36, a distance of 1027.59 feet to a 5/8 inch iron rod; thence North 89°51'14" West 972.16 feet to the point of beginning.

LIMITATIONS OF LIABILITY

"CUSTOMER" REFERS TO THE RECIPIENT OF THIS REPORT.

CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES THAT IT IS EXTREMELY DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE THE EXTENT OF LOSS WHICH COULD ARISE FROM ERRORS OR OMISSIONS IN, OR THE COMPANY'S NEGLIGENCE IN PRODUCING, THE REQUESTED REPORT, HEREIN "THE REPORT." CUSTOMER RECOGNIZES THAT THE FEE CHARGED IS NOMINAL IN RELATION TO THE POTENTIAL LIABILITY WHICH COULD ARISE FROM SUCH ERRORS OR OMISSIONS OR NEGLIGENCE. THEREFORE, CUSTOMER UNDERSTANDS THAT THE COMPANY IS NOT WILLING TO PROCEED IN THE PREPARATION AND ISSUANCE OF THE REPORT UNLESS THE COMPANY'S LIABILITY IS STRICTLY LIMITED. CUSTOMER AGREES WITH THE PROPRIETY OF SUCH LIMITATION AND AGREES TO BE BOUND BY ITS TERMS

THE LIMITATIONS ARE AS FOLLOWS AND THE LIMITATIONS WILL SURVIVE THE CONTRACT:

ONLY MATTERS IDENTIFIED IN THIS REPORT AS THE SUBJECT OF THE REPORT ARE WITHIN ITS SCOPE. ALL OTHER MATTERS ARE OUTSIDE THE SCOPE OF THE REPORT.

CUSTOMER AGREES, AS PART OF THE CONSIDERATION FOR THE ISSUANCE OF THE REPORT AND TO THE FULLEST EXTENT PERMITTED BY LAW, TO LIMIT THE LIABILITY OF THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS FOR ANY AND ALL CLAIMS, LIABILITIES, CAUSES OF ACTION, LOSSES, COSTS, DAMAGES AND EXPENSES OF ANY NATURE WHATSOEVER, INCLUDING ATTORNEY'S FEES, HOWEVER ALLEGED OR ARISING, INCLUDING BUT NOT LIMITED TO THOSE ARISING FROM BREACH OF CONTRACT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF WARRANTY, EQUITY, THE COMMON LAW, STATUTE OR ANY OTHER THEORY OF RECOVERY, OR FROM ANY PERSON'S USE, MISUSE, OR INABILITY TO USE THE REPORT OR ANY OF THE MATERIALS CONTAINED THEREIN OR PRODUCED, SO THAT THE TOTAL AGGREGATE LIABILITY OF THE COMPANY AND ITS AGENTS, SUBSIDIARIES, AFFILIATES, EMPLOYEES, AND SUBCONTRACTORS SHALL NOT IN ANY EVENT EXCEED THE COMPANY'S TOTAL FEE FOR THE REPORT.

CUSTOMER AGREES THAT THE FOREGOING LIMITATION ON LIABILITY IS A TERM MATERIAL TO THE PRICE THE CUSTOMER IS PAYING, WHICH PRICE IS LOWER THAN WOULD OTHERWISE BE OFFERED TO THE CUSTOMER WITHOUT SAID TERM. CUSTOMER RECOGNIZES THAT THE COMPANY WOULD NOT ISSUE THE REPORT BUT FOR THIS CUSTOMER AGREEMENT, AS PART OF THE CONSIDERATION GIVEN FOR THE REPORT, TO THE FOREGOING LIMITATION OF LIABILITY AND THAT ANY SUCH LIABILITY IS CONDITIONED AND PREDICATED UPON THE FULL AND TIMELY PAYMENT OF THE COMPANY'S INVOICE FOR THE REPORT.

THE REPORT IS LIMITED IN SCOPE AND IS NOT AN ABSTRACT OF TITLE, TITLE OPINION, PRELIMINARY TITLE REPORT, TITLE REPORT, COMMITMENT TO ISSUE TITLE INSURANCE, OR A TITLE POLICY, AND SHOULD NOT BE RELIED UPON AS SUCH. THE REPORT DOES NOT PROVIDE OR OFFER ANY TITLE INSURANCE, LIABILITY COVERAGE OR ERRORS AND OMISSIONS COVERAGE. THE REPORT IS NOT TO BE RELIED UPON AS A REPRESENTATION OF THE STATUS OF TITLE TO THE PROPERTY. THE COMPANY MAKES NO REPRESENTATIONS AS TO THE REPORT'S ACCURACY, DISCLAIMS ANY WARRANTY AS TO THE REPORT, ASSUMES NO DUTIES TO CUSTOMER, DOES NOT INTEND FOR CUSTOMER TO RELY ON THE REPORT, AND ASSUMES NO LIABILITY FOR ANY LOSS OCCURRING BY REASON OF RELIANCE ON THE REPORT OR OTHERWISE.

IF CUSTOMER (A) HAS OR WILL HAVE AN INSURABLE INTEREST IN THE SUBJECT REAL PROPERTY, (B) DOES NOT WISH TO LIMIT LIABILITY AS STATED HEREIN AND (C) DESIRES THAT ADDITIONAL LIABILITY BE ASSUMED BY THE COMPANY, THEN CUSTOMER MAY REQUEST AND PURCHASE A POLICY OF TITLE INSURANCE, A BINDER, OR A COMMITMENT TO ISSUE A POLICY OF TITLE INSURANCE. NO ASSURANCE IS GIVEN AS TO THE INSURABILITY OF THE TITLE OR STATUS OF TITLE. CUSTOMER EXPRESSLY AGREES AND ACKNOWLEDGES IT HAS AN INDEPENDENT DUTY TO ENSURE AND/OR RESEARCH THE ACCURACY OF ANY INFORMATION OBTAINED FROM THE COMPANY OR ANY PRODUCT OR SERVICE PURCHASED.

NO THIRD PARTY IS PERMITTED TO USE OR RELY UPON THE INFORMATION SET FORTH IN THE REPORT, AND NO LIABILITY TO ANY THIRD PARTY IS UNDERTAKEN BY THE COMPANY.

CUSTOMER AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT WILL THE COMPANY, ITS LICENSORS, AGENTS, SUPPLIERS, RESELLERS, SERVICE PROVIDERS, CONTENT PROVIDERS, AND ALL OTHER SUBSCRIBERS OR SUPPLIERS, SUBSIDIARIES, AFFILIATES, EMPLOYEES AND SUBCONTRACTORS BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, OR SPECIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, INCOME, SAVINGS, DATA, BUSINESS, OPPORTUNITY, OR GOODWILL, PAIN AND SUFFERING, EMOTIONAL DISTRESS, NON-OPERATION OR INCREASED EXPENSE OF OPERATION, BUSINESS INTERRUPTION OR DELAY, COST OF CAPITAL, OR COST OF REPLACEMENT PRODUCTS OR SERVICES, REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON BREACH OF CONTRACT, TORT, NEGLIGENCE, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE, STRICT LIABILITY, BREACH OF WARRANTIES, FAILURE OF ESSENTIAL PURPOSE, OR OTHERWISE AND WHETHER CAUSED BY NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, THE COMPANY'S OWN FAULT AND/OR NEGLIGENCE OR ANY OTHER CAUSE WHATSOEVER, AND EVEN IF THE COMPANY HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES OR KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

END OF THE LIMITATIONS OF LIABILITY

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STATUTORY SPECIAL WARRANTY DEED

COUNTRYSIDE NURSERY, INC., an Oregon corporation, and SUMMERSUN GREENHOUSE COMPANY, a Washington corporation, Grantors, convey and specially warrant to COUNTRYSIDE NURSERY, INC., an Oregon corporation, Grantee, all that real property situated in Clackamas County, Oregon, described on Exhibit A, attached hereto and incorporated herein, free of all encumbrances created or suffered by Grantors or either of them.

The true and actual consideration paid for this conveyance, stated in terms of dollars, is \$ -0- . However, the actual consideration consists of or includes other property or value given or promised which is the whole consideration.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

Until a change is requested, all tax statements are to be sent to the following address:

Countryside Nursery, Inc.
13200 S.W. Wilsonville Road
Wilsonville, OR 97070

DATED this 22nd day of December, 1993.

COUNTRYSIDE NURSERY, INC.

By: *James A. Taylor*
President

SUMMERSUN GREENHOUSE COMPANY

By: *Carl H. Leach*
President

After Recording, Return to:
Southwell & Thompson
2400 S.W. Fourth Avenue, Suite 210
Portland, OR 97201

94 00259

STATE OF OREGON)
County of Clackamas) ss.

This instrument was acknowledged before me on December
22, 1993, by James A. Farley as President of Countryside Nursery,
Inc., an Oregon corporation, on behalf of which this instrument was
executed.



Stacy A. Belcher
Notary Public for Oregon
My Commission Expires: 1/30/94

STATE OF WASHINGTON)
County of Skagit) ss.

This instrument was acknowledged before me on December
13th, 1993, by Carl Loeb, as President of Summersun Greenhouse
Company, Inc., a Washington corporation, on behalf of which this
instrument was executed.



Sheril G. Brink
Notary Public for Washington
Residing at: Mountain View
My Commission Expires: 10-15-95

EXHIBIT A: Deed from Countryside Nursery, Inc. and Summersun Greenhouse Company to Countryside Nursery, Inc.

A tract of land situated in the Southwest one-quarter of Section 36, Township 3 South, Range 1 West of the Willamette Meridian, Clackamas County, Oregon; being more particularly described as follows:

Beginning at a 5/8" iron rod on the easterly right of way line of N.E. Airport Road (County Road No. 1233) which bears North 00 degrees 00'40" West 1631.53 feet and South 89 degrees 51'14" East 30.00 feet from the Southwest corner of said Section 36, Township 3 South, Range 1 West of the Willamette Meridian; thence North 00 degrees 00'40" West along said easterly right of way line of N.E. Airport Road, 986.09 feet to the intersection with the southerly right of way line of N.E. Country Side Road (County Road No. 395); thence North 89 degrees 58'24" East along said southerly right of way line, parallel with and 20.00 feet southerly of the north line of the South 1/2 of said Section 36, 1804.23 feet to the east line of that certain tract of land conveyed to George Samuel Oki and Lawrence R. Oki as described in Fee No. 85-22721, Clackamas County records; thence along the easterly line of said Oki tract the following courses and distances, South 26 degrees 00'56" West 507.74 feet; thence South 15 degrees 26'56" West 266.00 feet; thence South 54 degrees 35'04" East 311.80 feet; thence South 78 degrees 33'04" East 548.30 feet; thence South 35 degrees 53'04" East 59.00 feet; thence South 27 degrees 56'56" West 230.00 feet; thence South 30 degrees 03'56" West 185.70 feet; thence South 38 degrees 31'56" West 309.00 feet; thence South 53 degrees 12'56" West 66.30 feet; thence South 36 degrees 49'56" West 306.00 feet; thence South 78 degrees 57'56" West 232.30 feet; thence South 44 degrees 18'56" West 99.90 feet; thence South 46 degrees 01'56" West 199.30 feet; thence South 13 degrees 16'56" West 178.30 feet; thence South 43 degrees 41'56" West 78.70 feet; thence South 35 degrees 09'56" West 72.64 feet to a point on the northerly right of way line of N.E. Arndt Road (County Road No. 619); thence along said right of way line, North 30 degrees 03'21" West 66.34 feet; thence South 82 degrees 17'00" West 151.60 feet to a 5/8" iron rod; thence leaving said right of way line, North 00 degrees 00'42" West 311.17 feet to a 5/8" iron rod at the northeast corner of a tract of land conveyed to H. Gary Meyer and Dianna H. Meyer as described in Fee No. 89-50168; thence North 89 degrees 54'37" East on the easterly extension of the north line of said Meyer tract, 27.59 feet to a 5/8" iron rod; thence North 00 degrees 00'40" West parallel with the West line of said Section 36 a distance of 107.07 feet to a 5/8" iron rod; thence North 89 degrees 59'20" East 59.00 feet to a 5/8" iron rod; thence North 00 degrees 00'40" West 12.00 feet to a 5/8" iron rod; thence South 89 degrees 59'20" West 59.00 feet to a 5/8" iron rod; thence North 00 degrees 00'40" West parallel with said West line of Section 36 a distance of 1027.59 feet to a 5/8" iron rod; thence North 89 degrees 51'14" West 972.16 feet to the Point of Beginning.

Containing 66.06 Acres.

Exhibit A

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4
STATE OF OREGON
County of Clackamas

I, John Kauffman, County Clerk, for the County of
Clackamas, do hereby certify that the instrument of
writing was received for recording in the records of
said county at

94 JAN -3 PM 1:08



Witness my hand and seal this 3rd day of January 1994

John Kauffman

JOHN KAUFFMAN
County Clerk

Recording Certificate
CCP-84 (Rev. 6/91)

94 00259

205
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3

EASEMENT

In consideration of the sum of \$10 and other good and valuable consideration, COUNTRYSIDE NURSERY, INC., an Oregon corporation ("Grantor"), conveys to SUMMERSUN GREENHOUSE COMPANY, a Washington corporation, its successors and assigns ("Grantee"), a perpetual nonexclusive easement to use a strip of land across the property of Grantor for sewer purposes, said strip of land being described on Exhibit A, attached hereto and incorporated herein. This easement shall be appurtenant to property of Grantee described on Exhibit B, attached hereto and made a part hereof.

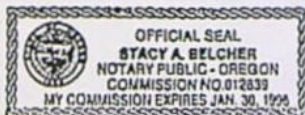
DATED this 22nd day of December, 1993.

COUNTRYSIDE NURSERY, INC.

By: James A. Farley
President

STATE OF OREGON)
) ss.
County of Clackamas)

This instrument was acknowledged before me on December 22, 1993, by James A. Farley as President of Countryside Nursery, Inc., an Oregon corporation, on behalf of which this instrument was executed.



Stacy A. Belcher
Notary Public for Oregon
My Commission Expires: 1/30/96

After Recording, Return to:
Southwell & Thompson
2400 S.W. Fourth Avenue, Suite 210
Portland, OR 97201

94 00257

EXHIBIT A: Easement from Countryside Nursery, Inc. to
Summersun Greenhouse Company

A strip of land for sewer easement purposes situated in the Southwest one-quarter of Section 36, Township 3 South, Range 1 West of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

Beginning at a point which bears North 00 degrees 00'40" West 1631.53 feet and South 89 degrees 51'14" East 632.43 feet from the Southwest corner of said Section 36, Township 3 South, Range 1 West of the Willamette Meridian; thence North 00 degrees 08'46" East 40.00 feet; thence South 89 degrees 51'14" East 12.00 feet; thence South 00 degrees 08'46" West 40.00 feet; thence North 89 degrees 51'14" West 12.00 feet to the Point of Beginning.

Exhibit A

EXHIBIT B: Easement from Countryside Nursery, Inc. to
Summersun Greenhouse Company

A tract of land situated in the Southwest one-quarter of Section 36, Township 3 South, Range 1 West of the Willamette Meridian, Clackamas County, Oregon, being more particularly described as follows:

Beginning at a 5/8" iron rod on the easterly right of way line of N.E. Airport Road (County Road No. 1233) which bears North 00 degrees 00'40" West 1631.53 feet and South 89 degrees 51'14" East 30.00 feet from the Southwest corner of said Section 36, Township 3 South, Range 1 West of the Willamette Meridian; thence leaving said easterly right of way line, South 89 degrees 51'14" East 772.16 feet to a 5/8" iron rod; thence South 00 degrees 00'40" East parallel with the West line of said Section 36 a distance of 1027.59 feet to a 5/8" iron rod; thence North 89 degrees 59'20" East 59.00 feet to a 5/8" iron rod; thence South 00 degrees 00'40" East 12.00 feet to a 5/8" iron rod; thence South 89 degrees 59'20" West 59.00 feet to a 5/8" iron rod; thence South 00 degrees 00'40" East parallel with the East line of said Section 36 a distance of 107.07 feet to a 5/8" iron rod on the easterly extension of the north line of that certain tract of land conveyed to H. Gary Meyer and Dianna H. Meyer as described in Fee No. 89-50168; thence South 89 degrees 54'37" West along said easterly extension and the north line of said Meyer tract, 700.23 feet to the northwest corner thereof; thence South 00 degrees 02'37" West along the west line of said Meyer tract, 430.83 feet to a point on the northerly right of way line of N.E. Arndt Road (County Road No. 619); thence South 89 degrees 55'33" West along said northerly right of way line, 271.52 feet to the intersection with the easterly right of way line of N.E. Airport Road; thence North 00 degrees 00'40" West along said easterly right of way line, parallel with and 30.00 feet easterly of the West line of said Section 36 a distance of 1581.42 feet to the Point of Beginning.

Containing 28.34 Acres.

Exhibit B

STATE OF OREGON
County of Clackamas

I, John Kauffman, County Clerk, for the County of Clackamas, do hereby certify that the foregoing instrument of writing was received for recording in the records of said county at

94 JAN -3 PM 1:08



Witness my hand and seal this 3rd day of January, 1994.
JOHN KAUFFMAN
County Clerk

Recording Certificate
CCP-R (Rev. 6/91)

94 00257

Property Account Summary Barcode**Account Number** [REDACTED] **Property Address** 23800 NE AIRPORT RD , AURORA, OR 97002**General Information**

Alternate Property #	31W36 00801
Property Description	Section 36 Township 3S Range 1W TAX LOT 00801
Last Sale Price	
Last Sale Date	
Last Sale Excise Number	
Property Category	Land &/or Buildings
Status	Active, Locally Assessed, Use Assessed
Tax Code Area	086-006
Remarks	

Tax Rate

Description	Rate
Total Rate	13.5526

Property Characteristics

Property Tax Deferral	Potential Additional Tax Liability
Neighborhood	13184: Canby/Wilsonville rural all other
Land Class Category	551: EFU farmland improved
Acreage	66.06
Change property ratio	5XX

Parties

Role	Percent	Name	Address
Taxpayer	100	COUNTRYSIDE NURSERY INC	13200 SW WILSONVILLE RD, WILSONVILLE, OR 97070
Owner	100	COUNTRYSIDE NURSERY INC	13200 SW WILSONVILLE RD, WILSONVILLE, OR 97070

Property Values

Value Type	Tax Year 2023	Tax Year 2022	Tax Year 2021	Tax Year 2020	Tax Year 2019
AVR Total	\$353,462	\$343,207	\$333,232	\$323,586	\$314,204
Exempt					
TVR Total	\$353,462	\$343,207	\$333,232	\$323,586	\$314,204
Real Mkt Land	\$1,464,941	\$1,396,897	\$1,184,760	\$1,076,691	\$1,056,679
Real Mkt Bldg	\$298,440	\$284,600	\$241,120	\$219,380	\$215,430
Real Mkt Total	\$1,763,381	\$1,681,497	\$1,425,880	\$1,296,071	\$1,272,109
M5 Mkt Land					
M5 Mkt Bldg	\$298,440	\$284,600	\$241,120	\$219,380	\$215,430

M5 SAV	\$655,809	\$636,683	\$636,565	\$645,662	\$647,981
SAVL (MAV Use Portion)	\$171,971	\$167,002	\$162,159	\$157,495	\$152,950
MAV (Market Portion)	\$181,491	\$176,205	\$171,073	\$166,091	\$161,254
Mkt Exception					
AV Exception					

Parents

Parcel No.	Seg/Merge No.	Status	From Date	To Date	Continued	Document Number
No Parents Found						

Children

Parcel No.	Seg/Merge No.	Status	From Date	To Date	Document Number
No Children Found					

Active Exemptions

No Exemptions Found

Events

Effective Date	Entry Date-Time	Type	Remarks
07/01/1999	07/01/1999 12:00:00	Ownership at Conversion	Warranty Deed: 94-00259, 12/1/93, \$ 0

Tax Balance

Installments Payable

Tax Year	Category	TCA/District	Charged	Minimum	Balance Due	Due Date
No Records Found						

[Installments Payable/Paid for Tax Year\(Enter 4-digit Year, then Click-Here\):](#) 2023

Receipts

Date	Receipt No.	Amount Applied to Parcel	Total Amount Due	Receipt Total	Change
11/14/2023 00:00:00	5495521	\$4,790.33	\$4,790.33	\$4,646.62	\$0.00
11/22/2022 00:00:00	5344743	\$4,638.27	\$4,638.27	\$4,499.12	\$0.00
11/08/2021 00:00:00	5040075	\$4,454.85	\$4,454.85	\$4,321.20	\$0.00
05/05/2021 00:00:00	4999283	\$150.50	\$150.50	\$150.50	\$0.00
12/03/2020 10:10:00	4979914	\$4,257.00	\$4,408.17	\$4,257.00	\$0.00
11/15/2019 00:00:00	4734362	\$4,155.25	\$4,155.25	\$4,030.59	\$0.00

Sales History

Sale Date	Entry Date	Recording Date	Recording Number	Sale Amount	Excise Number	Deed Type	Transfer Type	Grantor(Seller)	Grantee(Buyer)	Other Parcels
No Sales History Found										

Property Details

Living Area Sq Ft	Manf Struct Size	Year Built	Improvement Grade	Stories	Bedrooms	Full Baths	Half Baths



Detailed Statement

Parcel Number		Property Address	23800 NE AIRPORT RD , AURORA, OR 97002
----------------------	--	-------------------------	---

As Of Date: 3/25/2024

Tax Year	Category	TCA/District	Charged	Minimum	Balance Due	Due Date
1993	Property Tax Principal	086-006	\$3,763.82	\$0.00	\$0.00	11/15/1993
1994	Property Tax Principal	086-006	\$2,274.13	\$0.00	\$0.00	11/15/1994
1995	Property Tax Principal	086-006	\$1,949.65	\$0.00	\$0.00	11/15/1995
1996	Property Tax Principal	086-006	\$2,318.54	\$0.00	\$0.00	11/15/1996
1997	Property Tax Principal	086-006	\$2,066.98	\$0.00	\$0.00	11/15/1997
1998	Property Tax Principal	086-006	\$2,105.81	\$0.00	\$0.00	11/15/1998
1999	Property Tax Principal	086-006	\$2,117.15	\$0.00	\$0.00	11/15/1999
2000	Property Tax Principal	086-006	\$2,460.71	\$0.00	\$0.00	11/15/2000
2001	Property Tax Principal	086-006	\$2,558.20	\$0.00	\$0.00	11/15/2001
2002	Property Tax Principal	086-006	\$2,607.76	\$0.00	\$0.00	11/15/2002
2003	Property Tax Principal	086-006	\$2,650.35	\$0.00	\$0.00	11/15/2003
2004	Property Tax Principal	086-006	\$2,729.35	\$0.00	\$0.00	11/15/2004
2005	Property Tax Principal	086-006	\$2,870.06	\$0.00	\$0.00	11/15/2005
2006	Property Tax Principal	086-006	\$2,826.35	\$0.00	\$0.00	11/15/2006
2007	Property Tax Principal	086-006	\$2,927.59	\$0.00	\$0.00	11/15/2007
2008	Property Tax Principal	086-006	\$2,991.41	\$0.00	\$0.00	11/15/2008
2009	Property Tax Principal	086-006	\$3,266.20	\$0.00	\$0.00	11/15/2009
2010	Property Tax Principal	086-006	\$3,341.61	\$0.00	\$0.00	11/15/2010
2011	Property Tax Principal	086-006	\$3,308.86	\$0.00	\$0.00	11/15/2011
2012	Property Tax Principal	086-006	\$3,293.06	\$0.00	\$0.00	11/15/2012
2013	Property Tax Principal	086-006	\$3,383.32	\$0.00	\$0.00	11/15/2013
2014	Property Tax Principal	086-006	\$3,551.25	\$0.00	\$0.00	11/15/2014
2015	Property Tax Principal	086-006	\$3,656.56	\$0.00	\$0.00	11/15/2015
2016	Property Tax Principal	086-006	\$3,760.48	\$0.00	\$0.00	11/15/2016
2017	Property Tax Principal	086-006	\$3,895.47	\$0.00	\$0.00	11/15/2017
2018	Property Tax Principal	086-006	\$3,991.82	\$0.00	\$0.00	11/15/2018
2019	Property Tax Principal	086-006	\$4,155.25	\$0.00	\$0.00	11/15/2019
2020	Property Tax Interest	086-006	\$18.84	\$0.00	\$0.00	12/03/2020
2020	Property Tax Principal	086-006	\$4,388.66	\$0.00	\$0.00	11/15/2020
2021	Property Tax Principal	086-006	\$4,454.85	\$0.00	\$0.00	11/15/2021

2022	Property Tax Principal	086-006	\$4,638.27	\$0.00	\$0.00	11/15/2022
2023	Property Tax Principal	086-006	\$4,790.33	\$0.00	\$0.00	11/15/2023
TOTAL Due as of 03/25/2024					\$0.00	

CLACKAMAS COUNTY OREGON
150 BEAVERCREEK RD.
OREGON CITY, OREGON 97045

REAL PROPERTY TAX STATEMENT

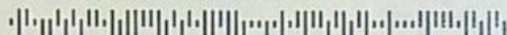
7/1/2023 to 6/30/2024

Property Location: 23800 NE AIRPORT RD
AURORA, OR 97002

ACCOUNT NO: [REDACTED]
MAP: 31W36 00801

Tax Code Area: 086-006 Acres: 66.06

77226*237**G50**0.776**1/2*****AUTO5-DIGIT 97070
COUNTRYSIDE NURSERY INC
13200 SW WILSONVILLE RD
WILSONVILLE OR 97070-9559



2023 - 2024 CURRENT TAX BY DISTRICT:

COM COLL CLACK	195.50
ESD CLACKAMAS	129.40
SCH CANBY	1,617.61
EDUCATION TOTAL:	1,942.51

COUNTY CLACKAMAS R	1,036.70
COUNTY EXTENSION & 4-H	17.57
COUNTY LIBRARY	139.51
COUNTY PUBLIC SAFETY LOC OPT	130.07
COUNTY SOIL CONS	17.57
FD63 AURORA	298.43
FD63 AURORA LOC OPT	349.93
PORT OF PTLD	24.64
URBAN RENEWAL COUNTY	19.44
VECTOR CONTROL	2.30
VECTOR CONTROL LOC OPT	8.84

GENERAL GOVERNMENT TOTAL: 2,045.00

COM COLL CLACK BOND	87.80
COUNTY PUBLIC SFTY RADIO SYS	31.28
SCH CANBY BOND	683.74
EXCLUDED FROM LIMIT TOTAL:	802.82

2023 - 2024 TAX BEFORE DISCOUNT 4,790.33

Potential Additional Tax Liability

VALUES:	LAST YEAR	THIS YEAR
REAL MARKET VALUES (RMV):		
RMV LAND	1,396,897	1,464,941
RMV BLDG	284,600	298,440
RMV TOTAL	1,681,497	1,763,381
M5 TOTAL(SAV)	921,283	954,249
ASSESSED VALUE:	343,207	353,462

PROPERTY TAXES: 4,638.27 4,790.33

Please Make Payment To: CLACKAMAS COUNTY TAX COLLECTOR

Questions about your property value or taxes ?
Please call 503-655-8671 or visit us online at www.clackamas.us/at

(See back of statement for instructions)

TAX PAYMENT OPTIONS				
Payment Options	Date Due	Discount Allowed	Net Amount Due	
FULL	Nov 15, 2023	143.71 3%	4,646.62	
2/3	Nov 15, 2023	63.87 2%	3,129.68	
1/3	Nov 15, 2023		1,596.77	

DELINQUENT TAXES:

0.00
TOTAL (after discount): 4,646.62
Delinquent tax amount is included in payment options listed below.

TEAR HERE ↑ PLEASE RETURN THIS PORTION WITH YOUR PAYMENT See back of statement for instructions

TEAR HERE ↑

2023 - 2024 Property Tax Payment Clackamas County, Oregon

DISCOUNT IS LOST AFTER DUE DATE & INTEREST MAY APPLY

FULL PAYMENT (Includes 3% Discount)	DUE Nov 15, 2023	4,646.62
2/3 PAYMENT (Includes 2% Discount)	DUE Nov 15, 2023	3,129.68
1/3 PAYMENT (No Discount offered)	DUE Nov 15, 2023	1,596.77

ACCOUNT NO: [REDACTED]

☐ Mailing address or taxpayer name change on back

Enter Amount Paid

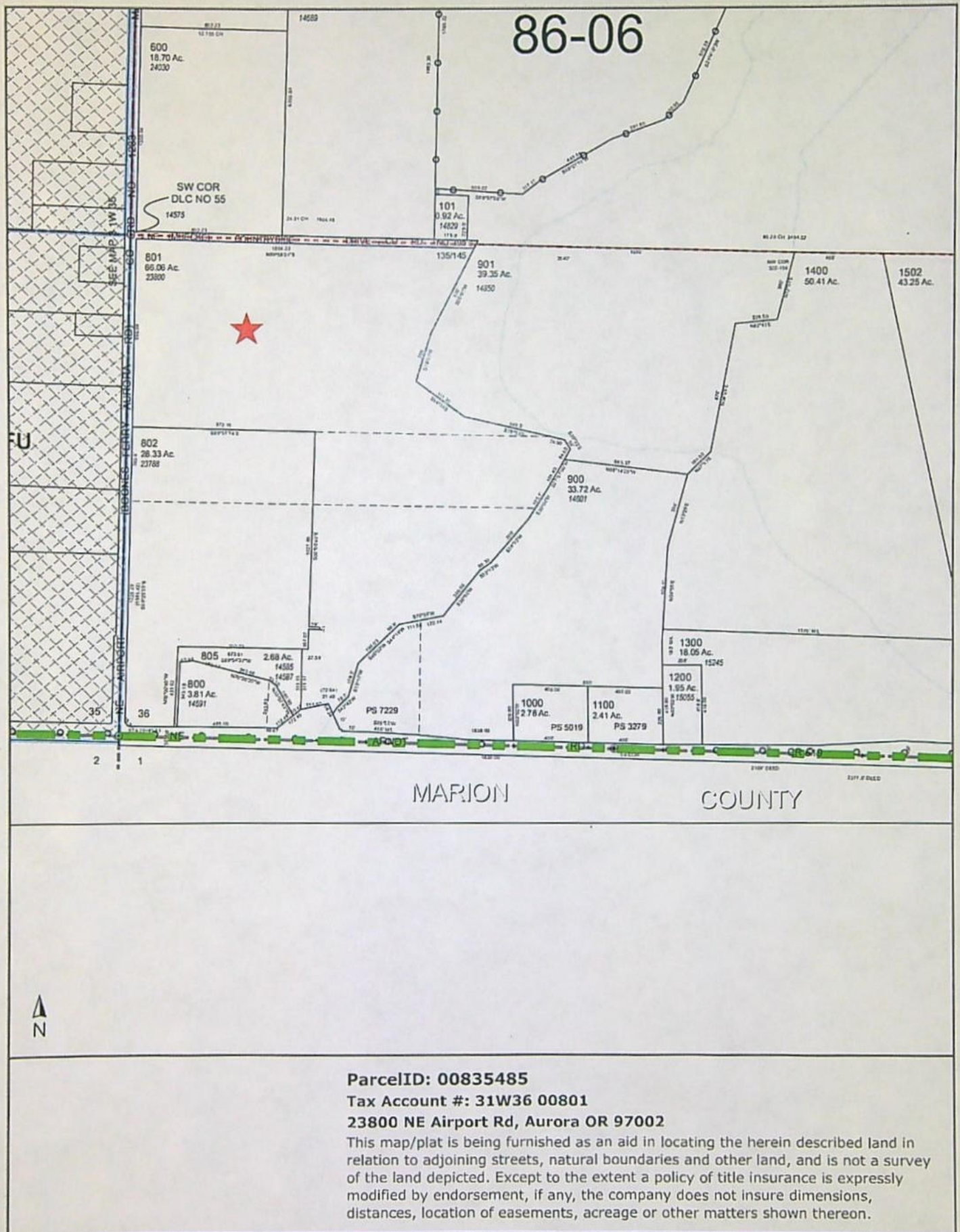
Please make payment to:

CLACKAMAS COUNTY TAX COLLECTOR
PO BOX 6100
PORTLAND, OR 97228-6100

77226*237**G50**0.776**1/2*****AUTO5-DIGIT 97070
COUNTRYSIDE NURSERY INC
13200 SW WILSONVILLE RD
WILSONVILLE OR 97070-9559

1/1 77226

030000008354850000464662000031296800001596779





Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

February 28, 2024

VIA E-MAIL

Applicant

ADAM FARLEY / COUNTRYSIDE NURSERY
23800 NE AIRPORT RD
AURORA, OR 97002

Reference: Water Right Transfer Application T-14117

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-14117. 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 March 29, 2024.

Required items needing your immediate attention:

1. Please carefully review the Draft Preliminary Determination to verify that it accurately reflects the changes you intend to make and to become familiar with the proposed conditions.
2. **Respond in writing** by March 29, 2024, with acknowledgement that you agree to the proposed action and conditions.
3. If you find any errors, please let me know.
4. **REQUIRED:** You must submit a **Report of Ownership** for the lands where the water right(s) are currently located (i.e., the FROM lands). This report:
 - a) Must be prepared by a title company;
 - b) Shall include a "prepared by" statement and the date the title company prepared the report printed on the cover sheet;
 - c) Must:
 - i. Be prepared no earlier than 3 months prior to the date of issuance of the Draft Preliminary Determination showing current ownership; **OR**
 - ii. Be prepared within 3 months of the date the water right conveyance agreement was recorded; **OR**
 - iii. 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.

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

Conditions of your water right...

The Watermaster has required a water measurement device(s) at the new and existing 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).

Please note the proposed date by which all conditions must be met: October 1, 2025. 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. Because there is more than ¼ mile between the new and the authorized points of appropriation the Department will publish notice of the transfer in a local newspaper having a general circulation in the area of the water right at least once per week for two consecutive weeks. You are responsible for sending a check to cover the cost of publication prior to the issuance of the Preliminary Determination and publication of notice. As outlined in OAR 690-380-4020(3), publication costs include both the direct cost of the notice and indirect processing costs (not to exceed 20% of the direct costs) for processing.

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

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

If we do not receive the items listed above by March 29, 2024, a Preliminary Determination may be issued denying the application as incomplete.

Please contact me at scott.a.grew@water.oregon.gov or 503-986-0890 if I may be of assistance.

Sincerely,

Scott Grew

Transfer Specialist

Transfer and Conservation Section

cc: Transfer Application file T-14117
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
Schroeder Law Offices, Agent for the applicant (*via e-mail*)

encs

Groundwater Transfer Review Summary Form

Transfer/PA # T- 14117

GW Reviewer Dennis Orlowski Date Review Completed: May 18, 2023

Summary of Same Source Review:

- ☐ The proposed change in point of appropriation is not within the same aquifer as per OAR 690-380-2110(2).

Summary of Injury Review:

- ☐ The proposed transfer will result in another, existing water right not receiving previously available water to which it is legally entitled or result in significant interference with a surface water source as per 690-380-0100(3).

Summary of GW-SW Transfer Similarity Review:

- ☐ The proposed SW-GW transfer doesn't meet the definition of "similarly" as per OAR 690-380-2130.

This is only a summary. Documentation is attached and should be read thoroughly to understand the basis for determinations.



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Ground Water Review Form:

- ☒ Water Right Transfer
☐ Permit Amendment
☐ GR Modification
☐ Other

Application: T-14117

Applicant Name: Countryside Nursery, Inc.

Proposed Changes: ☐ POA ☒ APOA ☐ SW→GW ☒ RA
☐ USE ☐ POU ☐ OTHER

Reviewer(s): Dennis Orłowski

Date of Review: May 18, 2023

Date Reviewed by GW Mgr. and Returned to WRSD: JTI 8/3/23

The information provided in the application is insufficient to evaluate whether the proposed transfer may be approved because:

- ☐ The water well reports provided with the application do not correspond to the water rights affected by the transfer.
- ☐ The application does not include water well reports or a description of the well construction details sufficient to establish the ground water body developed or proposed to be developed.
- ☐ Other _____

1. Basic description of the changes proposed in this transfer: This proposed transfer relates to certificate 89719, which authorizes the use of two POA (CLAC 8800 and CLAC 8792) to provide groundwater for nursery uses on 47.5 acres located in the French Prairie region of Clackamas County.

The purpose for this proposed transfer is to add an additional POA (APOA) to certificate 89719. The proposed APOA has not yet been installed.

2. Will the proposed POA develop the same aquifer (source) as the existing authorized POA?
☒ Yes ☐ No Comments: The currently-authorized POA, CLAC 8800 ("Well 1") and CLAC 8792 ("Well 2"), are 234 feet and 264 feet deep, respectively, and obtain groundwater primarily from water-bearing sand and gravel deposits of the Willamette Aquifer system (Gannett and Caldwell, 1998). The proposed APOA ("Well 3") is planned to be approximately 250 feet deep and will thus obtain groundwater from the same source.
3. a) Is there more than one source developed under the right (e.g., basalt and alluvium)?
☐ Yes ☒ No _____
- b) If yes, estimate the portion of the right supplied by each of the sources and describe any limitations that will need to be placed on the proposed change (rate, duty, etc.): N/A

4. a) Will this proposed change, at its maximum allowed rate of use, likely result in an increase in interference with **another ground water right**?
☐ Yes ☒ No Comments: Relative to authorized POA CLAC 8800, the proposed APOA location is nearer to the known location of several existing wells (e.g., CLAC 8783, CLAC 53863). However, neither these or other potentially-affected wells fully penetrate the Willamette Aquifer system, and thus injury to those other groundwater uses would not be declared.
- b) If yes, would this proposed change, at its maximum allowed rate of use, likely result in another groundwater right not receiving the water to which it is legally entitled?
☐ Yes ☒ No If yes, explain: _____
5. a) Will this proposed change, at its maximum allowed rate of use, likely result in an increase in interference with **another surface water source**?
☐ Yes ☒ No Comments: Relative to authorized POA CLAC 8800, the proposed APOA location is about 600 farther away from the nearest hydraulically-connected perennial stream reach (mainstem Pudding River). Thus the proposed use will not likely result in an increase in interference with this or other surface water sources.
- b) If yes, at its maximum allowed rate of use, what is the expected change in degree of interference with any **surface water sources** resulting from the proposed change?
Stream: _____ ☐ Minimal ☐ Significant
Stream: _____ ☐ Minimal ☐ Significant
Provide context for minimal/significant impact: _____
6. For SW-GW transfers, will the proposed change in point of diversion affect the surface water source similarly (as per OAR 690-380-2130) to the authorized point of diversion specified in the water use subject to transfer?
☐ Yes ☒ No Comments: Not applicable.
7. What conditions or other changes in the application are necessary to address any potential issues identified above: None.
8. Any additional comments: None.

References

Application T-14117

OWRD well log database

Gannett, M.W. and Caldwell, R., 1998, *Geologic framework of the Willamette Lowland aquifer system, Oregon and Washington*, Professional Paper 1424-A, 32 p: U. S. Geological Survey, Reston, VA.

Application T-14117, Countryside Nursery T3S, R1W, Section 36



Watermaster Review Form: Water Right Transfer



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

Transfer Application: T-14117

Review Due Date: 12/09/2022

Applicant Name: Adam Farley / Countryside Nursery

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

Reviewer(s): G. Wacker

Date of Review: 11/14/2022

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

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

☒ N/A

7. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? If you check the box, describe and, if possible, estimate the losses:

☒ N/A

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

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

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

10. For POU or USE changes: ☒ N/A In your best judgment, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste?

☐ Yes ☐ No If "Yes", explain:

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

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

☐ Yes ☐ No If "Yes", explain:

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

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

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:
- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:
- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:
- iv. Do you have any other observations regarding the temporary transfer? ☐ Yes ☐ No If "Yes", describe:
- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

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

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

☐ Yes ☐ No If "Yes", explain:

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

☐ Yes ☐ No If "Yes", explain:

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

☐ Yes ☒ No If "Yes", explain:

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

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

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

☐ A Headgate should be required prior to diverting water.

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

*a. Before water use may begin under this order, the water user shall install a **totalizing flow meter***, or, with prior approval of the Director, another suitable measuring device, ☒ at each point of diversion/appropriation (new and existing) OR at each new point of diversion/appropriation ☐ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

b. The water user shall maintain the meters or measuring devices in good working order.

c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.

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

*a. Before water use may begin under this order, the water user shall install **staff gages***, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.*

b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.

* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:

☐ Weir
☐ Parshall Flume
☐ Other: ____

☐ Submerged Orifice
☐ Flow Restrictor

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

Transfer #: T- 14117



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



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



at each new point of diversion/appropriation.

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

Watermaster name: Greg Wacker

District: 16

Address: 725 Summer St NE Ste A

City/State/Zip: Salem, OR 97301-1266

Phone: 971-719-6262

Email: gregory.j.wacker@water.oregon.gov

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

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

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

Watermaster signature

District

Date

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

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

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 # 139733

INVOICE #

RECEIVED FROM: Country Side Nursery, Inc

BY:

CASH: ☐ CHECK: # 27643 OTHER: (IDENTIFY) ☐APPLICATION T-14117
PERMIT
TRANSFER T-14117TOTAL REC'D \$ 2012.45

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47124 R11-409-23 \$
0412 OTHER: (IDENTIFY) Reimbursement Authority \$ 2012.45

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201 SURFACE WATER EXAM FEE 0202 RECORD FEE \$
0203 GROUND WATER EXAM FEE 0204 RECORD FEE \$
0205 TRANSFER EXAM FEE
0218 WELL DRILL CONSTRUCTOR EXAM FEE 0219 LICENSE FEE \$
LANDOWNER'S PERMIT 0220 LICENSE FEE \$

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:

139733

DATED: 2-12-2002BY: Mober Kay

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

RECEIVED
DEC 12 2022
OWRD

PAID 12/8/2022

PAYMENT RECORD

CHECK TOTAL

2,012.45

ACCOUNT NO.	INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	CHECK NO.
1524	T-14117	12/01/2022	2,012.45	2,012.45	27643
RECEIVED DEC 12 2022 OWRD					DISCOUNT TAKEN

DEC 16 2022

Salem, OR

**REIMBURSEMENT AUTHORITY
APPLICANT'S AGREEMENT
Contract Number: R11-409-23**

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

OWRD Information	Applicant's Information	Applicant's Representative
Contact: Kelly Starnes	Name: Countryside Nursery	Name: Schroeder Law Offices
Title: Transfer Advisor	Contact: Adam Farley	Contact:
Address: 725 Summer Street, NE, Suite A Salem, OR 97301-1266	Address: 23800 Airport Rd NE Aurora, OR 97002	Email: schroeder@water-law.com
Phone: 503 979-3511	Phone: (503) 706-7913	Name: CwM-H2O (CWRE)
Fax: 503 986-0901	Fax:	Contact: Bob Long
Email: patrick.k.starnes@water.oregon.gov	Email:	Email: bob.long@cwmmh2o.com

Purpose The purpose of this Agreement is to expedite the processing of the Transfer Application. (Application Number: T-14117)

1. **Authority.** The OWRD has been authorized pursuant to ORS 536.055 to enter into a voluntary agreement with any applicant, permittee or regulated entity (collectively Applicant) for expediting or enhancing a regulatory process. In making this agreement, OWRD shall require the applicant to pay the full cost of expedited process.
2. **Restrictions.** Applicant and OWRD agree that this Agreement shall not be construed to restrict in any way the decisions and actions by OWRD. OWRD shall be free to exercise independent judgment consistent with existing laws and regulations.
3. **Effective Date and Duration.** Unless otherwise terminated by non-deposit of funds by the Applicant, this Agreement shall become effective on the date on which both parties have signed the Agreement and the full deposit of the estimated cost of the proposed service.
4. **Consideration.**
 - a. Applicant shall pay OWRD in advance for actual costs incurred by OWRD. The estimated maximum reimbursement payable to OWRD under this Agreement is \$2,012.45. Applicant agrees to pay the full amount of \$2,012.45 to OWRD prior to commencement of any work stated in this Agreement. This payment will be placed in an account administered by OWRD and drawn upon as costs are actually incurred. If the actual cost of performing the work is less than payments received, OWRD will refund the unspent balance. If the actual cost of processing exceeds the estimate, the Applicant can either elect to terminate this Agreement or amend the Agreement to reflect the increase in cost.
 - b. The costs stated in this Agreement do not include the statutory application processing and filing fees.
5. **Confidentiality.** Applicant agrees that any information provided to or acquired by OWRD under this Agreement will be subject to the Oregon Public Records Law and shall be considered public records.
6. **Indemnity.** Applicant shall defend, save, hold harmless, and indemnify the State of Oregon, OWRD, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of Applicant or its representatives, officers, employees, contractors, or agents under this Agreement or with respect to the expedited service. The Applicant acknowledges that the Oregon Water Resources Department cannot and does not guarantee a favorable review under the subject regulatory process.

7. **Termination.** Applicant may request to terminate this agreement only in writing at anytime during the process. The Applicant agrees to pay for the work done by OWRD up until the time of the written termination request. OWRD, upon receiving such written termination request from the Applicant, will refund any unspent balance.
8. **Funds Authorized and Available.** By its execution of this Agreement, Applicants certify that sufficient funds are authorized and available to cover the expenditures contemplated by this Agreement.
9. **Duration of Estimate.** The Estimate of Time to completion is **approximately** 120 days once this Agreement has been fully executed and payment of the estimated cost deposited. If the Applicant's Agreement is not received by the Department within thirty (30) days of mailing the Agreement, the Applicant may need to re-apply for a new estimate. NOTE: Any time estimate is approximate; No guarantee of Final Order issuance of a date is certain. Duration estimates do not include any statutory waiting periods.
10. **Completion Date.** OWRD, by the execution of this Agreement does not guarantee the completion date indicated in this Agreement. Completion date is only an estimate and may be affected by the Department's workload, issues arising from the processing of the requested services and Applicant's timely response to requests for additional information. **IMPORTANT:** Due to COVID-19 and actions taken by the State of Oregon to facilitate teleworking as a tool to help prevent the spread of the disease, Department processes for Reimbursement Authority may be unavoidably delayed.
11. **Captions.** The captions or headings in this Agreement are for the convenience only and in no way define, limit, or describe the scope, or intent, of any provision of this Agreement.
12. **Amendment and Merger.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.
13. **Signatures.** All parties, by the authorized representative's signature below, hereby acknowledge that they have read this Agreement, understand it and agree to be bound by its terms and conditions.

For Applicant:

Name/Title:

Date

For OWRD:

Dwight French - Administrator

Date

Mail signed Agreement to:

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

Received by OWRD

DEC 16 2022

Salem, OR



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

November 15, 2022

ADAM FARLEY
23800 NE AIRPORT RD
AURORA, OR 97002

Reference: Application T-14117

On November 3, 2022, OWRD received your water right Permanent Transfer Application. The application was accompanied by \$1840.00. Our receipt number 139479 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 our groundwater staff to determine whether the proposed well accesses the same source of water as the original well.

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 from the new point of appropriation until a final order approving the transfer application has been issued by the Department. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right.

If the land is sold before the 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*)
Schroeder Law Offices, Agent
Clackamas County

Enclosure

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 # **139470**

INVOICE # _____

RECEIVED FROM: Countryside Nursery, Inc

BY: _____

CASH: ☐ CHECK: # 27555 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>1-14117</u>

TOTAL REC'D \$ 125.00**1083 TREASURY 4170 WRD MISC CASH ACCT**

0407 COPIES	<u>47124</u>	<u>811409-23</u>	\$
<u>0412</u> OTHER:	(IDENTIFY) <u>Transfer Reimbursement Authority</u>		\$ <u>125.00</u>

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

4270 WRD OPERATING ACCT**MISCELLANEOUS**

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

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$		\$

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD)		\$
0231 HYDRO LICENSE FEE (FWWRD)		\$
HYDRO APPLICATION		\$

TREASURY OTHER / RDX

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

RECEIPT: **139470**DATED: 11-3-2022 BY: Mindy Cords

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

PAID 10/27/2022

CHECK TOTAL

PAYMENT RECORD

125.00

ACCOUNT NO.	INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	CHECK NO.
1354	CERT 89719	10/27/2022	125.00	27555
AMOUNT PAID				DISCOUNT TAKEN
125.00				

RECEIVED
NOV 03 2022
OWRD



OREGON WATER RESOURCES DEPARTMENT
TRANSFER REIMBURSEMENT AUTHORITY
ESTIMATE APPLICATION



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

Please contact Transfer Personnel before submitting this request; as the application fee is a non-refundable \$125.00 fee per request. Checks submitted for this application should be separate From Transfer fees.

The purpose of this application is to obtain estimates of the cost and time required to process a Transfer Application Request. **There is a non-refundable application fee of \$125.00 per request.**

REQUEST	TYPE	FILE NUMBER
☒	Transfer Application	N/A Transfer Number <u>T-14117</u> (Cert. 89719)

	Applicant Information	Applicant's Representative/Contact
Name:	Adam Farley / Countryside Nursery	Schroeder Law Offices (schroeder@water-law.com) CwM-H2O (CWRE) (bob.long@cwmmh2o.com)
Address:	23800 Airport Road NE Aurora, OR 97002	
Phone:	(503) 706 - 7913	
Fax:		
E-Mail Address:	schroeder@water-law.com, bob.long@cwmmh2o.com	

I understand the following:

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

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

RECEIVED

NOV 03 2022

OWRD

I certify that I am the (check one):

☒ Applicant ☐ Applicant's Representative ☐ Other (Please specify) _____

Name: Adam Farley

Signature: 

OWRD USE ONLY: Reimbursement Authority Number: R11- 409 -23

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 # **139479**

INVOICE #

RECEIVED FROM: Countryside Nursery, Inc

BY:

CASH: ☐ CHECK: # 27524 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>1-14117</u>
TOTAL REC'D	<u>\$1840.00</u>

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

MISCELLANEOUS		
0407	COPY & TAPE FEES	\$
0410	RESEARCH FEES	\$
0408	MISC REVENUE: (IDENTIFY)	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	\$
0240	EXTENSION OF TIME	\$
WATER RIGHTS:		
0201	SURFACE WATER	\$
0203	GROUND WATER	\$
0205	TRANSFER	\$1840.00
WELL CONSTRUCTION		
0218	WELL DRILL CONSTRUCTOR	\$
	LANDOWNER'S PERMIT	\$
OTHER (IDENTIFY)		

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE	
OBJ. CODE	VENDOR #	
DESCRIPTION		\$

RECEIPT: **139479**DATED: 11-3-2022BY: Mindy Cools

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

PAID 10/13/2022

CHECK TOTAL

PAYMENT RECORD

1,840.00

ACCOUNT NO.	INVOICE NUMBER	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	CHECK NO:
1297	REF 89719	10/13/2022	1,840.00	1,840.00	27524
					DISCOUNT TAKEN

RECEIVED
NOV 03 2022
OWRD

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

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

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

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at: http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator. If you have questions, call Customer Service at (503) 986-0801.
- ☒ 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: Cert. 89719**
Please include a separate Part 5 for each water right. (See instructions on page 6)

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 as additional POA is a proposed well, not yet constructed)**
- ☐ ☒ 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.

RECEIVED

NOV 03 2022

OWRD

(For Staff Use Only)

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

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

Other/Explanation _____

Staff: _____ 503-986-0_____

Date: ____/____/____

Part 2 of 5 – Transfer Application Map

OWRD

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

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

- ☒ ☐ N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see http://apps.wrd.state.or.us/apps/wr/cwre_license_view/. 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°).

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)		
1	Base Fee (includes one type of change to one water right for up to 1 cfs)	\$1,360
Types of change proposed: ☐ Place of Use ☐ Character of Use ☒ Point of Diversion/Appropriation Number of above boxes checked = <u>1 (2a)</u> Subtract 1 from the number in line 2a = <u>0 (2b)</u> <i>If only one change, this will be 0</i>		RECEIVED NOV 03 2022 OWRD
2	Multiply line 2b by \$930 and enter » » » » » » » » » » » » » » » »	2 0
Number of water rights included in transfer <u>1 (3a)</u> Subtract 1 from the number in line 3a above: <u>0 (3b)</u> <i>If only one water right this will be 0</i>		
3	Multiply line 3b by \$520 and enter » » » » » » » » » » » » » » » »	3 0
Do you propose to add or change a well, or change from a surface water POD to a well? ☐ No: enter 0 » ☒ Yes: enter \$480 »		4 \$480
Do you propose to change the place of use or character of use? ☒ No: enter 0 on line 5 » ☐ Yes: enter the cfs for the portions of the rights to be transferred (see example below*): _____ (5a) Subtract 1.0 from the number in 5a above: _____ (5b) If 5b is 0 or less, enter 0 on line 5 » If 5b is greater than 0, round up to the nearest whole number: _____ (5c) and multiply 5c by \$350, then enter on line 5 » » » » » » » » » »		
5		5 0
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6 \$1,840
Is this transfer: ☐ necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? ☐ endorsed in writing by ODFW as a change that will result in a net benefit to fish and wildlife habitat? If one or more boxes is checked, multiply line 6 by 0.5 and enter on line 7 »		
7	If no box is applicable, enter 0 on line 7 »	7 0
8	Subtract line 7 from line 6 » Transfer Fee:	8 \$1,840

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).

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Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Adam Farley / Countryside Nursery		PHONE NO. 503 – 706 – 7913	ADDITIONAL CONTACT NO.
ADDRESS 23800 Airport Road NE		FAX NO.	
CITY Aurora	STATE OR	ZIP 97002	E-MAIL
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 SCHROEDER LAW OFFICES		PHONE NO. (503) 281 - 4100	ADDITIONAL CONTACT NO.
ADDRESS 1915 NE Cesar E Chavez Blvd		FAX NO.	
CITY Portland	STATE OR	ZIP 97212	E-MAIL SCHROEDER@WATER-LAW.COM
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.			

Explain in your own words what you propose to accomplish with this transfer application, and why:
The intention of this transfer application is to add an additional point of appropriation to the existing certificate. This third well will be of similar construction to the existing two wells and will share production for nursery use under this 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.

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: Canby Herald-Pioneer
- 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).

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

Applicant signature

Print Name (and Title if applicable)

Date

Applicant signature

Print Name (and Title if applicable)

Date

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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

RECEIVING LANDOWNER NAME		PHONE NO:		ADDITIONAL CONTACT NO:	
ADDRESS				FAX NO:	
CITY	STATE	ZIP	E-MAIL		

Describe any special ownership circumstances here: **NA**

- ☐ 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	
NA		
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	ADDRESS	
NA		
CITY	STATE	ZIP

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

ENTITY NAME	ADDRESS	
Clackamas County	150 Beavercreek Road	
Oregon City	OR	97045

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 # 89719

Description of Water Delivery System

System capacity: 4.82* cubic feet per second (cfs) OR

2,163* gallons per minute (gpm)

**Based on the claim of beneficial use application for Cert. 89719 submitted in 2000 and approved Jan 23, 2015.*

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 is pumped from two wells (Well 1 & 2) that are constructed to depths of 234 ft and 264 ft, respectively, within the Quaternary – Late Tertiary Sediment Aquifer. Well 1 historically had a 50 HP Ingersol turbine pump installed at 160 ft bgs, with a total lift of approx. 20 ft. Well 1 is being replaced due to the production of sand from the well. Well 2 historically had a 60 HP Peabody DKM turbine pump at 200 ft bgs, with a total lift of approx. 90 ft. These wells are capable of pumping water to a small detention pond at the southeast corner of the area of use, which also collects irrigation runoff. Water is then pumped from the detention pond into the primary irrigation system, which contains approx. 3,900 ft of 6", 2,300 ft of 4", and 1,600 ft of 2" mainline pipe. In addition, there are approx. 28,000 ft of 2-3" lateral lines in the container areas and approx. 4,000 ft of 2-3" lateral lines in the greenhouse areas. In total, there are approx. 250 sprinkler head units (11/64" Rainbird heads) that operate at 45 – 50 psi.

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)
Well 1 (CLAC 8800)	☒ Authorized ☐ Proposed	NO TAG	3 S	1 W	36	NW SW	801	1,785 ft N and 895 ft E of the SW corner of Section 36
Well 2 (CLAC 8792)	☒ Authorized ☐ Proposed	NO TAG	3 S	1 W	36	SW SW	801	320 ft N and 1,050 ft E of the SW corner of Section 36
Well 3	☐ Authorized ☒ Proposed	PROPOSED	3 S	1 W	36	NW SW	801	Approx. 1,945 ft N and 190 ft E of the SW corner of Section 36

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

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

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

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

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

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

Table 2. Description of Changes to Water Right Certificate # 89719

List the change proposed for the acreage in each $\frac{1}{4}$ $\frac{1}{4}$. If more than one change is proposed, specify the acreage associated with each change.
If there is more than one POD/POA involved in the proposed changes, specify the acreage associated with each POD/POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.												
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date			
											3	S	1	W	36	NW	SW	801		47.5	Nursery Use	POA #1 (Well #1)	May 20, 1994
											3	S	1	W	36	SW	SW	801		47.5	Nursery Use	POA #2 (Well #2)	May 20, 1994
										APOA	3	S	1	W	36	NW	SW	801		47.5	Nursery Use	Well 3 (Proposed)	May 20, 1994
TOTAL ACRES:											TOTAL ACRES:						47.5	For nursery use					

Additional remarks: The only proposed change in this transfer is the addition of the point named Well 3. The area of use for the additional POA will be the same 47.5 acres and for the same nursery use. The new well will share production of part of the certificated 3.0 cfs under this 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:

Groundwater Registration GR-3102, Groundwater Certificate GR-2910

*There is no proposed change to place or character of use.

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.

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

~~Ground water supplemental Permit or Certificate # _____;~~

~~Surface water primary Certificate # _____;~~

For a change from Supplemental Irrigation Use to Primary Irrigation Use

~~Identify the primary certificate to be cancelled. Certificate # _____~~

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

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

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

http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

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
Well 1 (CLAC 8800)	Yes	No Tag	234 ft	16" 6"	+2 - 244 ft +1 - 101 ft	0 - 40 ft	144 - 236 ft	68 ft	Troutdale Sand/Grav	1.0 cfs
Well 2 (CLAC 8792)	Yes	No Tag	264 ft	16" 10"	+2.5 - 264 ft 192 - 264 ft	0 - 84 ft	207 - 249 ft	102 ft	Troutdale Sand/Grav	2.0 cfs
Well 3	No	-	~250 ft	12"	~0 - 250 ft	0 - 75 ft	~200 - 250 ft	-	"	

*Details of proposed new well are estimated based on the construction of the existing two wells. The new well is not expected to be deeper than the existing Well 2.

Land Use Information Form



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

Applicant(s): Fairdale-Countryside Nurseries
Attn: Adam Farley

Mailing Address: 23800 Airport Road NE

City: Aurora State: OR Zip Code: 97002 Daytime Phone: _____

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:
3S	1W	36	NE SW	801	EFU	☐ Diverted ☒ Conveyed ☒ Used	EFU
3S	1W	36	NW SW	801	EFU	☒ Diverted ☒ Conveyed ☒ Used	EFU
3S	1W	36	SW SW	801	EFU	☒ Diverted ☒ Conveyed ☒ Used	EFU
3S	1W	36	SE SW	801	EFU	☐ Diverted ☒ Conveyed ☒ Used	EFU

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

Clackamas County

B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond ☒ Ground Water ☐ Surface Water (name) _____

Estimated quantity of water needed: 3.0 (not additional to Cert) ☒ 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 Nursery

Briefly describe:

This form is for a permanent transfer application to add two proposed well points to Certificate #89719, which currently has two points of appropriation (CLAC 8800, CLAC 8792). The proposed additional wells will share the production of the allowed 3.0 cfs under the certificate.

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

See bottom of Page 3. →

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For Local Government Use Only

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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.

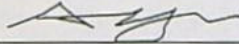
Please check the appropriate box below and provide the requested information

- ☒ 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):
- ☐ 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:	
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ Not Being Pursued
		☐ Obtained ☐ Denied	☐ Being Pursued ☐ 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: Andrew Yaden Title: Planner I

Signature:  Phone: 503-742-4578 Date: 02/11/2021

Government Entity: Clackamas County

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

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 (CLACKAMAS)) ss

I, Adam Farley, in my capacity as Owner/operator,

mailing address 23800 AIRPORT ROAD NE, AURORA, OR 97002

telephone number 503-678-0511 being first duly sworn depose and say:
503-706-7911 (cell)

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 # 89719; **OR**

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

Certificate #89719	Township	Range	Mer	Sec	¼ ¼	Gov't Lot or DLC	Acres (if applicable)

OR

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

(continues on reverse side)

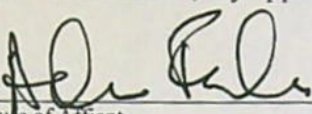
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3. The water right was used for: (e.g., crops, pasture, etc.): NURSERY USES

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.



Signature of Affiant


3/27/2022

Date

Signed and sworn to (or affirmed) before me this _____ day of _____, 2021.

Notary Public for Oregon

My Commission Expires: _____

Supporting Documents	Examples
☐ Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of confirming water right certificate that shows issue date
☐ Copies of receipts from sales of irrigated crops or for expenditures related to use of water	• Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
☐ Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	• District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
☒ 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 – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terra-server.com
☐ Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

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35/1W-3600

(as required by ORS 537.765)

SEP 14 1987

9809C 10/86

3810

9372-0

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"START CARD"

NOTICE OF BEGINNING OF WELL CONSTRUCTION
(as required by ORS 537.762)

DEC - 4 1987

WATER RESOURCES DEPT.
SALEM, OREGON

This form must be completed, signed by both the owner (or authorized agent) and constructor, and the original delivered to the Water Resources Department prior to commencement of construction, alteration or abandonment of each well.

Owner's Name and
Mailing Address

OKi Nursery Co.

PO Box 115

Aurora, OR 97002

Proposed Commencement Date

12/2/87

Proposed Well Depth

250

Diameter

8

and Use:

☐ Domestic☐ Community☐ Industrial☒ Irrigation☐ Thermal☐ Injection☐ Other

Proposed Well Location:

County

Clackamas

Township

35

(N or S)

Range

1W

(E or W)

Section

36

At least 2
of these
must be
provided

1. SW 1/4 of SW 1/4 of above section

2. street address of
well location23788 NE Airport Rd
Aurora OR 97002

3. tax lot number of well location

4. attach approved map with location identified.
(see reverse of this form for approved maps)

We hereby certify that we have read the back of this form, and that to the best of our knowledge the information provided herein is accurate and the well is being properly located from septic tanks and septic drain fields.

X

Owner's Signature

X

Bonded Water Well Constructor

License No.

649

Company

Schneider Drilling Co.

Note: This is not a Water Right application. The owner is responsible for obtaining a Water Right through the Water Resources Department if required.

Form 537.762 1987

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CLAC 8792 XCW

35/1W-36cc

SEP 14 1987

WATER RESOURCES DEPT
SALEM, OREGON OK1 Nursery
Well Log

0	2	Top soil
2	16	Clay, silty, brown, med
16	18	Clay, brown, soft
18	42	Sand, brown, coarse & pea gravel
42	48	Gravel 1/2" minus w/black sand, med-fine
48	56	Sand, black, med-fine
56	60	Sand, brown, med-fine
60	62	Clay, grey, med-soft
62	64	Sand, grey, med-fine
64	70	Clay, grey, med-soft
70	79	Sand, black & brown, med
79	84	Clay, grey, med-soft
84	92	Clay, grey, med-soft, little silty
92	96	Sand, black, fine
96	110	Clay, grey, soft, little silty
110	112	Clay, grey, sandy, little gravel 1"
112	121	Sand, multi-colored med, little pea gravel
121	129	Gravel 1" minus, little sand, med
129	140	Gravel 2" minus, med, black sand, cemented
140	150	Sand, black, med, little pea gravel
150	155	Clay, grey, sandy, med-soft
155	158	Clay, grey, med
158	167	Clay, blue-green, med
167	169	Clay, grey, little sand, med-soft
169	179	Sand, multi-colored, med
179	190	Clay, silty, grey, med, little wood
190	192	Sand, multi-colored, med-fine
192	197	Clay, grey, sandy, med
197	200	Sand, cemented, multi-colored
200	202	Clay, grey, med-soft
202	212	Gravel 2" minus, multi-colored, med, sand
212	214	Clay, grey, sandy, med-soft
214	226	Cemented gravel 1-1/2" minus, sand, med
226	234	Sand, multi-colored, med, little clay
234	238	Sand, multi-colored, med, clay & pea gravel, little wood
238	241	Sand, multi-colored, med-course & pea gravel
241	249	Sand, cemented & gravel 3/4" minus, w/wood
249	264	Clay, grey, med

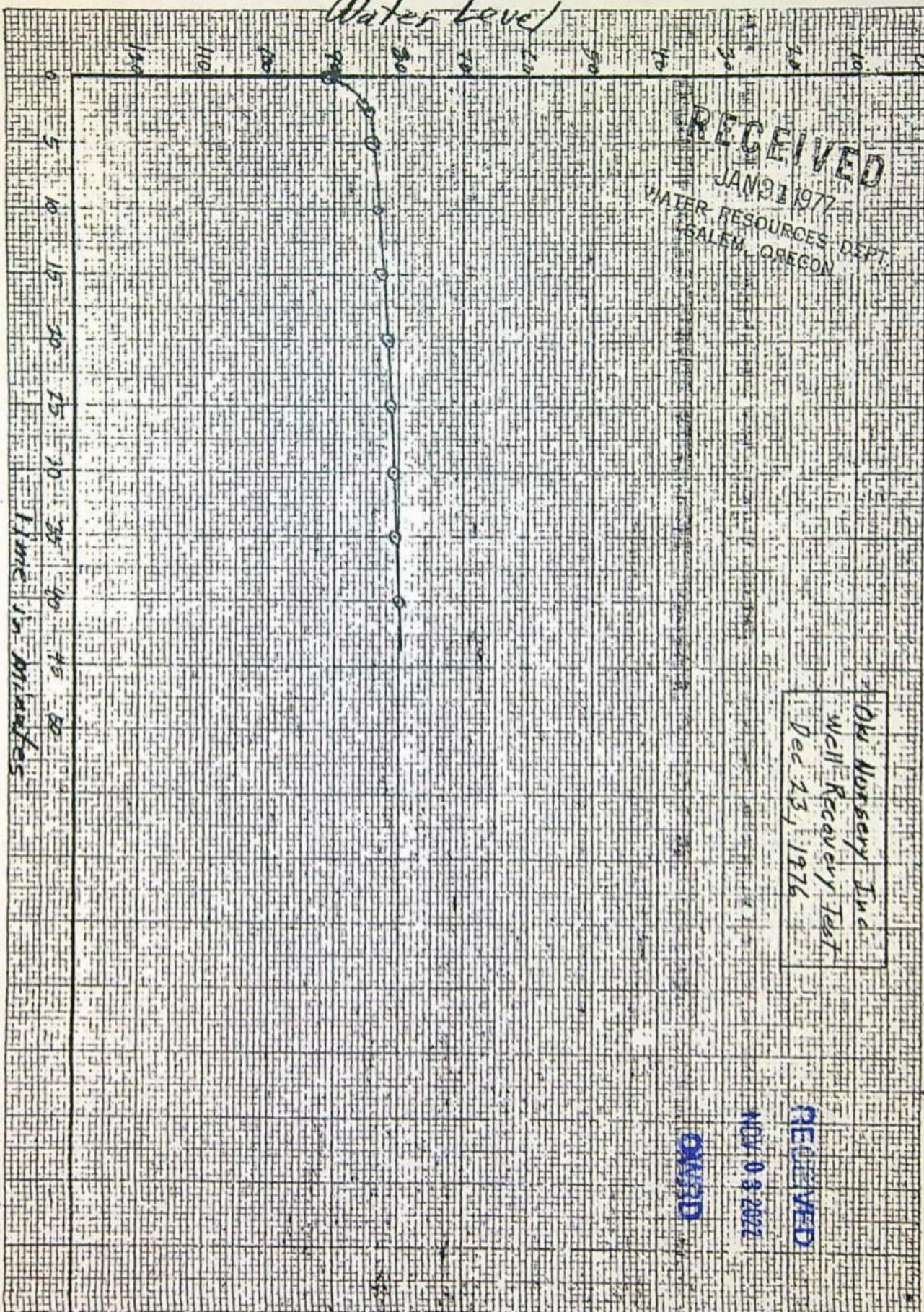
W0020.OKI

RECEIVED

NOV 03 2022

OWRD

Water Level



RECEIVED

JAN 31 1977

WATER RESOURCES DEPT.
SALEM, OREGON

OK Nursery Inc

Well Recovery Test

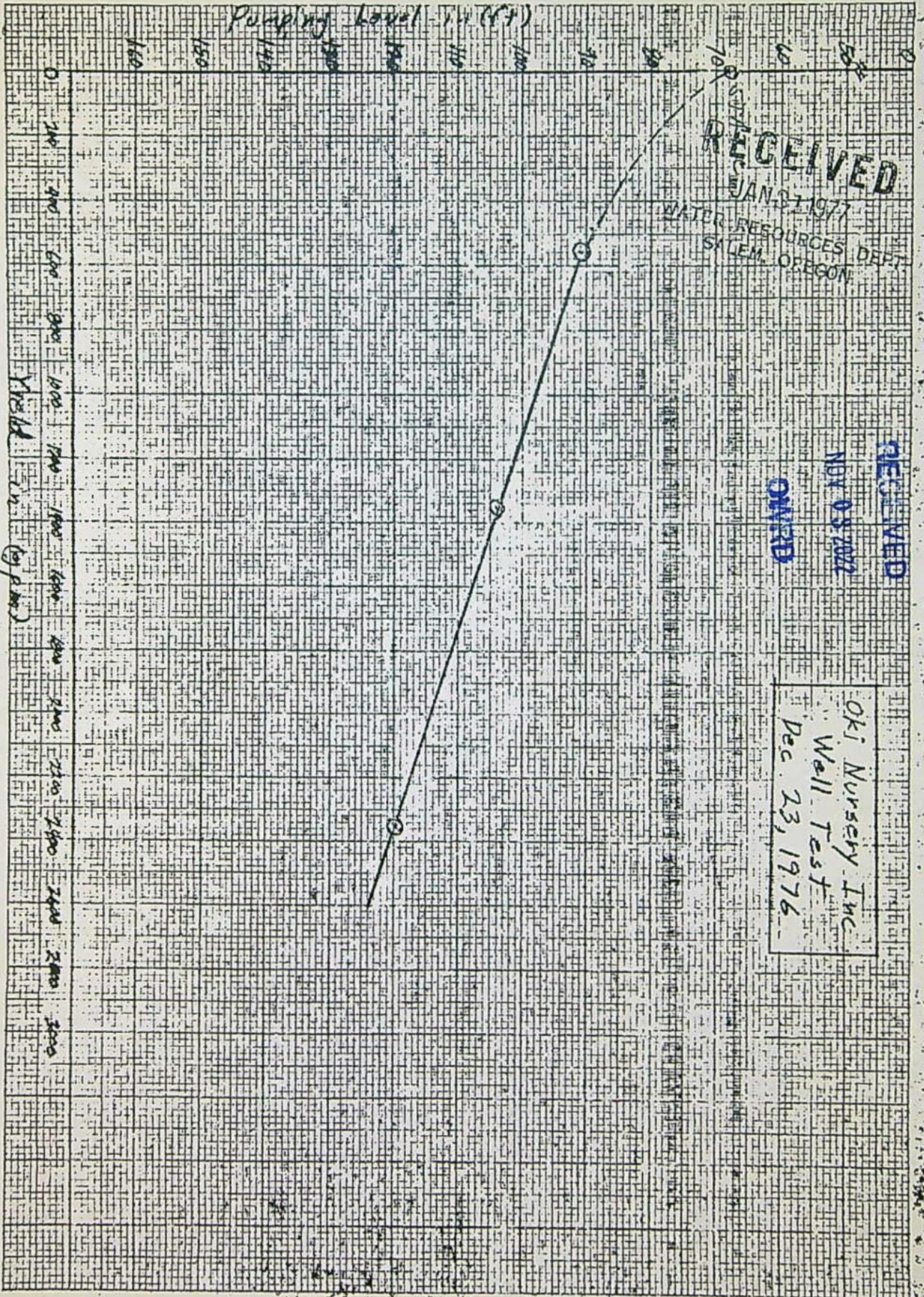
Dec 23, 1976

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NOV 03 2002

OWSD

Pumping Level in (ft)



RECEIVED

JAN 31 1977

WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED

NOV 03 2002

OWNED

Oki Nursery Inc
Well Test
Dec 23, 1976

M-20

Q. S. U. COOP STORES
10 x 10 to 16 inch

Sacramento Nursery and Sons

RECEIVED

JAN 1 1977

Material	From	To
Top soil	0	47
Clay, brown silty	1	48
Sand, brown medium	16	50
Sand, brown packed	20	54
Sandstone, brown & pieces of petrified wood	24	56
Sandstone, brown & lots of petrified wood	40	59
Sand, brown coarse	42	66
Clay, brown dry	48	72
Sand & sandstone, brown coarse	50	74
Clay, brown	54	79
Sand & silt, brown fine	56	81
Clay, brown	59	84
Clay & sandstone, light brown	66	86
Sand, dark brown packed	72	91
Sand, mixed light & medium brown	74	94
Clay, gray dry	79	96
Sand, dark brown medium	81	99
Sand, dark brown fine	84	100
Clay, gray dry	86	115
Sand, blue gray fine	91	118
Sand, dark blue gray medium	94	120
Clay, gray hard	96	130
Sand, dark blue gray fine	99	134 1/2
Sand, gray fine hard	100	147
Clay, gray sandy	115	151
Sand & clay layers	118	152
Sand, fine silty	120	154
Gravel, 1 1/2"	130	154 3/4
Clay, Gray soft	134 1/2	156
Silt, sandy fine	147	162 1/2
Silt, sandy coarser	151	168
Sand, fine	152	174
Gravel	154	181
Sand, gray fine	154 3/4	182
Gravel, to 2 1/2"	156	191
Sand, medium	162 1/2	196
Gravel, some small & sand mostly	168	200
Gravel, to 3"	174	228
Clay, gray shot	181	230
Gravel	182	234
Clay, gray	191	
Clay, brown	196	
Sand, brown fine	200	
Clay, gray hard	228	
Clay, brown hard sticky	230	

RECEIVED

NOV 03 2022

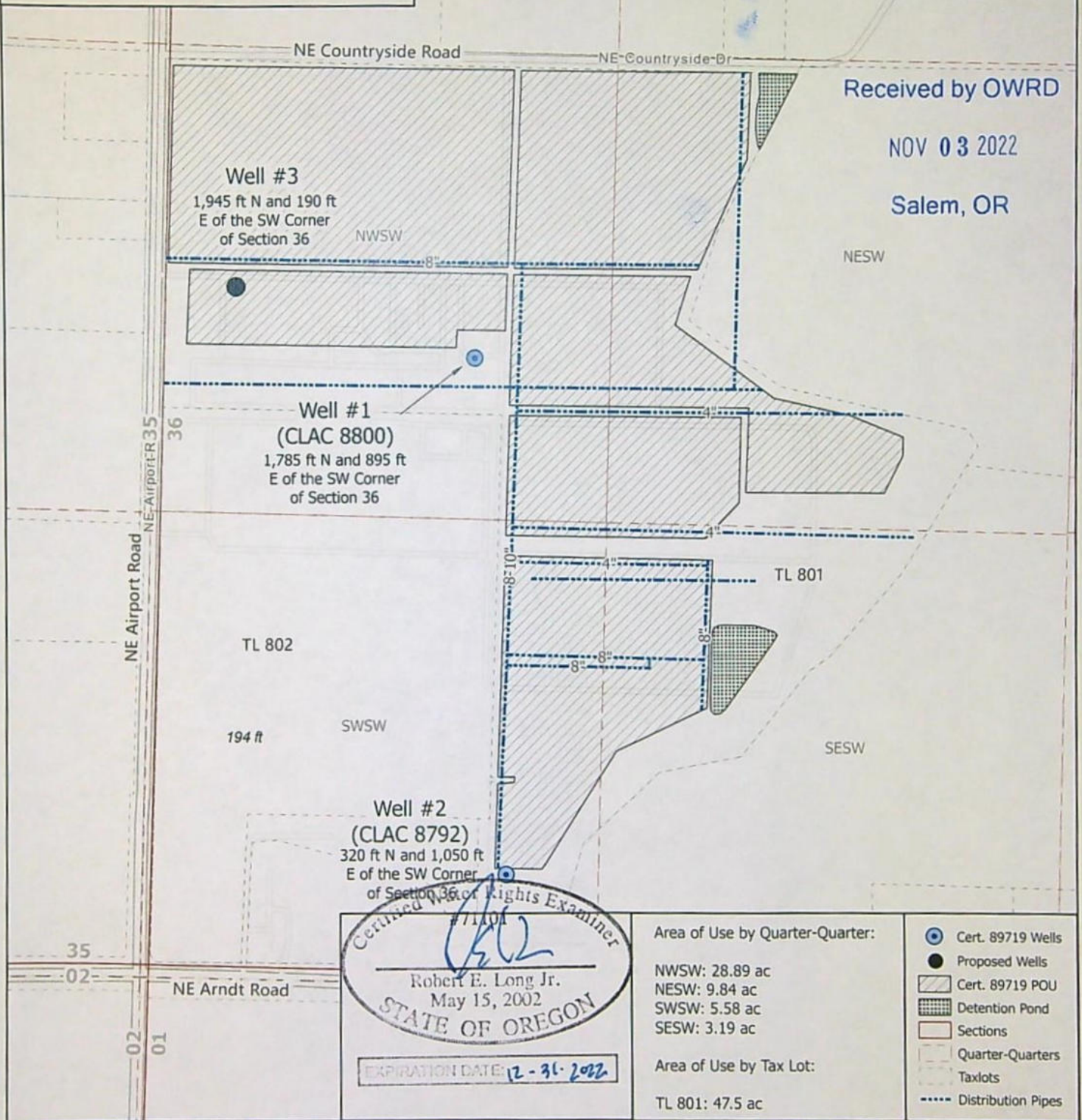
OWRD

**Permanent Transfer of a Water Right
Additional Point of Appropriation
Permit G-12333 / Certificate 89719
T3S, R1W, Section 36**

Received by OWRD

NOV 03 2022

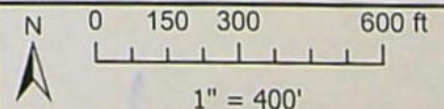
Salem, OR



CwM-H2O
Complete Water Management

1319 SE MLK, Jr. Blvd, Suite 204
Portland, Oregon 97214
(503) 954-1326

This map is not intended to provide
legal dimensions or locations of
property ownership lines



1	DATE	AUTH	DRAFT
1	12/22	IAG	DRAFT 1
No.	Date	By	Revisions

Proj#: 2010001
Fairdale-Countryside Nurseries
Adam Farley
230800 Airport Road NE
Aurora, OR 97002



2008 Google Earth Imagery (June 19, 2008)



2012 NAIP Imagery (June 15, 2012)



2016 NAIP Imagery (June 5, 2016)



2020 Google Earth Imagery (August 13, 2020)

Received by OWRD

NOV 03 2022

CwM-H2O 
Complete Water Management

1319 SE MLK, Jr. Blvd, Suite 204
Portland, Oregon 97214(503)
954-1326

Salem, OR

EVIDENCE OF USE AFFIDAVIT ATTACHMENT 1

Aerial imagery containing sufficient detail to establish the location and date of the photograph.



Approx. Place of Use for Cert. 89719



October 25, 2022

Oregon Water Resources Department
Attn: Kelly Starnes, Transfer Specialist
725 Summer St. NE Ste A
Salem, Oregon 97301

RE: PERMANENT WATER RIGHTS TRANSFER APPLICATION – CERTIFICATE 89719

Dear Kelly or OWRD staff,

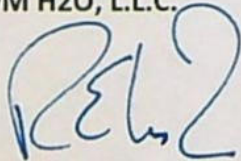
Please find enclosed with this letter a completed Application for a Permanent Water Right Transfer, a check from the Applicant (check #27524) for the \$1,840 review fee, and an application for the Reimbursement Authority and check for that fee. The application is for a change to groundwater Certificate 89719 for nursery use. The water right currently has two points of appropriation (CLAC-8800 and CLAC-8792), which produce enough sand to interfere with operations and maintenance of the water system. Countryside Nursery intends to shift a portion of the production under Cert. 89719 to a proposed additional point of appropriation in this application. The proposed well has not yet been drilled, but the general construction of the new well is expected to resemble the current POAs.

Please let us know if any additional information or clarification is needed regarding this extension application or the original permit.

Thank you for your assistance.

Sincerely,

CwM H2O, L.L.C.



Robert Long, CWRE

Enclosed:

- Application for Permanent Transfer by Additional POAs
- Land Use Compatibility Form
- Evidence of Use Affidavit
- Well Logs for Current POAs
- Fee for Application for Permanent Transfer Review (check #27524)
- + RA Application Form and Check

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NOV 03 2022

OWRD

Permanent Transfer Application Intake Completion Checklist

Check the Certificate(s) in WRIS

Transfer # T- 14117

Checked by- <u>Aula</u>	Type of Change(s) Proposed: Mark the Proposed Changes	Substitution	Supplemental to Primary	POU	POD	APOD
Date- <u>11/8/22</u>		Gov Action	Surface to Ground	USE	POA	<u>APOA</u>
Fee Received: <u>1840-</u>						
Calculated Fee: <u>1840-</u>			How many rights to be Transferred? <u>1</u>			
			Certificate # <u>89719</u>			
Additional Observations: <u>Used application from 2019</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: _____