

Regular

RA

Name Bandon Biota LLC/Bandon Dunes  
Golf ResortAddress 57744 Round Lake Dr.  
Bandon, OR 97411Change in USE, POA, POUDate Filed 4/15/2024Initial notice date 4/23/2024

DPD issued date

PD issued date 3/21/2025PD notice date 3/25/2025

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

C-Date

COBU due date

COBU Received date

Certificate issued

## DESCRIPTION OF WATER RIGHT(s)

Name of Stream A sump, Unnamed streamTrib. of Spring Creek, Laurel LakeUse Irrigation, Temp. Control, Harvesting County CoosQuantity of water (CFS) \_\_\_\_\_ Cranberries No. of Acres \_\_\_\_\_

Name of ditch

App# G-10112 Per # G-9684 Cert # 86449 (prim.) PR Date 4-5-1982App# S-61176 Per # S-46674 Cert # 86448 (supp.) PR Date 4-5-1982

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

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

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

## FEES PAID

Date	Amount	Receipt #
4-15-24	4,630.00	142753
4-15-24	\$125.00	142743
4-30-24	\$2731.40	142832
4-24-25	950.00	145075

## FEES REFUNDED

Date	Amount	Receipt #

Assignments:

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

Agent Bob Long - AND - Schroeder Law Offices, PC  
bob.long@cwmh2o.com counsel@water-law.com

CWRE

CC's list Coos County Planning Department☐ - Oversized map - Location



STATE OF OREGON  
WATER RESOURCES DEPARTMENT

RECEIPT # 145075

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

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

RECEIVED FROM: Oregon Coast Alliance APPLICATION \_\_\_\_\_  
BY: \_\_\_\_\_ PERMIT \_\_\_\_\_  
CASH: ☐ CHECK: # 1991 OTHER: (IDENTIFY) ☐ TRANSFER T-19438  
TOTAL REC'D \$ 950.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

4270 WRD OPERATING ACCT

MISCELLANEOUS  
0407 COPY & TAPE FEES \$ 47 235  
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 EXAM FEE \$ \_\_\_\_\_ LICENSE FEE \$ \_\_\_\_\_  
0218 WELL DRILL CONSTRUCTOR \$ \_\_\_\_\_ 0219 \$ \_\_\_\_\_  
LANDOWNER'S PERMIT 0220 \$ \_\_\_\_\_  
0223 OTHER (IDENTIFY) Protest \$ 950.00

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: 145075

DATED: 4-24-25 BY: my mill

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

STATE OF OREGON  
WATER RESOURCES DEPARTMENT

RECEIPT # 145075

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SALEM, OR 97301-4172  
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DESCRIPTION \_\_\_\_\_ \$ \_\_\_\_\_

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DATED: 4-24-25 BY: my mill

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



**Oregon Water Resources Department  
Water Rights Division**

In the Matter of the Preliminary Determination for T-14439, Coos County, Preliminary Determination Proposing Approval of an Additional Point of Appropriation and A Change in Places of Use.	) ) ) ) ) ) )	PROTEST OF OREGON COAST ALLIANCE
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I. Name, Address And Telephone Number Of Protestant

Oregon Coast Alliance  
PO Box 857  
Astoria OR 97103  
Phone: (503) 391-0210  
Contact: Cameron La Follette  
Email: [cameron@oregoncoastalliance.org](mailto:cameron@oregoncoastalliance.org)

II. Interests of Oregon Coast Alliance

ORCA is a non-profit conservation group dedicated to protection of the Oregon coast. ORCA's mission is to protect the Oregon coast by working with coastal residents for sustainable communities; protection and restoration of coastal and marine natural resources; providing education and advocacy for conservation and restoration of coastal natural resources, as well as providing education and advocacy on land use issues. In carrying out its mission, ORCA takes a comprehensive and proactive approach to the problems facing the coast.

ORCA has members and supporters who use and enjoy the areas at or near the proposed Bandon Dunes Golf Course. ORCA has expended significant time, resources, and money on this matter by tracking the water permit proceedings and commenting and appealing the land use permit proceedings for the proposed golf course.



ORCA also represents the public's interest in protecting Oregon's waterways and groundwater resources for public uses, including but not limited to maintaining aquatic habitats and recreation opportunities and protecting waterways from exploitation and waste.

For all of these reasons, ORCA and its members and the public interest will be adversely and practically affected if the proposed transfer were issued.

III. Approval of the Transfer Would Impair and Be Detrimental to Oregon Coast Alliance's Interests

All water from all sources of supply within the state of Oregon, belongs to the public. Water is a publicly owned resource. ORS 537.110; 537.334(2); 536.310(1); 537.525; *Lane Electric Corp. v. Federated Rural Electric*, 114 Or App 156, 161 (1992) ("All waters within this state, which necessarily includes ground water, belongs to the public."). The policy of the State of Oregon is to guarantee instream flows, protect and restore native fish populations, protect wildlife, and preserve the public interest. OAR 690-410-030(1) ("Benefits are provided by water remaining where it naturally occurs. Protecting streamflows which are needed to support public uses is a high priority for the state."). ORS 496.435 ("...it is declared to be a goal of the people of the State of Oregon to restore native stocks of salmon and trout to their historic levels of abundance"); ORS 536.310(4) ("The fishery resource of this state is an important economic and recreational asset"); OAR 690-400-0000(4) (When formulating basin programs and other directives the Commission has the duty to consider protection of wildlife, recreation, watershed management and other priorities outlined by the legislature); ORS 536.300(1) (recognizing wildlife as a beneficial use of water); OAR 690-410-0010("Groundwater and surface water shall be managed conjunctively where to do so will protect water resources, existing water rights, and the public interest."); OAR 690-400-0000(2) ("Multiple water uses shall be preferred over

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Salem, OR



single-purpose uses.”). ORCA has an interest in decisions that affect water resources. ORCA’s interests include, among others:

- an interest in ensuring the availability of streamflows and the protection water quality needed for fish, wildlife, and recreational resources;
- an interest in ensuring that this and other proposed transfers do not diminish streamflows needed to support instream uses;
- an interest in ensuring that the Water Resource Department does not exacerbate the over-allocation of waters;
- an interest in ensuring that uses are efficient and not wasteful or uneconomical and the permits are not allowed for more water than is necessary for beneficial uses;
- an interest in ensuring that agencies have the appropriate tools and mechanisms in place to manage and regulate water use, including the tools to monitor mitigation effectiveness in order to protect instream uses and fishery resources;
- an interest in ensuring that the agency implements water laws and policies in a manner that manages and allocates the water resources in order to maintain ecological integrity;

The action proposed will over-appropriate or significantly impair the function of Twomile Creek. This will adversely affect the wildlife and fishery resource and their historical, cultural, biologic, and economic significance. In order to protect its organizational interests and carry out its mission to protect the interests of its members and the public, ORCA has devoted large amounts of its time and financial resources to protect and restore wildlife, fishery resources, and instream uses on the Oregon coast. ORCA’s mission and its work make it qualified to represent the public’s interest in protecting instream values and stop over-appropriation.

IV. How Approval of the Transfer Would Be in Error And Deficient And How To Avoid/Correct The Errors And Deficiencies

1. The PD does not include the required assessment to support the PD’s conclusion that “[w]ater has been used in the last five years according to the terms and conditions of the right”; the PD does not cite evidence to support this conclusion; and the application also does not contain information that could support that conclusion.

For certificate 73636, the PD alleges that “[i]nstream lease IL-107 was issued on June 7, 2021, involving a portion of Certificate 73636 within the last five years prior to the submittal of



Transfer Application T-14439. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.” This is not a sufficient statement that water has been used since June 7, 2021, and the PD cites no facts, analysis, or evidence in support. The bare statement is not an assessment, which the PD was required to include. OAR 690-380-4010(2)(a).

Further, as discussed above, the application also does not contain evidence capable of demonstrating that water has been used in the period since it was issued or at all. Applicant has not met the requirement to submit “[e]vidence that the water has been used over the past five years according to the terms and conditions of the owner’s water right certificate or that the water right is not subject to forfeiture under ORS 540.610.” ORS 540.520(2)(g); OAR 690-380-3000(12).

Defects include, but are not limited to, the fact that nothing in the transfer application is capable of showing that applicant has used the irrigation of 53.0 acres at a rate of 0.66 CFS for the period since certificate 73636 was issued.

2. Certificate 73636 have been forfeited for non-use and should be cancelled

Certificate 73636 have been forfeited for non-use and should be cancelled in accordance with ORS 540.610.

3. Transfer T-14439 willl reduce stream flows and injure Instream Water Right Certificate 76268 on Twomile Creek

Transfer T-14439 proposes to change the place of use for Certificate 73636. Certificate 73636 has been leased instream intermittently since 2001 under IL-107, with the current lease agreement in place from 2021 to 2025. The certificate’s authorized place of use is 53 acres of land directly north and adjacent to Twomile Creek in three quadrants. The proposed place of use



is the new golf course which is not adjacent to Twomile Creek but spread out over six quadrants south of the creek.

This proposed transfer would therefore cause significant changes to the flows within Twomile Creek because it would no longer receive the return flows it received when the land under the certificate was being irrigated. When a proposed transfer would result in another, existing water not receiving previously available water to which it is legally entitled, that is an injury. OAR 690-380 0100(3). The Department cannot approve proposed transfers that would result in injury. OAR 690-380-5000(1)(d). This is especially important because Twomile Creek within this reach is protected by an instream water right. ISWR Certificate 76268 exists to provide required stream flow for anadromous fish migration, spawning, egg incubation, fry emergence, and juvenile rearing, and flows are protected throughout the reach. Additionally, Twomile Creek is listed by the Oregon Department of State Lands as Essential Habitat for Fall chinook, winter steelhead, and coho.

4. Transfer T-14439 will cause injury to other water rights

The application's proposed change in the place of use will most likely cause injury to other water rights, including, but not limited to, certificates 26397, 90113, and 90096. When a proposed transfer would result in another, existing water not receiving previously available water to which it is legally entitled, that is an injury OAR 690-380 0100(3). The Department cannot approve proposed transfers that would result in injury. OAR 690-380-5000(1)(d).

These water rights source water from Two Mile Creek, which, as a result of the transfer, will not receive any return flows from irrigation of the original land under Certificate 73636 if the place of use is changed to an expansive golf course south of and further away the creek. This is the example of when the place of use for senior water right "A" is moved to a location where



the return flows no longer enter the stream above the diversion for junior water right "B," leading to less water for "B" and potential injury. (Field Operations Manual, Section 11.01, p. 2-3).

Moreover, the rate of water usage for that recreational site, as reported in the previously proposed land use change (Exhibit C, as prepared by Golder in 2018, of that proposal, is on file with the Coos County Development Planning Department and found on pages 59-69 and can be accessed at [https://www.co.coos.or.us/sites/default/files/fileattachments/planning/page/23604/hbcu-22-001\\_bandon\\_biota.pdf](https://www.co.coos.or.us/sites/default/files/fileattachments/planning/page/23604/hbcu-22-001_bandon_biota.pdf)) was estimated at 400 cubic feet per second (cfs) / 149,492 gallons per minute (gpm) without seasonal restriction. It is certain that these transfers, in conjunction with the 17 wells already dug on the property that tap into the mid-level aquifer (50-100 feet) to supply that amount of water, will seasonally drain the entire basin, dry up surrounding wells, ponds, creeks and entire lakes in the area, causing an avoidable human, economic and environmental crisis. Exhibit C of Bandon Biota's previous application states that it was compiled with nearby inferred information and that no comprehensive survey of the mid-level aquifer has ever been made; only preliminary testing was done in the 1980s. In practice, wells in this area are either shallow (less than 35 feet) or mid-level. The Exhibit 3 report does not differentiate between these, instead calling everything above 130ft as being shallow. In practice, the difference between these two depths has hugely important during cranberry harvest, when the water table routinely drops below that 35 foot mark. A majority of the older residential wells and many of the local agricultural wells are less than 35 feet deep. It is common for older residential wells to run dry during and throughout the cranberry harvest season, despite re-using that water several times over to complete the harvest process. Without knowing the nature, range and



capacity of the surface and mid-level water tables, the proposed non-food horticultural use (turf-grass on sand without underlying peat or reclamation) of the proposed venture will overwhelm the local capacity to recharge both upper and mid-level aquifers. The deep aquifer is not sufficient to make up the difference according to their own well tests. The end result of such a disaster would be the loss of hundreds of acres of productive family farms that have been in the area for over 100 years. These farms contribute cattle, hay, pasture, horses, cranberries, blueberries, nursery crops, honey and a livelihood to scores of long-time locals. Indeed, my own agricultural operations are dependent upon a 55ft well that is in very real danger of being dried up by this development. Moreover, with the proposed water use, it would be a matter of just a few years to drop the water level of both extremely shallow lakes enough to have significant impact on property values and the unique coastal ecosystem in the public lands served by Lost Lake. A similar situation has already happened when the already existing, adjacent Golf Course, Bandon Crossings, diverted creeks to keep their greens. It took 5 years for one of the creeks for which Twin Creek Ranch was named to dry up and the other to swell and flood out its banks with as little as a single inch of rain. Despite trapping people in three residences with these flood waters, there has been no action or compensation. And, despite having water rights that pre-date any others in the watershed, Mr. Leff had no actual recourse, instead getting passed around from one agency to another on a yearly basis ever since, despite significant damage to the low-lands of his property. Approving this project would create this kind of damage multiplied by dozens of affected landowners and farmers. Another major concern is the lack of a currently approved Public Land Use Decision. The application known as HBCU-22-001 was approved with conditions on 5 January 2023 and is attached to all three water transfer applications. However, this application was withdrawn by the applicant in its entirety on 1 February 2023 under threat of

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appeal. While it is known Bandon Biota has since reapplied to the County for land use approval, their application is not complete. Because of this, there is no current proposal for how they will use water on the site. Without amending these plans, it must be assumed that they have not changed since submitted the previously mentioned Exhibit C. This is significant because a change from the proposed (and industry standard practice) turf-greens on sand with no reclamation ponds would make a significant difference in the amount of water required to irrigate this project. As is, the 17.45 cfs / 6,512 gpm transfer from these nearby agricultural lands represents just 4.3% of the proposed use. While the historical usage of 17.45 cfs is supported by the watershed in most years of normal rainfall, increasing the withdrawal from the local watershed by over 2,300% to meet their proposed demand, would decimate the resource. It is also highly concerning how much agricultural land would be taken permanently out of production with the transfer of these water rights. Agriculture in the area is not limited to commodity production of cranberries. That the owner was unwilling or unable to update or switch to a more profitable crop does not inherently make the lands unprofitable for agriculture. Other local farms have done exactly that, as evidenced by the U-pick Blueberry Farms that have been planted in the past decade. There is certainly no lack of local demand for other crops or hay. There has been no decrease in the market value of either of those crops. Perhaps most at the heart of this issue is a problem with the equivalency regarding the "crops" in question. The majority of the proposed water rights to be transferred are those assigned to both irrigation, "temperature control" and harvest of cranberries. In practice, all these waters are collected and reused many times over before being lost to evapo-transpiration (ET), which is the portion of water collectively lost to those processes in field agriculture. Standard operating procedure for recreational lands and golf courses in the area is to use relatively high rates of fertilization and



irrigation, using coarse sand a substrate without the peat layer commonly found at the bottom of a cranberry bog specifically to retain moisture. It is true that the Head of Horticulture for the project testified before the Planning Commission that they intend to use foliar fertilization on their cool-season turf-grasses to decrease the amount leaching into the water supply (as opposed to injecting fertilizers into the irrigation water, aka fertigation). However, this does nothing to impact the massive losses of uncollected water to the sea. These crops, as grown, are wildly dissimilar in their water needs. Cranberries are a useful crop for this area because they are a water-wise plant that is tolerant of very low pH. While flood harvesting and bog cultivation seems like highly intensive uses of water, they are actually highly conservative. The proposed system would produce a plant without waxy leaves, shallow roots, high growth rate and no dormant season in a highly windy area that has very high solar incidence during the May-October irrigation season without reclamation. This differs in every way from how cranberries grow and function.

5. Reservation

ORCA reserves the right to raise any additional issues and arguments not reasonably ascertainable on the currently available record.

V. Citation of Legal Authority

Applicable legal authorities, where known, are cited above.

VI. Protest Fee

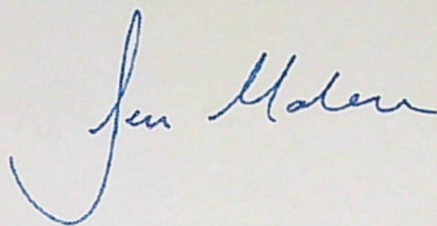
The required fee of \$950.00 is included with this protest.

VII. Request for Hearing

Protestant requests a hearing.

Dated: April 24, 2025.





Sean T. Malone, OSB No. 084060  
Attorney at Law  
PO Box 1499  
Eugene OR 97440  
Phone: (303) 859-0403  
Email: seanmalone8@hotmail.com

### Certificate of Filing and Service

I certify that on this date, a copy of the foregoing protest was served on each of the following by the method indicated:

**APPLICANT:**

BANDON BIOTA LLC / BANDON DUNES GOLF RESORT  
57744 ROUND LAKE DR  
BANDON, OR 97411

*By placing in the US Postal Mail, first class postage prepaid*

**AGENT:**

Bob Long, CWM H20, LLC  
311 B Ave, Suite P  
Lake Oswego, OR 97034  
503-954-1326

[Bob.long@cwmh2o.com](mailto:Bob.long@cwmh2o.com)

*By placing in the US Postal Mail, first class postage prepaid*

**AGENT:**

Shroeder Law Offices, PC  
1915 NE Cesar Chavez Blvd  
Portland, OR 97212  
503-281-4100

[counsel@waer-law.com](mailto:counsel@waer-law.com)

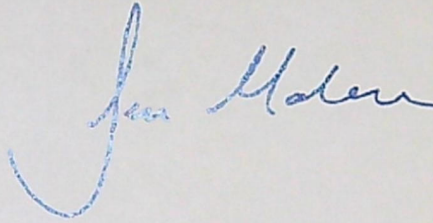
*By placing in the US Postal Mail, first class postage prepaid*

Water Rights Division  
Oregon Water Resources Department  
725 Summer St. NE, STE A  
Salem, OR 97301-1266



*By Hand Delivery*

Dated: April 24, 2025



---

Sean T. Malone, OSB No. 084060  
Attorney at Law  
PO Box 1499  
Eugene OR 97440  
Phone: (303) 859-0403  
Email: seanmalone8@hotmail.com

Received by OWRD  
APR 24 2025  
Salem, OR



# WATER RIGHT TRANSFER COVER SHEET

Transfer: T-14438

Transfer Specialist: Dan L

Transfer Type: Regular Transfer

Reimbursement Authority? ☒

<b>Applicant:</b> Bandon Biota LLC/Bandon Dunes Golf Resort 57744 Round Lake Dr Bandon, OR 97411	<b>Agent:</b> Bob Long 311 B Ave, Suite P Lake Oswego, OR 97034	<b>Receiving Landowner:</b>
<b>Current Landowner if other than Applicant:</b>	<b>CWRE:</b>	<b>Irrigation District:</b>
<b>Affected Local Gov'ts:</b> Coos County Planning Department	<b>Affected Tribal Gov't:</b>	<b>BOR Notified (date):</b>

## Water Rights Affected

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

## Key Dates & Initial Actions (Support Staff)

Rec'd: April 22, 2024	Proposed Action(s): POINT OF APPROPRIATION; PLACE OF USE; USE	
Fees Pd: 4630.00	Acknowledgement Letter Sent <input checked="" type="checkbox"/>	Basin: 17 South Coast
Initial Public Notice: 4/23/2024	County sent cc: of Ack Letter <input checked="" type="checkbox"/>	County: COOS
WM District: 15 Susan M. Douthit	WM Review request sent:	WM Review date received:
ODFW District:	ODFW Review sent:	ODFW Review date received:
Groundwater	GW Review sent:	GW Review date received:

## Caseworker Actions: Newspaper & PD Notice:

Newspaper notice needed: <input type="checkbox"/>	Name of Newspaper:
Newspaper notice sent to coordinator:	Newspaper notice quote requested (NRS1):
Request for news \$ sent:	News \$ received:
Affidavit of publication received:	Last day of publication:

## Peer Review:

Document	Drafted	Peer Review	Coordinator	Changes Made	Signature Bin	Signature Date
DPD	Date: <u>12-19-24</u> Initials: <u>HL</u>	Date: <u>12-31-24</u> Initials: <u>CC</u>	Date: _____ Initials: _____	Date: <u>1-3-25</u> Initials: <u>HL</u>	CW Sent: _____ WM Sheet <input type="checkbox"/> ODFW Sheet: <input type="checkbox"/>	N/A
PD	Date: <u>1-30-25</u> Initials: <u>HL</u>	Date: <u>2-4-25</u> Initials: <u>SG</u>	Date: <u>2-12-25</u> Initials: <u>CC</u>	Date: _____ Initials: _____ Data Review Date: <u>2-26-25</u>	Date: <u>3-20-25</u>	Date: <u>3/21/2025</u>
FO	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ No. of docs for sig: _____	Date: _____

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

Special Order Volume: Vol. \_\_\_\_\_ Pages \_\_\_\_\_





# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

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

March 21, 2025

VIA CERTIFIED MAIL AND E-MAIL

BANDON BIOTA LLC  
BANDON DUNES GOLF RESORT  
57744 ROUND LAKE DR  
BANDON, OR 97411

SUBJECT: Water Right Transfer Application T-14438

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14438. 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 Coos Bay World 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 don't hesitate to contact me at 971 304-5006 or [Dante.J.Luongo@water.oregon.gov](mailto:Dante.J.Luongo@water.oregon.gov), if I may be of assistance.

Sincerely,

Dante Luongo  
Transfer Specialist  
Transfer and Conservation Section

cc: Transfer Application file T-14438  
Susan M. Douthit, District 15 Watermaster (*via e-mail*)  
Bob Long, CWRE, CwM-H2, LLC (*via e-mail*)  
Schroeder Law Offices, PC, Agent for the applicant (*via e-mail*)  
Sean Malone, Oregon Coastal Alliance, Commentor (*via e-mail*)



Stephanie Hayes, Water Watch, Commentor *(via e-mail)*

Cameron La Follette, Oregon Coast Alliance, Commentor *(via e-mail)*

Charlie and Sharon Waterman, Waterman Ranch, Commentors *(via e-mail)*

Marie Richie, Silly Dog Farms, Commentor *(via e-mail)*



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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-14438, Coos County	)	PROPOSING APPROVAL OF AN
	)	ADDITIONAL POINT OF APPROPRIATION,
	)	A CHANGE IN PLACES OF USE AND A
	)	CHANGE IN CHARACTER OF USE

**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**

BANDON BIOTA LLC/BANDON DUNES GOLF RESORT  
57744 ROUND LAKE DR  
BANDON, OR 97411

**Findings of Fact**

1. On April 22, 2024, BANDON BIOTA LLC/BANDON DUNES GOLF RESORT filed an application for a change in place of use and change in character of use under Certificate 86648, and an additional point of appropriation, change the place of use, and to change the character of use under Certificate 86449. The Department assigned the application number T-14438.
2. Notice of the application for transfer was published on April 23, 2024, pursuant to OAR 690-380-4000. Seven timely comments were filed in response to the notice and are summarized as follows:
  - a. The application for T-14438 does not have land use approval from Coos County Planning Department at time of submission;
  - b. T-14438 would result in enlargement of the rights through an increase in acreage under the rights, and because irrigation of turf grass is more consumptive than irrigation and temperature control for cranberry operations;
  - c. Certificates 86448 and 86649 are not eligible for transfer because the water user did not follow the water use reporting conditions on either certificate;

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.
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- d. The source of water under Certificate 86449 is appropriated from an unauthorized reservoir;
  - e. Certificates 86448 and 86449 may be subject to forfeiture from non-use that occurred from 2014-2019;
- 3. Not all issues raised by the commenters are relevant to the criteria for review of a water right transfer as per OAR 690-380-4010 and approval of a transfer application under OAR 690-380-5000. Many of the issues noted in Finding of Fact #2, though important to the residents and water resources in the area, do not directly relate to the transfer review criteria. Rather, the statutory basis for approving a water right transfer application is relatively narrow and confined to the Department finding or determining:
  - a) The water right proposed for transfer is a water use subject to transfer;
  - b) The portion of the water right proposed for transfer is not cancelled nor subject to forfeiture for non-use pursuant to ORS 540.610;
  - c) The water user is ready, willing and able to use the full amount of water allowed under the right;
  - d) The proposed transfer would not result in enlargement of the water right proposed for transfer; and
  - e) The proposed transfer would not result in injury to other water rights.
- 4. In response to the issues raised by the timely comments received relevant to the criteria for review of a water right transfer as per OAR 690-380-4010 and approval of a transfer application under OAR 690-380-5000, the Department has determined:
  - a) The land use form submitted with the application was approved based upon a land use application submitted to the Coos County Planning Department (CCPD) that was subsequently withdrawn.
  - b) Conditions placed on the changes requested in T-14438 will prevent enlargement of the water rights.
  - c) There is no information on record showing the use of water under Certificate 86649 comes from an unauthorized reservoir, but instead from a groundwater sump.
  - d) The water user has provided Evidence of Use that indicates water was beneficially used within the previous five years prior to receiving Transfer Application T-14438, and the water rights are not cancelled.
- 5. On, May 9, 2024, the Department completed review of the land use form for T-14438, and concluded that the land use form submitted with the application was approved based upon a land use application submitted to the Coos County Planning Department (CCPD) that was subsequently withdrawn.



6. On May 10, 2024, the Department contacted CCPD and received confirmation that the land use application used to determine transfer criteria was withdrawn on February 1, 2023.
7. On November 8, 2024, CCPD notified the Department that a new Hearings Body Conditional Use application (HBCU) was submitted and approved this year, identified as HBCU-24-001.
8. On January 3, 2025, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14438 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of February 2, 2025, 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.
9. The portion of the first right to be transferred is as follows:

**Certificate:** 86448 in the name of RONALD D. PUHL and MARY ANNE PUHL, TRUSTEES OF THE RONALD AND MARY ANNE PUHL TRUST UAD 12-1-95 (perfected under Permit S-46674)

**Use:** SUPPLEMENTAL IRRIGATION OF 17.4 ACRES AND SUPPLEMENTAL TEMPERATURE CONTROL

**Priority Date:** APRIL 5, 1982

**Rate:** 6.0 CUBIC FEET PER SECOND; being 0.435 cfs for supplemental irrigation and 6.0 cfs for supplemental temperature control.

**Limit/Duty:** If for irrigation, this appropriation shall be limited to 1/40 of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, for cranberries. If for the irrigation of any other crop, this appropriation shall be limited to 1/80 of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein.

**Source:** UNNAMED STREAM, a tributary of LAUREL LAKE

**Authorized Point of Diversion:**

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
29 S	15 W	WM	25	SW NW	P-3 - 480 FEET NORTH AND 1510 FEET WEST FROM THE C1/4 CORNER OF SECTION 25

**Authorized Place of Use:**

SUPPLEMENTAL IRRIGATION AND SUPPLEMENTAL TEMPERATURE CONTROL					
Twp	Rng	Mer	Sec	Q-Q	Acres



29 S	15 W	WM	25	SE NW	17.4
------	------	----	----	-------	------

10. Transfer Application T-14438 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	25	SW NW	6.9
29 S	15 W	WM	25	NW SW	10.5
TOTAL					17.4

SUPPLEMENTAL IRRIGATION (FROM SUPPLEMENTAL TEMPERATURE CONTROL)					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	25	NW NW	3.0
29 S	15 W	WM	25	SW NW	6.0
TOTAL					9.0

11. Transfer Application T-14438 proposes to change the character of use under Certificate 86448 from Supplemental Temperature Control to Supplemental Irrigation.
12. Certificate 86448 does not describe a period of use, and the irrigation season is not described by decree. Pursuant to OAR 690-250-0070, the irrigation season shall be exercised between March 1 and October 31.
13. Under the change in character of use from supplemental temperature control, the use of water for the proposed supplemental irrigation use is limited to  $0.11 \text{ cfs}$  ( $9.0 \div 80$  (limited to  $1/80$  of one cubic foot per second)) =  $0.1125$ ), and shall be further limited to a total volume diverted of 22.5 Acre-Feet ( $9.0 \times 2.5 \text{ AF}$  (not to exceed 2.5 acre-feet per acre) during the season of use, being between March 1 and October 31.
14. The portion of the second right to be transferred is as follows:

**Certificate:** 86449 in the name of RONALD D. PUHL AND MARY ANNE PUHL, TRUSTEES OF THE RONALD AND MARY ANNE PUHL TRUST UAD 12-1-95 (perfected under Permit G-9684)

**Use:** IRRIGATION OF 17.4 ACRES AND TEMPERATURE CONTROL

**Priority Date:** APRIL 5, 1982

**Rate:** 6.0 CUBIC FEET PER SECOND (cfs); being 0.435 cfs from each sump for irrigation, and 3.0 cfs from each sump for temperature control.

**Limit/Duty:** If for irrigation, this appropriation shall be limited to  $1/40$  of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year, for cranberries. If for the irrigation of any other crop, this appropriation shall be limited to  $1/80$  of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.



Source: SUMPS 1 AND 2

**Authorized Points of Appropriation:**

Sump	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
1 (Pump P-2)	29 S	15 W	WM	25	SE NW	450 FEET NORTH AND 1190 FEET WEST FROM THE C1/4 CORNER OF SECTION 25
2 (Pump P-1)	29 S	15 W	WM	25	SE NW	475 FEET NORTH AND 855 FEET WEST FROM THE C1/4 CORNER OF SECTION 25

**Authorized Place of Use:**

IRRIGATION AND TEMPERATURE CONTROL					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	25	SE NW	17.4

15. Transfer Application T-14438 proposes an additional point of appropriation with the following approximate distances from the existing points of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances	Distance from Authorized POA
29 S	15 W	WM	25	SE NW	P-4 - 450 FEET NORTH AND 1140 FEET WEST FROM THE CENTER OF SECTION 25	PUMP 2 – 50 FEET EAST PUMP 1 – 300 FEET WEST

16. Transfer Application T-14438 proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	25	SW NW	6.9
29 S	15 W	WM	25	NW SW	10.5
TOTAL					17.4

IRRIGATION (FROM TEMPERATURE CONTROL)					
Twp	Rng	Mer	Sec	Q-Q	Acres
29 S	15 W	WM	25	NW NW	3.0
29 S	15 W	WM	25	SW NW	6.0
TOTAL					9.0

17. Transfer Application T-14438 proposes to change the character of use for Certificate 86449 from Temperature Control to Irrigation.
18. Certificate 86449 does not describe a period of use, and the irrigation season has not been set by decree or basin plan within the South Coast Basin. Pursuant to OAR 690-250-0070(1) an irrigation season is to be exercised between March 1 and October 31.
19. Under the change in character of use from temperature control, the use of water for the proposed irrigation use is limited to 0.11 cfs ( $9.0 \div 80$  (limited to  $1/80$  of one cubic foot per second)) = 0.1125), and shall be further limited to a total volume diverted of 22.5 Acre-Feet ( $9.0 \times 2.5$  AF (not to exceed 2.5 acre-feet per acre) during the season of use, being between March 1 and October 31.



***Transfer Review Criteria [OAR 690-380-0100(14), 690-380-4010(2), OAR 690-380-2110(2), 690-380-2200, and 690-380-2300]***

20. Water has been used within the last five years prior to the submittal of Transfer Application T-14438 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
21. A water delivery system sufficient to use the full amount of water allowed under the existing rights was present within the five-year period prior to submittal of Transfer Application T-14438.
22. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
23. 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).
24. The proposed changes, as conditioned, would not result in enlargement of the rights.
25. The proposed change, as conditioned, would not result in injury to other existing water rights.
26. All other application requirements are met.

**Determination and Proposed Action**

The additional point of appropriation, changes in place of use, and changes in character of use proposed in Transfer Application T-14438 appear 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-14438 is approved, the final order will include the following:*

1. *The additional point of appropriation, changes in place of use, and changes in character of use proposed in Transfer Application T-14438 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 86448, 86449, 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 or the new place of use.*
4. *Water right Certificates 86448 and 86449 are cancelled. New certificates will be issued describing those portions of the rights not affected by this transfer.*

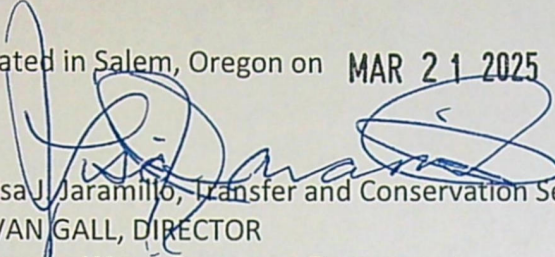


5. *The quantity of water diverted at the new additional point of appropriation (P-4), together with that diverted at the original points of appropriation (Sump 1 (Pump P-2) and Sump 2 (Pump P-1)), shall not exceed the quantity of water lawfully available at the original points of appropriation (Sump 1 (Pump P-2) and Sump 2 (Pump P-1)).*
6. *Water shall be acquired from the same aquifer (water source) as the original points of appropriation.*
7. *The former place of use of the transferred rights shall no longer receive water under the rights.*
8. *Under Certificate 86448, the use of water for supplemental irrigation shall be limited to 0.11 cfs, and shall be further limited to a total volume diverted of 22.5 Acre-Feet, during the season of use, being between March 1 and October 31.*
9. *Under Certificate 86449, the use of water for irrigation shall be limited to 0.11 cfs, and shall be further limited to a total volume diverted of 22.5 Acre-Feet, during the season of use, being between March 1 and October 31.*
10. *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.*
11. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2026**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*



12. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.

Dated in Salem, Oregon on **MAR 21 2025**

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

This Preliminary Determination was prepared by Dante Luongo. If you have questions about the information in this document, you may reach me at 971-304-5006 or [Dante.J.Luongo@water.oregon.gov](mailto:Dante.J.Luongo@water.oregon.gov).

## Protests

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

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

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



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

### **Requests for Standing**

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

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

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

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

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

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



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

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

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

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

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

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



BANDON DUNES

Check #: 193207

Inv. Date

02/28/2025

Invoice #

R-T-14438 2025

Chk Date: 03/03/2025

Inv. Reference

T-14438

Amt: \$ 373.92

Vendor Code OREW - Oregon Water Resources

Inv. Amt

\$373.92

Disc. Amt

\$0.00

Check Amt

\$373.92

193207

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 # 144833

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

RECEIVED FROM: Bandon Dunes  
BY: \_\_\_\_\_APPLICATION  
PERMIT  
TRANSFER T-14438CASH: ☐ CHECK: # 193207 OTHER: (IDENTIFY) ☐TOTAL REC'D \$ 373.92

## 1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 46118 \$  
0207 OTHER: (IDENTIFY) Newspaper Notice \$ 373.92

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 RECORD FEE \$  
0203 GROUND WATER \$ 0202 \$  
0205 TRANSFER \$ 0204 \$

## WELL CONSTRUCTION

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

144833

DATED: 3-2-25BY: Leah Miller

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

Received  
MAR 07 2025  
OWRD





# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503-986-0900

Fax 503 986-0904

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

February 28, 2025

### Applicant

BANDON BIOTA LLC

BANDON DUNES GOLF RESORT

57744 ROUND LAKE DR

BANDON, OR 97411

SUBJECT: Water Right Transfer Application T-14438 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 \$373.92 (to cover cost of publication of the notice), made out to the Oregon Water Resources Department.
2. **write "for T-14438 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 April 1, 2025.**

### What happens next...

Shortly after receiving payment, the Department will issue the Preliminary Determination, initiate publication in the Coos Bay World 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 April 1, 2025, a Preliminary Determination may be issued denying the application as incomplete.**

Received

MAR 07 2025

OWRD

X-----  
**Attached** is a check in the amount of \$373.92 (PCA #46118) for Newspaper Notice for Transfer T-14438 made out to Oregon Water Resources Department ( or WRD)

- **"for T- 14438 NOTICE" written on front of check**

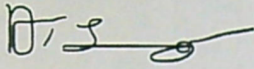
Mail to: Oregon Water Resources Department  
725 Summer St. NE, Suite A  
Salem, OR 97301-1266

Caseworker: Dante Luongo



Please don't hesitate to contact me at 971 304-5006 or Dante.J.Luongo@water.oregon.gov if I may be of assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Luongo', with a long horizontal flourish extending to the right.

Dante Luongo  
Transfer Specialist  
Transfer and Conservation Section

cc: T-14438  
Susan M. Douthit, District 15 Watermaster (*via e-mail*)  
Bob Long, Schroeder Law Offices, Agent for the applicant (*via e-mail*)

Received  
MAR 07 2025  
OWRD



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

July 3, 2024

**VIA ELECTRONIC & U.S. MAIL**

Oregon Water Resources Department  
Attn: Dante Luongo  
725 Summer Street NE, Suite A  
Salem, OR 97301  
Email: [dante.j.luongo@water.oregon.gov](mailto:dante.j.luongo@water.oregon.gov)

**Received**

**JUL 05 2024**

**OWRD**

**RE: Review of Public Comments Made to OWRD re Transfer Applications T-14438, T-14439, and T-14440**

Dear Mr. Luongo:

Pursuant to the Oregon Water Resources Department's ("OWRD" or the "Department") public notice published on April 23, 2024, comments were timely made to the Department regarding Transfer Applications T-14438, T-14439, and T-14440. WaterWatch of Oregon ("WaterWatch"), Marie Richie ("Richie"), Oregon Coast Alliance ("ORCA"), and Charlie and Sharon Waterman (the "Watermans") allege the applicant, Bandon Biota LLC ("Bandon"), filed transfer applications with the Department that if approved, would violate Oregon law. All allegations stated in each public comment are based on misinterpretations of the law and are factually incorrect. Accordingly, we urge the OWRD to approve Transfer Applications T-14438, T-14439, and T-14440.

**1. Coos County Planning Commission Issued Approved Land Use Applications for Development Associated with Transfer Applications T-14438, T-14439, and T-14440.**

Public comments submitted by WaterWatch, Richie, and ORCA claim that required land use applications have not been approved by the Coos County Planning Commission ("Commission"). However, the Commission approved the proposed development associated with applications T-14438, T-14439, and T-14440 on January 5<sup>th</sup>, 2023. The approved and *signed* land use applications were contemporaneously filed with all transfer applications on April 15<sup>th</sup>, 2024.

The procedural history described in the transfer applications demonstrates a concerted effort in securing approval from the Commission. On July 21, 2022, the applicant requested Hearing Body Conditional Use approval for a new 18-hole Golf Course with Accessory Uses in the Non-High-Value portion of the Exclusive Farm Use Zone on the subject property. All property owners within 500 feet of the subject properties, special districts, and agencies, as of

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



November 10, 2016, were mailed notice of the development application. On January 5<sup>th</sup>, 2023, the Commission approved the development application following the review of evidence, testimony, and the applicant's final argument. Copies of the approved land use applications were filed with transfer applications T-14438, T-14439, and T-14440. Accordingly, WaterWatch, Richie, and ORCA, incorrectly claim that Bandon failed to secure approved land use forms from the Commission.

**2. Water Right Certificates 86449, 86448, 73636, and 89934 are Not Subject to Forfeiture.**

Public comments submitted by WaterWatch, ORCA, and the Watermans allege Water Right Certificates 86449, 86448, 89934, and 73636 are subject to forfeiture due to non-use. This claim is disproven by historical use certificates, place of use imagery, and water meter usage records, all provided to OWRD.

Water right holders risk forfeiture if water is not beneficially appropriated for a consecutive five year period. Oregon Revised Statute ("ORS") 540.610(1). While there is a "look back" period of fifteen years, OWRD is still limited to finding a consecutive period of five years within the "look back" period from the date the water transfer application is filed. ORS 540.610(2)(f). Evidence provided by Bandon proves that the water certificates described in the transfer applications are not subject to forfeiture. ORS 540.610(1).

**a. Certificates 86449 and 86448**

Warren Felton, the owner of the place of use described under Certificate 86449 and supplemental right Certificate 86448, attests in his submitted affidavit to OWRD that "water was used during the previous five years on the entire place of use." His affidavit was signed on February 14, 2024, and is supported by "copies of receipts from sales of irrigated crops or for expenditures related to use of water." The signed affidavit attests to complete beneficial use from February 14, 2019, to the same date in 2024. Such claim is further bolstered by Power Meter Usage Records recording water bills from January 2019 to January of 2020.

The previous 15 years similarly demonstrate a history of beneficial use associated with Certificate 86449. The National Agriculture Imagery Program ("NAIP") photos provided in T-14438 confirm evidence of water use on the cranberry bogs described in the certificate for years 2005, 2009, 2012, 2016, 2018, and 2020. Accordingly, Certificates 86449 and 86448 are not subject to forfeiture under the facts or applicable law.

**b. Certificate 73636**

Michael Keiser, owner of the place of use described under Certificate 73636, attests that all of Certificate 73636 was leased instream (IL-107) within the last five years. Such affidavit was signed on January 16<sup>th</sup>, 2024. Beneficial use is further demonstrated with documented approved instream leases beginning in the year 2000. IL-107 was then renewed in 2003, 2008,



and 2021. There has been no consecutive five-year period of non-use. Accordingly, Certificate 73636 is not subject to forfeiture under ORS 540.610.

**c. Certificate 89934**

Warren Felton, owner of the place of use described under Certificate 89934, attests that “water was used during the previous five years on the entire place of use.” This affidavit was signed on February 14, 2024. Power and water usage records show monthly water bills for the entirety of 2019 and January of 2020. Further, as public commentators should be aware of, the “Water Use Report Based on Water Right” is available on OWRD WRIS proving beneficial use during 2019 and 2018. National Agriculture Imagery Program (“NAIP”) imagery, provided with T-1440, shows clear beneficial use during 2020, 2018, 2016, 2012, 2009, and 2005. Accordingly, Certificate 89934 is not subject to forfeiture under ORS 540.610.

**3. Approval of Transfer Application T-14440 and T-14438 Will Not Result in Enlargement**

Public comments submitted by WaterWatch and ORCA allege that T-14440 and T-14438 would improperly enlarge Certificates 86449, 86448, and 89934. These claims rely on an intentional misreading of the transfer applications.

OWRD shall not approve a transfer application if it results in enlargement. Oregon Administrative Rule (“OAR”) 690-380-5000(1)(c). Enlargement is an “expansion of a water right” which includes using a greater rate or duty of water per acre, increasing the acreage irrigated under a right, failing to keep the original place of use, and diverting more water at the new point of diversion/appropriation than legally permitted. OAR 690-380-0100(2)(a)(d). Alleged enlargement is the result of a *legal* change of character use. ORS 540.520(1).

T-14440 proposes the change of place of use described in Certificate 89934 from 13.8 acres to 20.9 acres. The expanded place of use is due to a permissible application to change the character of use. Cranberry use under Certificate 89934 includes irrigation, temperature control, and flood harvesting with a rate of 0.33 cubic feet per second (“cfs”) that was only limited to an allocation to temperature control (0.15 cfs) and flood control or pest control (0.05) leaving 0.13 cfs for irrigation. The rate conversion, determined by qualified Certified Water Rights Examiners (“CWRE”)s and hydrogeologists, is permitted by the change in the character of use.

Similarly, T-14438 proposes a change of the character of use described in Certificates 86449 and 86448 by converting temperature control and flood harvesting to irrigation. The changes of character of use provide a sufficient conversion to irrigation only to increase the place of use described for irrigation to 26.4 acres. Accordingly, T-14440 and T-14438 will not result in impermissible enlargement. Bandon is not proposing to illegally irrigate more land than the associated certificates described. Rather, the applicant has determined the change of character results in a permissibly expanded place of use for irrigation.



#### **4. Approval of T-14438 May Be Conditioned on an Approved Storage Permit.**

Public comments submitted by WaterWatch and ORCA allege T-14438 would impermissibly require the development of a storage reservoir denoted in the application as an “existing sump pond to be line and used as irrigation reservoir.” Both commentators urge OWRD to deny T-14438 due to the alleged water storage development. The phrasing referred to in the public comment is from land use applications and is not related to the water right transfer applications. Transfer T-14438 proposes a change in place and character of use, as well as an adjustment to the placement of lift stations from the sump pond sources. The transfer application does not involve storage. As described in the original permit (G-9684) and in Certificate 86449 itself, the sump ponds (Sumps 1 and 2) are described as the groundwater sources for the right, as they fill with groundwater and allow extraction of groundwater via lift stations. The sumps are not described as storage reservoirs and do not function as such.

#### **5. Certificate 89934 Need Not Comply with the New River Agreement**

Public comment submitted by WaterWatch alleges Certificate 89934 fails to comply with the New River Agreement. This comment is unsubstantiated. Certificate 89934 does not describe a condition requiring compliance with the New River Agreement.

Water Right Certificates are final orders and are subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for review must be filed within the 60-day time period specified by ORS 183.484(2). WaterWatch claims OWRD failed to include the New River Agreement as a condition of Certificate 89934 as a mere “scrivener’s error.” It is not. This is a substantial revision with which OWRD would have included if it applied. In addition, the Certificate was issued on March 13, 2015, the time to request reconsideration or judicial review expired nine years ago. Accordingly, alleged noncompliance with the New River Agreement is baseless.

#### **6. Transfer Applications T-14438, T-4439, and T-14440, Will Not Result in Injury**

Public comments submitted by WaterWatch, ORCA, and Richie allege all transfer applications will result in impermissible injury to existing water rights. These comments rely on assumptions assuming only negative outcomes.

OWRD shall not approve transfer applications that result in injury. OAR 690-380-5000(1)(d). Injury means the proposed transfer would result in another, existing water right not receiving previously available water to which it is legally entitled. OAR 690-380-0100(3). WaterWatch and ORCA suggest that the proposed change would result in reduced return flow to Twomile Creek. This claim of injury would require any certificate associated with either transfer application to describe a condition requiring specific return flow which would be an unusual condition. In fact, there is no such condition on any certificate. Further, senior water right holders continue to hold the right to “make a call” if they are not receiving the water to which they are entitled. OAR 690-250. This type of regulation by priority is not injury.



## **7. Policy Issues are Not Criteria for Review of a Water Right Transfer**

Public comments submitted by Richie allege Transfer Application T-14438 is a negative for the Coos Bay community due to policy concerns. Personal opinion on what is considered "good" for the community is not a relevant criterion for review of a water right transfer.

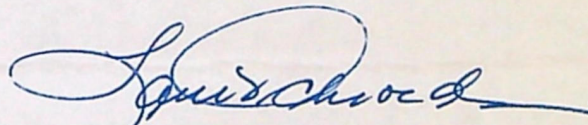
OWRD *shall* approve a transfer application if the right affected is a water use subject to transfer, is not cancelled, will not impermissibly enlarge the right, and not result in injury. OAR 690-380-5000(1). Following the conclusion of the public comment period, OWRD must review said allegations and determine whether new evidence requires denial. OAR 690-380-4010(1). However, similar to initial review of the transfer application, preliminary determination may only consider forfeiture concerns due to non-use, whether the applicant is ready to use the water, and if the proposed transfer would result in enlargement or impermissible injury. OAR 690-380-4010(2)(a)-(d). Public policy arguments or proclamations of the "common good" alleged in public comments are not reviewable by OWRD.

Richie alleges the irrigation of "turf-grass" detrimentally affects the environment and community water users. Her comment argues the development of a golf course converts precious agricultural land into one she claims is "frivolous." These allegations are policy arguments and do not merit review under Oregon Administrative Rules that govern transfer applications.

## **Conclusion**

Public comments timely made to OWRD regarding Transfer Applications T-14438, T-14439, and T-14440 fail to raise any accurate arguments that would encourage denial or are permissible criterion for "preliminary review." OWRD must approve the transfer applications.

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



Laura A. Schroeder

LAS:mpj

cc: Client



## 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](http://www.oregon.gov/OWRD)

Transfer Application: T-14438 and 14439

Review Due Date:

Applicant Name: Bandon Biota LLC

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

Reviewer(s): Susan Douthit

Date of Review: 05/24/2024

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:  
Occasional regulation
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- 14438 and 14439



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: Susan Douthit

District: 15

Address: 1036 SE Douglas Ave

City/State/Zip: Roseburg, OR 97470

Phone: 541-440-4255

Email: susan.m.douthit@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



## Groundwater Transfer Review Summary Form

Transfer/PA # T- 14438

GW Reviewer Grayson Fish Date Review Completed: 5/13/2024

### 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-14438

Applicant Name: Bandon Biota LLC/Bandon Dunes Golf Resort

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

Reviewer(s): Grayson Fish

Date of Review: 5/13/2024

Date Reviewed by GW Mgr. and Returned to WRSD: JTI 5/15/24

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: The applicant proposes to change the place of use, character of use, and add an additional point of appropriation to **Certificate 86449**. The two authorized POAs P-1 and P-2 are pumps placed into adjacent sumps S-2 and S-1, respectively. The APOA P-4 would be placed into sump S-1. It should be noted that the WRIS mapper shows both existing POAs placed in sump S-2, for the purpose of this review, it will be assumed that the POA locations provided by the applicant are correct as they match the paper map for **Certificate 86449**. The applicant proposes to increase the total number of acres irrigated under this right by converting the temperature control portion of the right to irrigation.

Additionally, the applicant proposes to change the place of use and character of use of supplemental **Certificate 86448** from authorized surface water POA P-3. This portion of the transfer is not considered in this groundwater review.

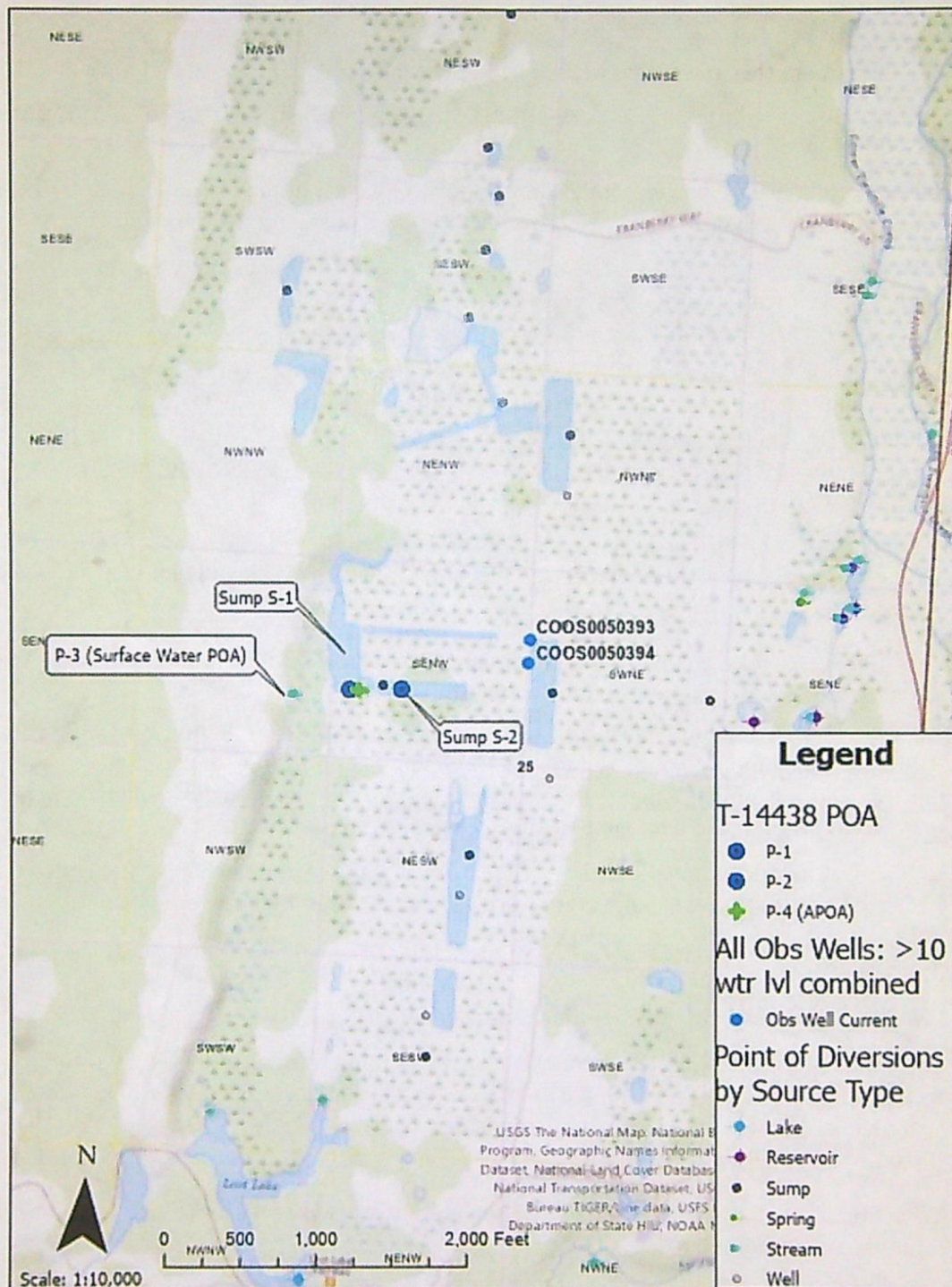
2. Will the proposed POA develop the same aquifer (source) as the existing authorized POA?  
☒ Yes ☐ No Comments: Proposed APOA P-4 will source groundwater from sump S-1, the current source of groundwater for authorized POA P-2. Both sumps S-1 and S-2 source water from quaternary marine terrace deposits (medium to coarse sands and gravels) that extend to approximately 40 -50 feet below land surface in the area.



Nearby observations wells COOS 50393 and COOS 50394 shows that depth to water is commonly 10 to 15 feet below land surface, indicating that groundwater could be accessed with a sufficiently deep excavation.

3. a) Is there more than one source developed under the right (e.g., basalt and alluvium)?  
☐ Yes ☒ No Only shallow groundwater for the quaternary marine terrace deposits is developed under this right.
- 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: Proposed APOA P-4 will pump water from sump S-1, the same location as authorized POA P-2. Sump S-1 does not appear to be an authorized POA for any water rights other than Certificate 86449 and 86448 (subject to this transfer). Given that no additional use should result from this transfer, it is unlikely that the changes proposed under this transfer will result in an increase in interference with another groundwater right.
- 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: As stated above, APOA P-4 will pump water from sump S-1, the same location as authorized POA P-2. Given that no additional use should result from this transfer, it is unlikely that the changes proposed under this transfer will result in an increase in interference with another surface water source.
- 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: N/A
7. What conditions or other changes in the application are necessary to address any potential issues identified above: \_\_\_\_\_
8. Any additional comments: The findings of this review assume that the total volume and rate of use will not increase under this transfer.



**T-14438**



BANDON DUNES

Check #: 183662

Inv. Date

04/22/2024

Invoice #

R11-496-25

Chk Date: 04/26/2024

Inv. Reference

OWRD Transfer App

Amt: \$ 2,731.40

Vendor Code OREW-R - Oregon Water Resources

Inv. Amt

\$2,731.40

Disc. Amt

\$0.00

Check Amt

\$2,731.40

183662

Received

APR 30 2024

OWRD

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 # 142832

INVOICE #

RECEIVED FROM: Bandon Dunes

BY:

APPLICATION

PERMIT

TRANSFER T-14438

CASH: ☐ CHECK: # 183662 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$2,731.40

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47124 R 11496-25 \$

0412 OTHER: (IDENTIFY) Transfer Reimbursement Authority \$ 2,731.40

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 RECORD FEE \$

0203 GROUND WATER \$

0205 TRANSFER \$

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR EXAM FEE 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 **RECEIVED**

OBJ. CODE VENDOR # **OVER THE COUNTER**

DESCRIPTION \$

RECEIPT: 142832

DATED 4-30-2024 BY: Bz



APR 30 2024

Salem, OR

**REIMBURSEMENT AUTHORITY  
APPLICANT'S AGREEMENT  
Contract Number: R11-496-25**

This Agreement is between the **Oregon Water Resources Department**, hereafter OWRD, and **Bandon Biota, LLC/Bandon Dunes Golf Resort**, hereafter Applicant, hereafter known together as the parties.

OWRD Information	Applicant's Information	Applicant's Representative
Contact: Kelly Starnes	Name: Bandon Biota, LLC/ Bandon Dunes Gold Resort	Name: CwM-H2O, LLC
Title: Transfer Advisor	Contact: Ken Nice, Director of Agronomy	Contact: Bob Long, CWRE
Address: 725 Summer Street, NE, Suite A Salem, OR 97301-1266	Address: 57744 Round Lake Dr. Bandon, OR 97411	Address: 311 B Avenue, Suite P Lake Oswego, OR 97034
Phone: 503 979-3511	Phone:	Phone: (503) 954-1326
Fax: 503 986-0901	Fax:	Fax:
Email: <a href="mailto:patrick.k.starnes@water.oregon.gov">patrick.k.starnes@water.oregon.gov</a>	Email: <a href="mailto:knice@bandondunesgolf.com">knice@bandondunesgolf.com</a>	Email: <a href="mailto:bob.long@cwmmh2o.com">bob.long@cwmmh2o.com</a>

**Purpose** The purpose of this Agreement is to expedite the processing of the **Transfer Application**. (Application Number: T-14438)

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 **\$2,731.40**. Applicant agrees to pay the full amount of **\$2,731.40** 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 by Applicant.** 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. **Termination by OWRD.** OWRD may terminate this Agreement if the applicant fails to provide any requested items necessary to complete the application and/or comply with applicable rule requirements within the specified timeframe outlined in the request letter, being a period of not less than 30 days.
9. **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.
10. **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.
11. **Completion Date.** OWRD, by the execution of this Agreement does not guarantee the completion date indicated in this Agreement. Completion date is only an estimate and may be affected by the Department's workload, issues arising from the processing of the requested services and Applicant's timely response to requests for additional information.
12. **Captions.** The captions or headings in this Agreement are for the convenience only and in no way define, limit, or describe the scope, or intent, of any provision of this Agreement.
13. **Amendment and Merger.** The terms of this Agreement shall not be waived, altered, modified, supplemented, or amended in any manner whatsoever, except by written instrument signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Agreement.
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: KIZ MANAGING Director  
Name/Title: Dwight French

For OWRD: \_\_\_\_\_  
Dwight French – Administrator

4/26/2024  
Date

4-30-2024  
Date

Mail signed Agreement to:

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

Received by OWRD

APR 30 2024

Salem, OR







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 # 142743

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

RECEIVED FROM: Bandon Dunes

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

CASH: ☐ CHECK: # 182817 OTHER: (IDENTIFY) ☐

APPLICATION  
PERMIT  
TRANSFER T-14438

TOTAL REC'D \$ 125.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47/24 R11496-25 \$  
0412 OTHER: (IDENTIFY) Transfer RA \$ 135.00

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

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

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

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

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

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

RECEIPT: 142743

DATED 4-15-2024 BY: m mill

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

BANDON DUNES

Check #: 182817  
Inv. Date 03/27/2024  
Invoice # 6449/66448 Fee

Chk Date: 03/29/2024  
Inv. Reference 86449/66448

Amt: \$ 125.00

Vendor Code OREW/R - Oregon Water Resources  
Inv. Amt \$125.00  
Disc. Amt \$0.00  
Check Amt \$125.00

182817

Received

APR 15 2024

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 Staff before submitting this request, as the application fee of \$125.00 per request is non-refundable.

Checks submitted for this application must be separate from Transfer fees.

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

REQUEST	TYPE	FILE NUMBER
<input checked="" type="checkbox"/>	Transfer Application	T-14438 Transfer Number Not Yet Assigned

	Applicant Information	Applicant's Representative/Contact
Name:	Bandon Biota, LLC / Bandon Dunes Golf Resort	Bob Long, CWRE (CwM-H2O, LLC)
Address:	57744 Round Lake Drive Bandon, OR 97411	311 B Avenue, Suite P Lake Oswego, OR 97034
Phone:		(503) 954 - 1326
Fax:		
E-Mail Address:	Ken Nice, Director of Agronomy (knice@bandondunesgolf.com)	Bob.long@cwmh2o.com

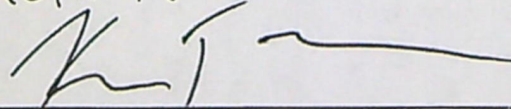
By signing this application, I understand:

- 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 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.
- That an incomplete or inaccurate application may delay the process and increase the cost to process my request.
- That expedited processing does not guarantee a favorable review of my request.

I certify that I am the (check one):

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

Name: KEN NICE

Signature: 

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  
APR 15 2024  
OWRD

OWRD USE ONLY: Reimbursement Authority Number: R11-496-25





# 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

April 22, 2024

Bandon Biota LLC/Bandon Dunes Golf Resort  
57744 Round Lake Dr  
Bandon, OR 97411  
Reference: Application T-14438

On April 22, 2024, the Department received your water right Permanent Transfer Application. The application was accompanied by \$4630.00. Receipt number 142753 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 for the new use, in the new place of use or 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.

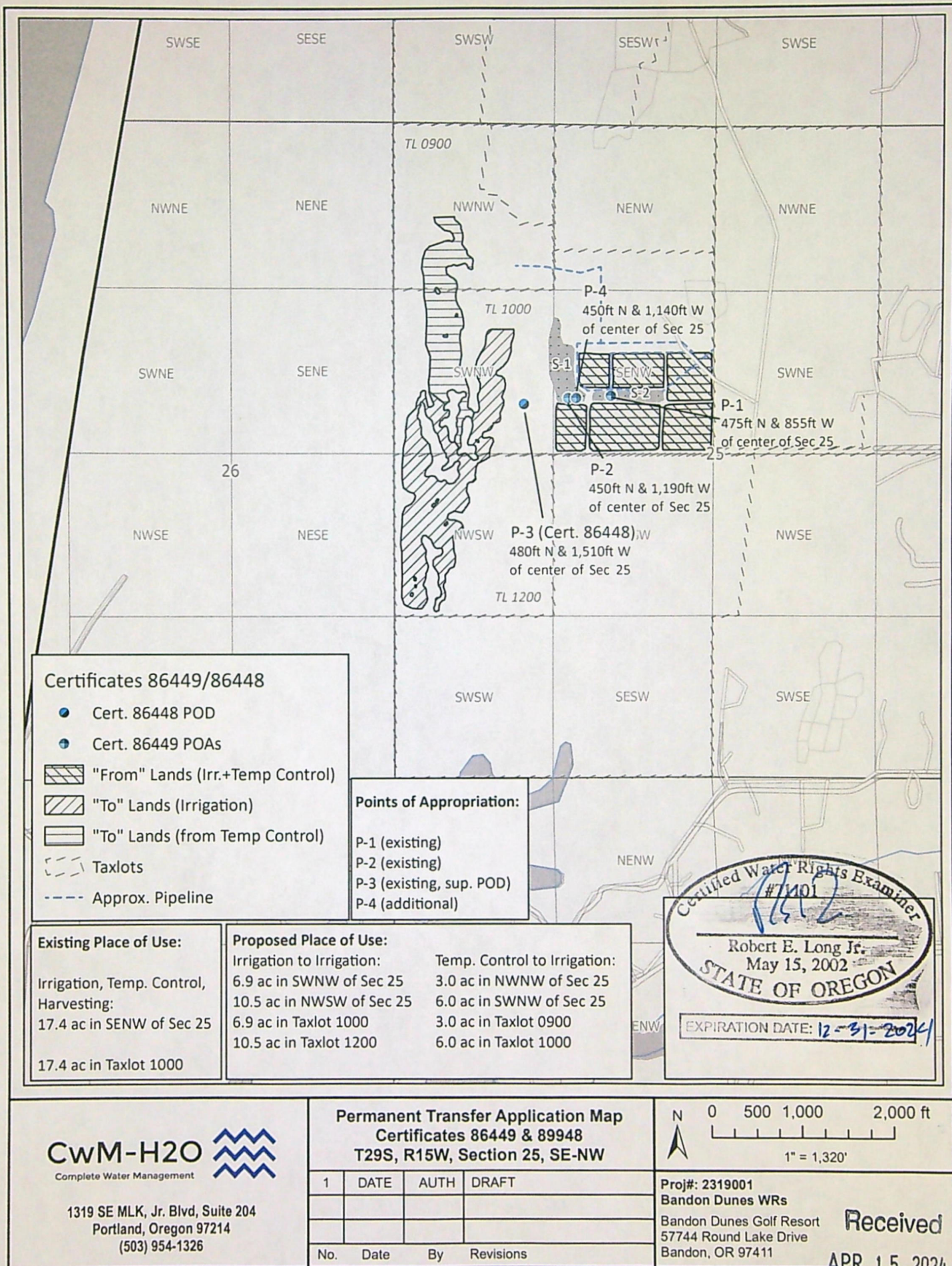
Refer to the following page for a chart showing the steps and expected timelines for the processing of your application.

If you have any questions, please contact the Transfer Section at (503) 986-0935.

Cc: Watermaster Dist. #15, Susan M. Douthit (*via email*)  
Bob Long, Schroeder Law Offices, Agents  
Coos County Planning Department, Local Government

Enclosure





14438 -

OWRD



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 # 142753

INVOICE #

RECEIVED FROM: Bandon Dunes  
BY:

APPLICATION  
PERMIT  
TRANSFER 714438

CASH: ☐ CHECK: # 182816 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 4,630.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$  
OTHER: (IDENTIFY) \$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$  
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 \$ 4,630.00  
WELL CONSTRUCTION EXAM FEE LICENSE FEE  
0218 WELL DRILL CONSTRUCTOR \$ 0219 \$  
LANDOWNER'S PERMIT 0220 \$

OTHER (IDENTIFY)

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND TITLE  
OBJ. CODE VENDOR #  
DESCRIPTION

RECEIPT: 142753

DATED: 4-15-2024 BY: my mill

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

BANDON DUNES

Check #: 182816  
Inv. Date 03/27/2024  
Invoice # 86449/66448

Chk Date: 03/29/2024  
Inv. Reference 86449/66448

Amt: \$ 4,630.00

Vendor Code OREW/R - Oregon Water Resources  
Inv. Amt \$4,630.00  
Disc. Amt \$0.00  
Check Amt \$4,630.00

182816

Received  
APR 15 2024  
OWRD



# Application for Permanent Water Right Transfer



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

## Part 1 of 5 – Minimum Requirements Checklist

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

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

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3: \$4,630
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 2** List them here: 86449 (primary) and 86448 (supplemental)

Please include a separate Part 5 for each water right. (See instructions on page 6)

**NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.**

Received

APR 15 2024

### Attachments:

OWRD

- ☒ 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 from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if all of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- ☐ ☒ N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- ☐ ☒ N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

### (For Staff Use Only)

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

- ☐ Application fee not enclosed/insufficient
- ☐ 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- \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



## Part 2 of 5 – Transfer Application Map

OWRD

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

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

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



### Part 3 of 5 – Fee Worksheet

## FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

1	Base Fee (includes one type of change to one water right for up to 1 cfs)	1	\$1,360
	Types of change proposed: <input checked="" type="checkbox"/> Place of Use <input checked="" type="checkbox"/> Character of Use <input checked="" type="checkbox"/> Point of Diversion/Appropriation Number of above boxes checked = <u>3 (2a)</u> Subtract 1 from the number in line 2a = <u>2 (2b) If only one change, this will be 0</u>		
2	Multiply line 2b by \$1090 and enter »	2	\$2,180
	Number of water rights included in transfer <u>2 (3a)</u> Subtract 1 from the number in line 3a above: <u>1 (3b) If only one water right this will be 0</u>		
3	Multiply line 3b by \$610 and enter »	3	\$610
	Do you propose to add or change a well, or change from a surface water POD to a well? <input type="checkbox"/> No: enter 0 <input checked="" type="checkbox"/> Yes: enter \$480 for the 1 <sup>st</sup> well to be added or changed <u>\$480 (4a)</u>  Do you propose to add or change additional wells? <input checked="" type="checkbox"/> No: enter 0 <input type="checkbox"/> Yes: multiply the number of additional wells by \$410 _____ (4b)		
4	Add line 4a to line 4b and enter »	4	\$480
	Do you propose to change the place of use or character of use? <input type="checkbox"/> No: enter 0 on line 5 <input checked="" type="checkbox"/> Yes: enter the cfs for the portions of the rights to be transferred (see below*): <u>0.33 (5a)</u> Subtract 1.0 from the number in line 5a above: <u>0 (5b)</u> 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		
5	5c by \$410, then enter on line 5 »	5	\$0
6	Add entries on lines 1 through 5 above » » » » » » » » » » Subtotal:	6	\$4,630
	Is this transfer: <input type="checkbox"/> necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? <input type="checkbox"/> 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	\$4,630

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

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

## FEE WORKSHEET for SUBSTITUTION

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

14438 -



APR 15 2024

## Part 4 of 5 – Applicant Information and Signature

## Applicant Information

OWRD

APPLICANT/BUSINESS NAME <b>Bandon Biota LLC / Bandon Dunes Golf Resort</b>			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS <b>57744 ROUND LAKE DRIVE</b>				FAX NO.
CITY <b>Bandon</b>	STATE <b>OR</b>	ZIP <b>97411</b>	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 <b>Bob Long, CWRE (CwM-H2O, LLC)</b>			PHONE NO. <b>(503) 954-1326</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>311 B Ave, Suite P</b>				FAX NO.
CITY <b>Lake Oswego</b>	STATE <b>OR</b>	ZIP <b>97034</b>	E-MAIL <b>bob.long@cwmh2o.com</b>	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

AGENT/BUSINESS NAME <b>Schroeder Law Offices, PC</b>			PHONE NO. <b>(503) 281 - 4100</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>1915 NE Cesar Chavez Blvd</b>				FAX NO.
CITY <b>Portland</b>	STATE <b>OR</b>	ZIP <b>97212</b>	E-MAIL <b>counsel@water-law.com</b>	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

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

*This transfer intends to add a point of appropriation (POAs), change the place of use, and change the character of use for Certificate 86449 (primary) and Certificate 86448 (supplemental). Currently, the water rights are served by two POAs, adjacent sump ponds recorded as groundwater sources, and a point of diversion (POD) in an unnamed stream adjacent to the sump ponds. This transfer proposes to add a POA to the primary right such that there are two POAs in the same sump pond (sump pond S-1).*

*The uses under these water rights include water for IRRIGATION, TEMPERATURE CONTROL, and HARVESTING OF CRANBERRIES. This transfer proposes moving the irrigation place of use (POU), the change of use of the temperature control portion to irrigation, and the change of POU for the temperature control portion. This transfer does not affect the flood harvesting use of this right, as it is a non-consumptive use.*

*The irrigation use accounts for 0.22 cfs based on the POU acreage and a rate limit of 1/80<sup>th</sup> cfs/acre. The temperature control usage accounts for an additional 0.11 cfs, or 22.5 acre-feet per year of usage. This is based on historic May-September usage reported for Certificate 89934 (the adjacent cranberry bogs under the same management) from 2010-2019, and an average of 1.3 acre-feet per acre of usage per year above the 2.5 acre-feet per acre irrigation duty for the POU (October reporting data was not included due to the timing of cranberry harvest and usage for flood harvesting). This water was used for frost control (early season) and heat protection (late season) for the cranberry crop. Based on the 2.5 acre-feet per acre duty, this temperature control usage is equivalent to 9.0 acres of irrigation from May-September.*

*All of the proposed changes to POU and character of use above also apply to the supplemental right Certificate 86448. The surface water POD on the unnamed stream for Cert. 86448, will remain the same.*



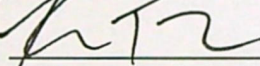
### Check One Box

- ☒ 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: The Coos Bay World.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

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

  
Applicant signature

KEN NICE

Print Name (and Title if applicable)

3/29/2024  
Date

Applicant signature

Print Name (and Title if applicable)

Date

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

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

RECEIVING LANDOWNER NAME		PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS		FAX NO.	Received APR 15 2024
CITY	STATE	ZIP	
Describe any special ownership circumstances: _____			
The confirming Certificate shall be issued in the name of: <input type="checkbox"/> Applicant <input type="checkbox"/> Receiving Landowner			



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

IRRIGATION DISTRICT NAME _____	ADDRESS _____	
CITY _____	STATE _____	ZIP _____

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

ENTITY NAME _____	ADDRESS _____	
CITY _____	STATE _____	ZIP _____



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

ENTITY NAME <b>Coos County (Planning Department)</b>	ADDRESS <b>60 E. Second Street</b>	
CITY <b>Coquille</b>	STATE <b>OR</b>	ZIP <b>97423</b>

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## Part 5 of 5 – Water Right Information

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

**CERTIFICATE # 86449 (primary)**

### Description of Water Delivery System

System capacity: 6.0 cubic feet per second (cfs) **OR**

2,693 gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use.

*\*The existing certificated system consists of two POAs (P-1 and P-2) located in adjacent sump ponds (S-1 and S-2). Pump station P-2 pumps water from sump pond S-1 into sump pond S-2. From S-2, pump station P-1 pumps water to the place of use, which consists of six bog areas connected by pipelines. These pump stations consist of large diameter caissons installed in the sumps with powerful lift pumps. Meters are located at each station.*

**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)
P-1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	N/A (SUMPS)	29	S	15	W	25	SE	NW	1000	475 ft N and 855 ft W from the center of Sec 25
P-2	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed										450 ft N and 1,190 ft W from the center of Sec 25
P-4	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed										450 ft N and 1,140 ft W from the center of Sec 25

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

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

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

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

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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 # 86449**

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.												Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.													
Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date		Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date		
29	S	15	W	25	SE	NW	1000		17.4	Irrigation	P1, P2	April 5, 1982	POA POU	29	S	15	W	25	NW	SW	1200	N/A	10.5	Irrigation	P1, P2, P4	April 5, 1982
																		SW	NW	1000	6.9					
29	S	15	W	25	SE	NW	1000		17.4	Temp. Control	P1, P2	April 5, 1982	POA POU USE	29	S	15	W	25	NW	NW	0900	N/A	3.0	Irrigation	P1, P2, P4	April 5, 1982
																		SW	NW	1000	6.0					
TOTAL ACRES:									17.4					TOTAL ACRES:									26.4			

**Additional remarks:** The proposed transfer adds a third POA (P4, P3 is described as the POD on supplemental Cert. 86448), moves the place of use from the original 17.4 acres of irrigation in the SE-NW quarter-quarter of Section 25 to two adjacent quarter-quarters, and moves and changes the use of the TEMPERATURE CONTROL portion of the right to irrigation over acres in adjacent quarter-quarters.

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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:

Certificate 86448 (supplemental to this right)

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

**For Substitution**

Ground water supplemental Permit or Certificate # N/A;

Surface water primary Certificate # N/A.

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

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Identify the primary certificate to be cancelled. Certificate # N/A

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

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

**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. (see below)

**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	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No.	Total well depth	Casing Diameter	Casing Intervals	Seal depth(s)	Perforated or screened intervals	Static water level of completed well	Source aquifer (sand, gravel, basalt, etc.)	Well -specific rate (cfs or gpm). If less than full rate of water right
P-1	Yes	N/A (sump)	The POAs are not wells, they are pumps in a pair of adjacent sump ponds. The proposed transfer would add a third POA to the western of the two sump pond sources.						Sumps in Spring Creek Basin	0.33 cfs
P-2	Yes									
P-4	No	Proposed								

*\*Certificate 86449 began as groundwater Permit G-9684. However, the sources described on the permit and certificate are not groundwater wells but sump ponds. The two POAs described on the certificate, P-1 and P-2, are located in ponds called Sump S-1 and Sump S-2. This transfer, in addition to changing the place of use and character of use, seeks to add a POA to sump pond S-1.*



## 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 # **86448** (*supplemental*)

#### Description of Water Delivery System

System capacity: **6.0** cubic feet per second (cfs) **OR**  
**2,693** gallons per minute (gpm)

Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use.

*\*The existing certificated system consists of a surface water pump intake (P-3 pump) located on an unnamed stream that flows into Laurel Lake. The pump pushes water eastward through a distribution line to Sump S-1, which is a source listed under primary right Certificate 86449, and acts like a bulge-in-the-system.*

**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)
P-3	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	N/A	29 S	15 W	25	SW	NW	1000	480 ft N and 1,510 ft W from the center ¼ corner of Sec 25

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

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

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

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

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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 # 86448 (supplemental)**

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.												Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.														
Twp	Rng		Sec		¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)		Priority Date	Twp	Rng		Sec		¼ ¼		Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date	
29	S	15	W	25	SE	NW	1000		17.4	Irrigation	P3	April 5, 1982	POU	29	S	15	W	25	NW	SW	1200	N/A	10.5	Irrigation	P3	April 5, 1982	
																			SW	NW	1000		6.9				
29	S	15	W	25	SE	NW	1000		17.4	Temp. Control	P3	April 5, 1982	POU USE	29	S	15	W	25	NW	NW	0900	N/A	3.0	Irrigation	P3	April 5, 1982	
																			SW	NW	1000		6.0				
TOTAL ACRES:									17.4					TOTAL ACRES:									26.4				

**Additional remarks:** The proposed transfer moves the place of use from the original 17.4 acres of irrigation in the SE-NW quarter-quarter of Section 25 to two adjacent quarter-quarters, and moves and change of use of the TEMPERATURE CONTROL portion of the right to irrigation over acres adjacent quarter-quarters.



**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:

Certificate 86449 (primary to this right)

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

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

Ground water supplemental Permit or Certificate # N/A;

Surface water primary Certificate # N/A.

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

Identify the primary certificate to be cancelled. Certificate # N/A

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

- ☐ 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.

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

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# Land Use Information Form



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

Applicant(s): Bandon Biota, LLC / Bandon Dunes Golf Resort

Mailing Address: 57744 Round Lake Drive

City: Bandon

State: OR

Zip Code: 97411

Daytime Phone: 541-347-5843

Ken Nice, Director of Agronomy  
(knice@bandondunesgolf.com)

## 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:
29 S	15 W	25	NW SW	1200	EFU	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	EFU
29 S	15 W	25	SW NW	1000	EFU	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	EFU
29 S	15 W	25	NW NW	0900	EFU	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input checked="" type="checkbox"/> Used	EFU
29 S	15 W	25	SE NW	1000	EFU	<input checked="" type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	EFU
29 S	15 W	25	NE NW	1000	EFU	<input type="checkbox"/> Diverted <input checked="" type="checkbox"/> Conveyed <input type="checkbox"/> Used	EFU

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

Coos 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) Unnamed stream → Laurel Lake

Estimated quantity of water needed: 0.33 ☒ cubic feet per second ☐ gallons per minute ☐ acre-feet

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

Briefly describe:

This form is for a transfer which proposes to move the place of use of a primary-supplemental right pair (Cert. 86449/86448) a short distance, change the use type from temperature control to irrigation for a portion of the right, and add a third point of appropriation to one of the two existing sump ponds.

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

See bottom of Page 3. →

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## For Local Government Use Only

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

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

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

☒ 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:	
Hearings Body Conditional use (HBCU)	4.6.200 (67) 4.6.200 (2), (5), (20)	<input checked="" type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
*For all lots		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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

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**OWRD**

Name: Cassidy Carr Title: Planner I

Signature: Cassidy Carr Phone: 541-396-7770 Date: 4/11/2024

Government Entity: Crooks County Planning Department

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

**Receipt for Request for Land Use Information**

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

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

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



COOS COUNTY  
PLANNING COMMISSION

IN THE MATTER OF A CONDITIONAL USE	)	File No.: HBCU-22-001
APPLICATION TO ALLOW AN 18-HOLE	)	Planning Commission Final Decision
GOLF COURSE IN THE NON HIGH-VALUE	)	<b>Received</b>
PROTION OF THE EXCLUSIVE FARM USE	)	<b>APR 15 2024</b>
ZONE	)	<b>OWRD</b>

WHEREAS, on July 21, 2022, Bandon Biota LLC applied for a Hearings Body Conditional Use (HBCU) approval for a new 18-hole Golf Course with Accessory Uses in the Non High-Value portion of the Exclusive Farm Use Zone on the subject property. The subject property is located in the following maps: Township 29S Range 15W Section 13 Tax Lot 1903; Township 29S Range 15W Section 24 Tax Lot 100, 201, and 400; Township 29S Range 15W Section 25 Tax Lots 900, 1000, and 1200; and Township 29S Range 15W Section 25D Tax Lots 100, 401, 402, and 700. The subject properties are a tract that were rezoned to Exclusive Farm Use in 2021 (see County File AM-21-002/RZ-21-002 for details).

WHEREAS, on October 14, 2022 the application was determined to be complete. A hearing notice on the matter was mailed out to all property owners within 500 feet of the subject properties, special districts and agencies on November 10, 2016.

WHEREAS, on November 23, 2022 staff provided a staff report to the Planning Commission recommending that approval based on the criteria.

WHEREAS, on December 1, 2022 the Planning Commission held a public hearing to consider this matter taking public testimony. The Planning Commission voted to hold the record open as follows:



1 December 9, 2022 at 12:00 p.m. all new testimony and evidence is due. Testimony received  
2 after the deadline will not be accepted into the record. Emailed testimony shall be received no later than  
3 the deadline or it will not be accepted.

4 December 16, 2022 at 12:00 p.m. all rebuttal testimony is due. There will be no new evidence  
5 only rebuttal received during this time frame. Testimony received after the deadline will not be accepted  
6 into the record. Emailed testimony shall be received no later than the deadline or it will not be accepted.  
7

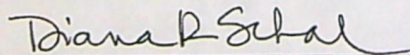
8 December 23, 2022 at 12:00 pm the applicant's final argument is due. If the applicant fails to  
9 provide the final argument by 12:00 p.m. it will not be accepted.

10 WHEREAS, on December 16, 2022 staff questions if Oregon Coast Alliance had submitted "New  
11 Evidence" in the matter during the rebuttal period. Response from County Counsel that this was not  
12 considered "New Evidence" if response was to the Applicant's submittal. Staff confirmed that it could be  
13 shown as response and provided the testimony as part of the record.

14 WHEREAS, on December 23, 2022, all testimony was transmitted to the Planning Commission  
15 including the final argument.  
16

17 The Planning Commission reconvened on January 5th at 7:00 p.m. for deliberation. Staff did  
18 not provide a supplemental staff report but did provide the procedures and walked through each of the  
19 relevant criteria.

20 NOW, THEREFORE, the Planning Commission made Findings found attached as Exhibit "A"  
21 and incorporated into this order herein. This application received a partial approval with conditions on the  
22 5<sup>th</sup> Day of January, 2023 with instruction that the Chair was authorized to sign the order and with the  
23 findings attached.  
24

25   
26

27 Planning Commission Chair  
28

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## ATTACHMENT A

Coos County Planning  
60 E. Second  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770

### **BACKGROUND PRESENTED AT THE HEARING**

**FILE NUMBERS:** HBCU-22-001

**PROPERTY OWNER:** BANDON BIOTA, LLC  
2450 LAKEVIEW AV  
CHICAGO, IL 60614-2878

**CONSULTANT:** Chris Hood, Stuntzner Engineering

**STAFF CONTACT(S):** Jill Rolfe, Community Development Director  
Chris MacWhorter, Principal Planner  
541-3963-7770  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

### **SUMMARY PROPOSAL:**

According to the application the property owner is seeking approval for a new 18-hole golf course with an accessory uses in the Exclusive Farm Use zoning district portion of the subject properties. The applicant also requested a clubhouse/restaurant with parking, an agronomy center/maintenance facility, a turn-stand (combination restroom/vendor facility), a minimum of two standalone restrooms, a caddy shack, and a practice range.

The application states the primary access for the public will be from Boak Lane. Boak Lane extends west from Highway 101 to the northern portion of the subject tract. Boak Lane is approximately ¼ mile south of Bradley Lake. The Boak Lane route will provide access for the clubhouse/restaurant, practice range, caddy shack, and main parking lot.

The application states the agronomy/maintenance center will be accessed primarily by the way Hoffer Lane. Hoffer Lane is a private access road that proceeds west off of Highway 101. Hoffer Lane is approximately ¼ mile north of the Rural Center of Laurel Grove.

There is no indication that any other development is proposed at this time.

**LOCATION OF PROPOSAL:** The subject property is located four miles southwest of the City of Bandon. The subject property is accessed off of Boak Lane and Hoffer Lane. Both Boak Lane and Hoffer Lane directly access off of Highway 101.

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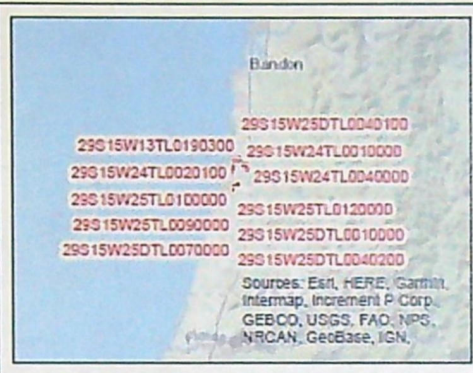
## COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423

Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

Fax: (541) 396-1022/TDD (800) 735-2900



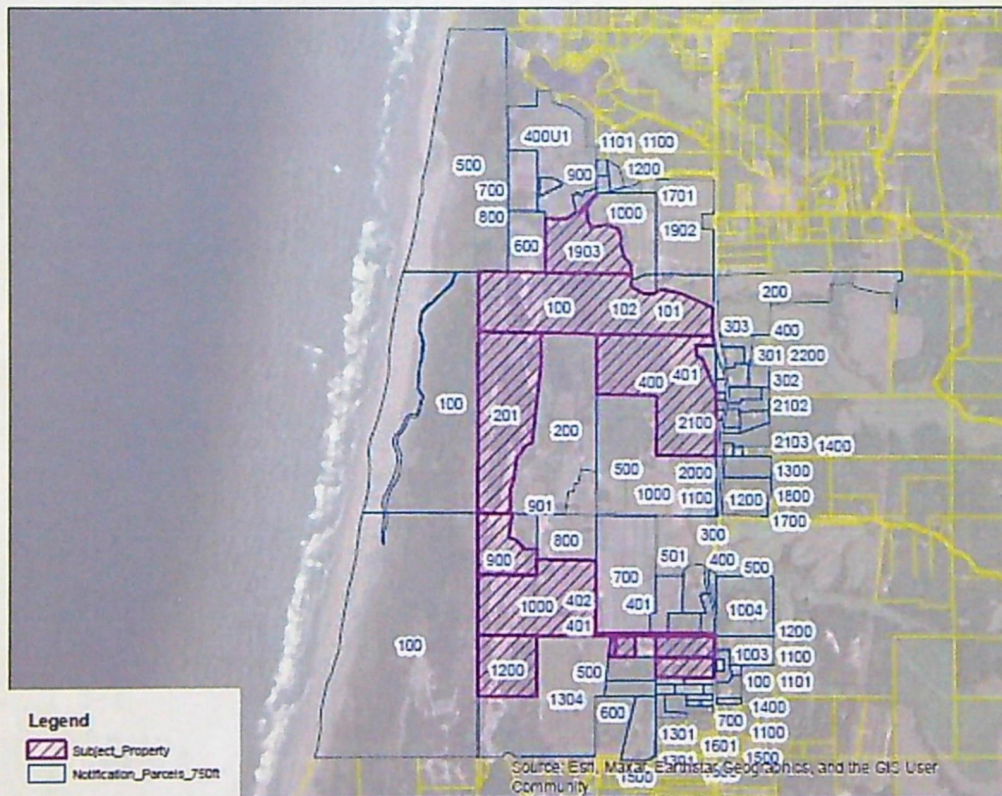
File: HBCU-22-001

Owner: Bandon Biota LLC

Date: November 10, 2022

Location: Township 29S Range 15W  
Section 13/24/25./25D  
TL 1903/100,201,400/  
900,1000,1200/100,401,402,700

Proposal: Hearing Body Conditional Use



Map is not to scale.

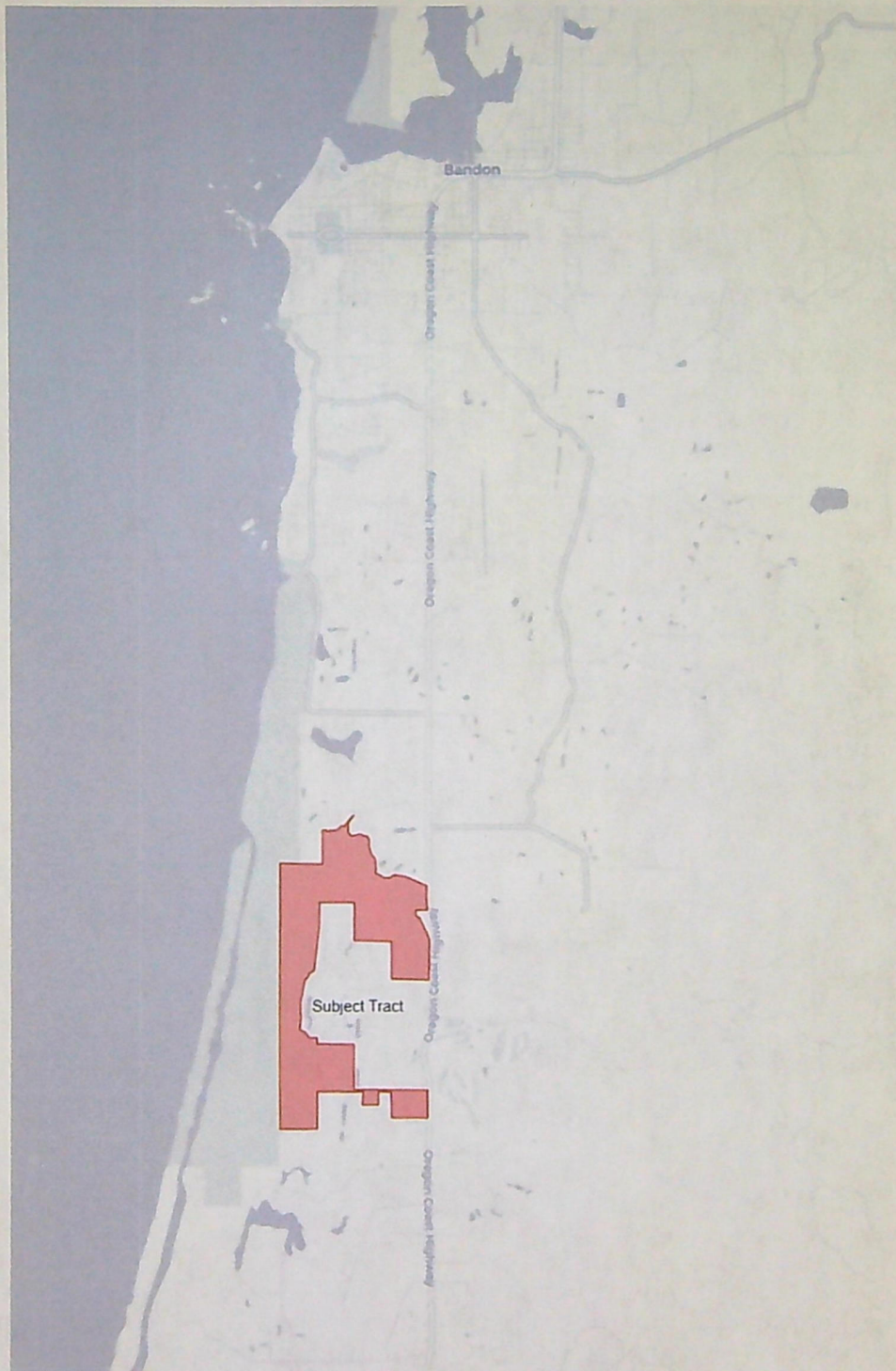
HBCU-22-001

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- i. **Notice Requirement:** This application is a Hearings Body Conditional Use (HBCU) governed by CCZLDO Section 5.0.900. Notice was mailed to property owners in compliance with CCZLDO Section 5.0.900.1 Notice of Public Hearings.

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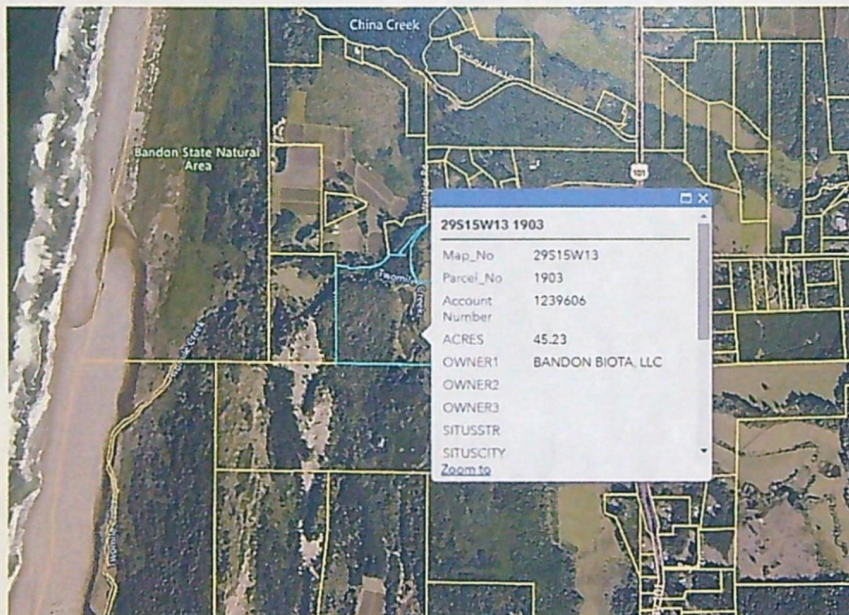
- ii. **REVIEW PERIOD:** This application was originally submitted on July 21, 2022. The application was deemed incomplete pending additional information. The applicant provide additional information on September 15, 2022 and October 12, 2022. The application was found to be complete on October 14, 2022 for the purpose of review. This proposal is subject to the 150-day timeline to make a final decision pursuant to ORS 215.422.

**I. STAFF REPORT – WITH RECOMMENDATIONS AND PROPOSED FINDINGS**

**A. SUBJECT PROPERTY DETAILS AND BACKGROUND:**

- **TAX ACCOUNT:** 1239606

On July 28, 2021, an Amendment/Rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. This property does not contain any development according the assessment records.



MAP NUMBER:	TOWNSHIP 29S, RANGE 15W, SECTION 13 TAX LOT 1903
TAX ACCOUNT:	1239606
ACREAGE:	45.23 ACRES
PROPERTY ADDRESS:	NO SITUS ADDRESS
PROPERTY ZONES:	EXCLUSIVE FARM USE (EFU) FOREST (F) MINOR ESTUARY & SHORELANDS (MES)
SPECIAL DEVELOPMENT CONSIDERATIONS:	BEACHES/DUNES - LIMITED (BDL) BIRD SITE MEETS GOAL 5C REQMT (B5C) COASTAL SHORELAND BOUNDARY (CSB) FLOODPLAIN (FP) FOREST MIXED USE (MU) NAT. HAZARDS WIND EROSION (HZW) NATIONAL WETLAND INVENTORY SITE (NWI) NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)

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# NATURAL HAZARD - TSUNAMI (NHTHO)

- TAX ACCOUNT: 1240300

On June 5, 1986, a verification letter (VL-86-167) for an accessory structure (garage – non-commercial). On August 8, 1987, a verification letter (VL-87-385), repair or alter existing dwelling. On December 10, 1996, a verification letter (VL-96-570) for repair/replacing existing septic. On December 23, 2002, a property line adjustment (unnumbered). On September 29, 2006, a property line adjustment (PLA-06-074). On July 28, 2021, an Amendment/Rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. On September 12, 2022, a clearance to repair existing septic for the Single Family Dwelling. Improvements from the assessment records confirm there is a dwelling on this property.



MAP NUMBER:	TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 100
TAX ACCOUNT:	1240300
ACREAGE:	138.24 ACRES
PROPERTY ADDRESS:	87230 BOAK LN BANDON, OR 97411
PROPERTY ZONES:	FOREST (F)
SPECIAL DEVELOPMENT	BEACH EROSION & DEPOSITION (HZB)
CONSIDERATIONS:	BEACHES/DUNES - LIMITED (BDL)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NAT. HAZARDS WIND EROSION (HZW)
	NATIONAL WETLAND INVENTORY SITE (NWI)
	NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)
	NATURAL HAZARD - TSUNAMI (NHTHO)
	NATURAL HAZARD - WILDFIRE (NHWF)

- TAX ACCOUNT: 1240601

On July 28, 2021, an amendment/rezone (AM-21-002/RZ-21-002) was issued to rezone the portion of the Forest zoning district to Exclusive Farm Use. This property does not contain any development according the assessment records

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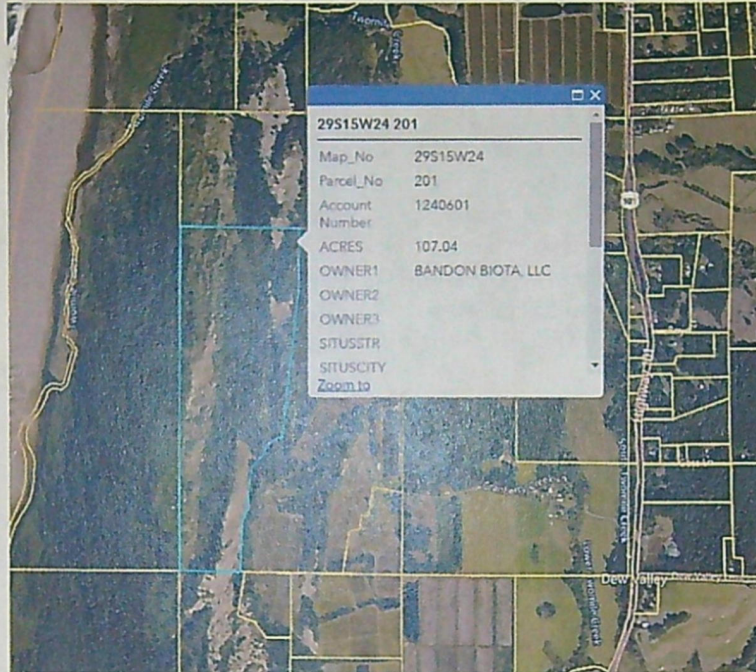
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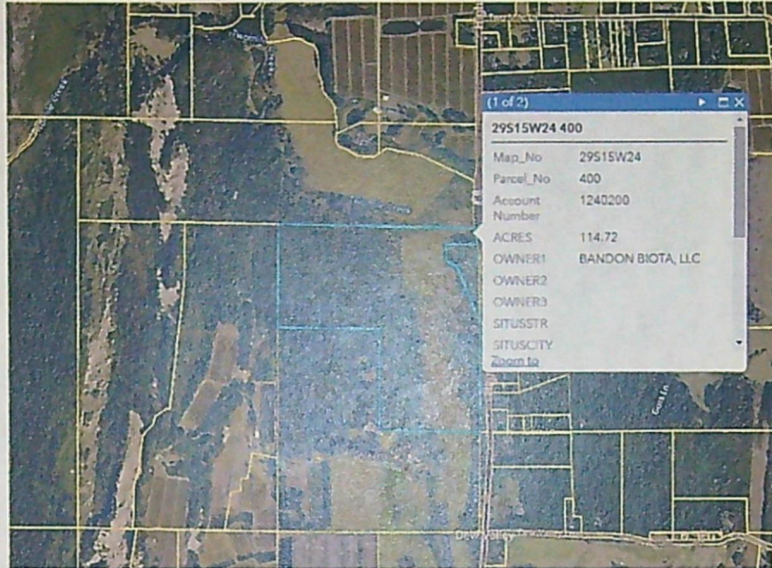
MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 201  
 TAX ACCOUNT: 1240601  
 ACREAGE: 107.04 ACRES  
 PROPERTY ADDRESS: NO SITUS ADDRESS  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 FOREST (F)  
 SPECIAL DEVELOPMENT BEACHES/DUNES - LIMITED (BDL)  
 CONSIDERATIONS: FOREST MIXED USE (MU)  
 NAT. HAZARDS WIND EROSION (HZW)  
 NATIONAL WETLAND INVENTORY SITE (NWI)  
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)  
 NATURAL HAZARD - TSUNAMI (NHTHO)  
 NATURAL HAZARD - WILDFIRE (NHWF)  
 WETLANDS (WET)

- TAX ACCOUNT: 1240200

On October 23, 2003, an administrative conditional use (ACU-03-035) for \$40,000 farm income test dwelling on less than high value farmland. On November 6, 2003, a zoning compliance letter (ZCL-03-546) to site single family dwelling. On September 29, 2006, a property line adjustment (PLA-06-070), which removed any development from this property. According to the assessment records there is no development on this property.

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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 24 TAX LOT 400  
 TAX ACCOUNT: 1240200  
 ACREAGE: 114.72 ACRES  
 PROPERTY ADDRESS: NO SITUS ADDRESS  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 FOREST (F)  
 SPECIAL DEVELOPMENT BEACHES/DUNES - LIMITED (BDL)  
 CONSIDERATIONS: FLOODPLAIN (FP)  
 FOREST MIXED USE (MU)  
 NATIONAL WETLAND INVENTORY SITE (NWI)  
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)  
 NATURAL HAZARD - TSUNAMI (NHTHO)  
 NATURAL HAZARD - WILDFIRE (NHWF)  
 WET MEADOW WETLAND (WM)

- TAX ACCOUNT: 1241700

On August 18, 1986, an administrative conditional use (ACU-86-055) for a second dwelling in conjunction with agricultural use. On May 8, 1989, an administrative conditional use (ACU-89-022) for a cranberry farm expansion. On May 14, 2003 property determined lawfully created. The development was not on this property. Confirmed with assessment records there is still no development on this property.

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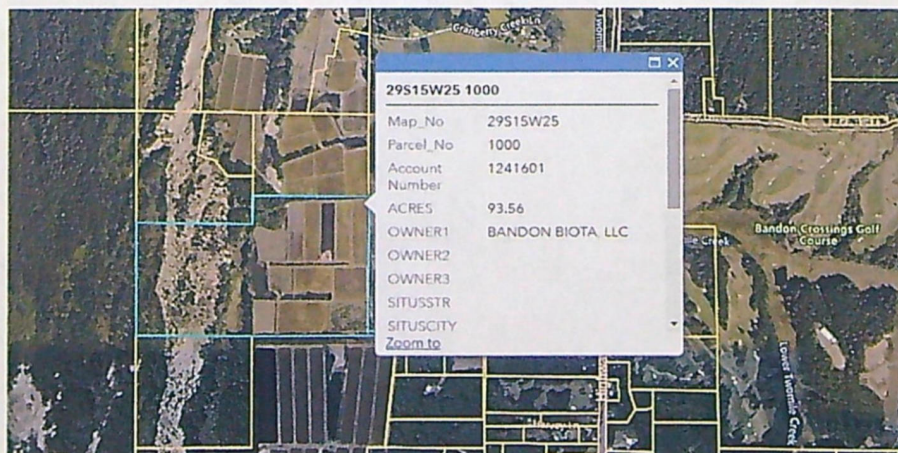




MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25 TAX LOT 900  
 TAX ACCOUNT: 1241700  
 ACREAGE: 30.89 ACRES  
 PROPERTY ADDRESS: NO SITUS ADDRESS  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 SPECIAL DEVELOPMENT: BEACHES/DUNES - LIMITED (BDL)  
 CONSIDERATIONS: NAT. HAZARDS WIND EROSION (HZW)  
 NATIONAL WETLAND INVENTORY SITE (NWI)  
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)  
 NATURAL HAZARD - TSUNAMI (NHTHO)  
 NATURAL HAZARD - WILDFIRE (NHWF)

- TAX ACCOUNT: 1241601

On July 2, 1980, a verification letter for single family dwelling. It appears this was not constructed as there are no improvements on this property. Improvements were confirmed using the assessor records.



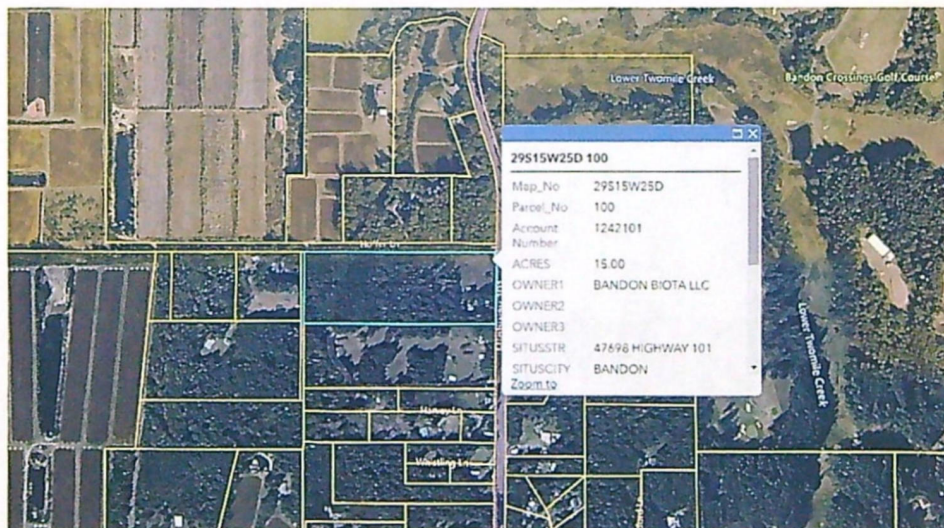
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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25 TAX LOT 1000  
 TAX ACCOUNT: 1241601  
 ACREAGE: 93.56 ACRES  
 PROPERTY ADDRESS: NO SITUS ADDRESS  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 SPECIAL DEVELOPMENT: BEACHES/DUNES - LIMITED (BDL)  
 CONSIDERATIONS: NAT. HAZARDS WIND EROSION (HZW)  
 NATIONAL WETLAND INVENTORY SITE (NWI)  
 NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION (NHEQL)  
 NATURAL HAZARD - TSUNAMI (NHTHO)  
 WETLANDS (WET)

• TAX ACCOUNT: 1242101

On February 12, 1982, a permit to site a mobile home in the forest portion of property.  
 On October 13, 2005, an administrative conditional use (ACU-05-52) for a commercial stable in the Forest zone. On November 21, 2019, a zoning compliance letter (ZCL-19-369) for clearance to replace the existing single dwelling. There is a Single Family Dwelling on this property. This was confirmed through assessment records.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 100  
 TAX ACCOUNT: 1242101  
 ACREAGE: 15 ACRES  
 PROPERTY ADDRESS: 47698 HIGHWAY 101 BANDON, OR 97411  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 SPECIAL DEVELOPMENT: NONE  
 CONSIDERATIONS:

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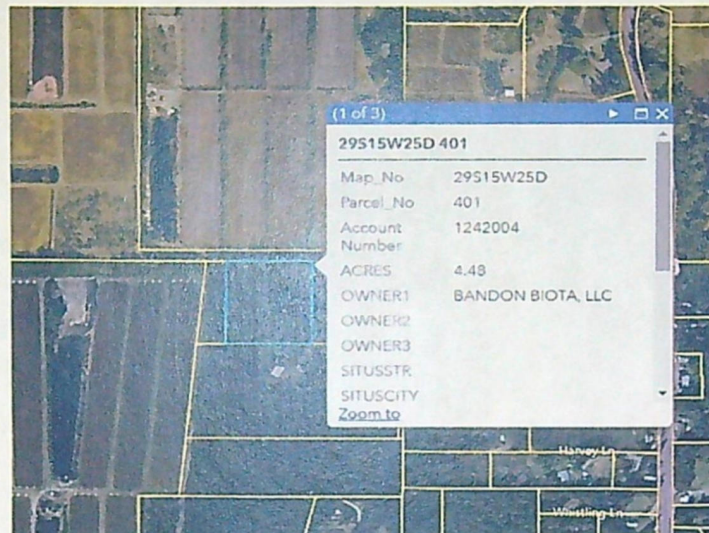
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- TAX ACCOUNT: 1242004

In 1979 a septic evaluation was approved and on June 30, 1883, a hearing body conditional use (HBCU-83-06) was approved to site a Non-Farm Dwelling. The dwelling was not constructed.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 401  
 TAX ACCOUNT: 1242004  
 ACREAGE: 4.48 ACRES  
 PROPERTY ADDRESS: NO SITUS ADDRESS  
 PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
 SPECIAL DEVELOPMENT: NONE  
 CONSIDERATIONS:

- TAX ACCOUNT: 1242005

No prior land use activity on the subject property.



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MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 402  
TAX ACCOUNT: 1242005  
ACREAGE: 1.30 ACRES  
PROPERTY ADDRESS: NO SITUS ADDRESS  
PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
SPECIAL DEVELOPMENT: NONE  
CONSIDERATIONS:

- TAX ACCOUNT: 1242103

On August 17, 1977 a verification letter (unnumbered) for a septic site evaluation. On July 24, 1979, a site dwelling in IFG-10 (forest) portion of the property. On August 6, 1991, a verification letter (VL-91-381) to site a dwelling. On November 21, 2019, a zoning clearance letter (ZCL-19-370) for replacing one of the existing dwellings with a manufactured dwelling. This property does contain a Single-Family Dwelling.



MAP NUMBER: TOWNSHIP 29S, RANGE 15W, SECTION 25D TAX LOT 700  
TAX ACCOUNT: 1242103  
ACREAGE: 12.74 ACRES  
PROPERTY ADDRESS: 47652 HIGHWAY 101 BANDON, OR 97411  
47654 HIGHWAY 101 BANDON, OR 97411  
PROPERTY ZONES: EXCLUSIVE FARM USE (EFU)  
SPECIAL DEVELOPMENT: NONE  
CONSIDERATIONS:

**ZONING:** - This property is split-zoned consisting of Exclusive Farm Use (EFU), Forest with a Mixed-Use Overlay (F/MU), and Minor Estuary and Shorelands (MES). Below in the Site Descriptions and Surrounding Uses is a map showing the zoning the subject tract. The subject tract is identified in red outline.

**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

SECTION 4.2.400 OPEN SPACE AND NATURAL RESOURCE ZONING DISTRICTS

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*Open Space and Natural Resource Districts are intended for especially sensitive areas where wildlife habitat or special scenic values have been identified or where natural hazards totally preclude any development.*

#### *Minor Estuary and Shorelands (MES)*

*The purpose of the "MES" district is to regulate uses within the inventoried minor estuaries and adjacent shorelands within unincorporated Coos County. The estuaries within the district are treated as "natural management units" per LCDC Goal 16. There are no hearings body applications or development standards with the exception of road standards found in Chapter VII.*

#### **SECTION 4.2.500      RESOURCE ZONES**

##### *Forest (F)*

*The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.*

##### *Forest Mixed Use (FMU)*

*The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

*If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.*

*If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.*

##### *Exclusive Farm Use (EFU)*

*These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.*

*According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:*

- 1.      Committed rural residential areas and urban growth areas.*



2. *Proposed rural residential areas as per the Exception to Goals #3 and #4.*
3. *Proposed industrial/commercial sites.*
4. *Existing recreation areas (e.g., golf courses) [Recreation designation]*
5. *Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).*
6. *Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].*

*The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.*

#### **B. SURROUNDING LAND USES:**

Based on aerial imagery, the subject tract is currently covered with timber with sparse areas of light understory forest vegetation, bottom land fields used for either livestock or hay production, non-active cranberry bogs, residential development, and open sand dunes.

Staff expands on adjacent farm and forestry uses below, but Staff has identified nine separate cranberry farms in the nearby area. There are also two nearby ranches with either livestock or hay production occurring onsite. Staff identified three nearby parcels with timber uses that were also addressed below.

There are Rural Residential-2 zoned parcels located near the proposed public entrance of the golf course. There is Rural Residential-5 zoned parcels located east of section 24 – tax lot 400 on the east side of Highway 101. There is a combination of Rural Center and Rural Residential-5 zoned parcels located south of the subject tract off Hoffer Lane. Hoffer Lane is the proposed employee entrance for the golf course. The rural center of Laurel Grove is located in this area.

There is Recreation zoned parcels located west of the subject tract. These parcels consist of the Bandon State Natural Area and are managed by Oregon Department of Parks and Recreation.

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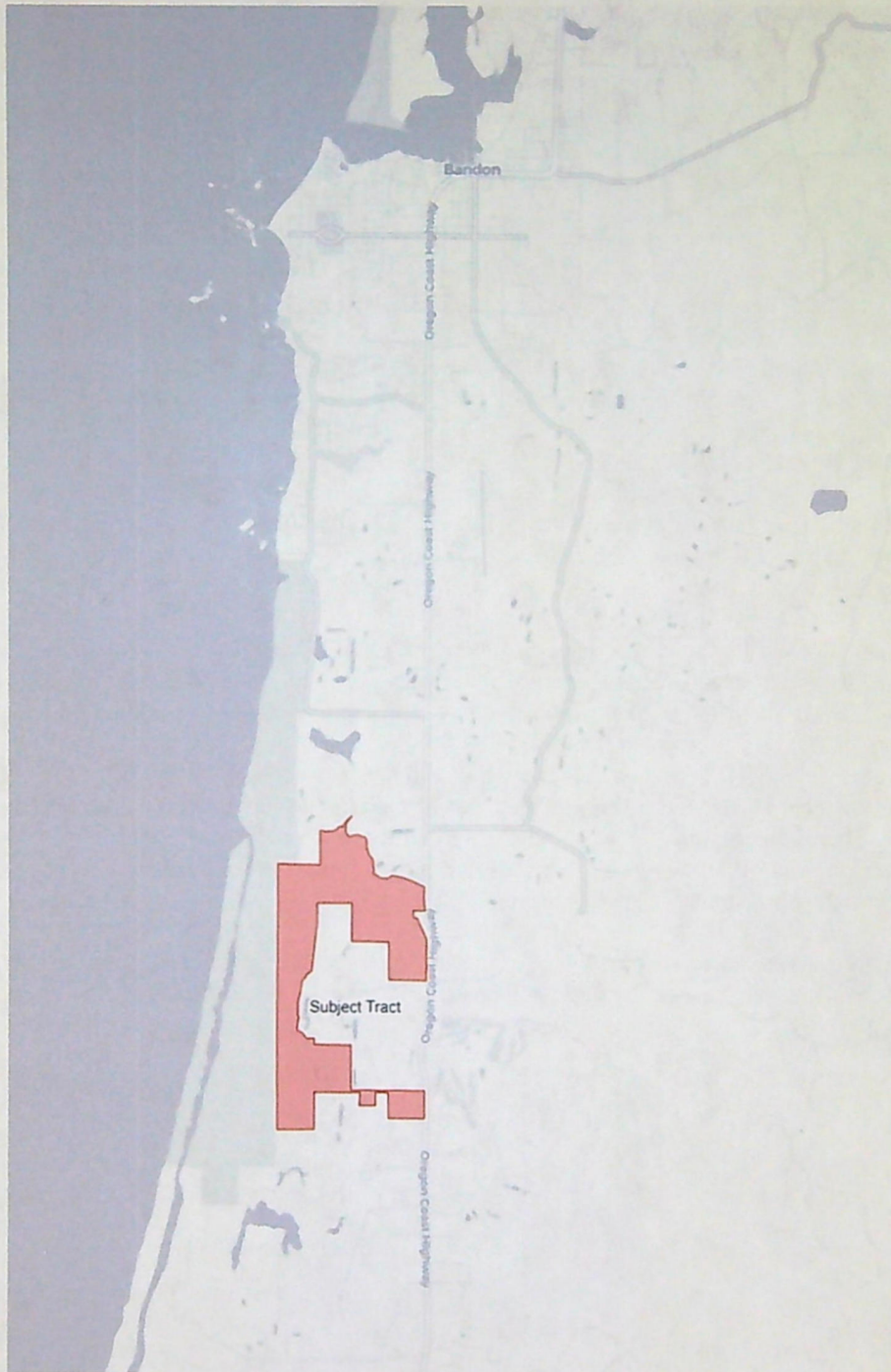
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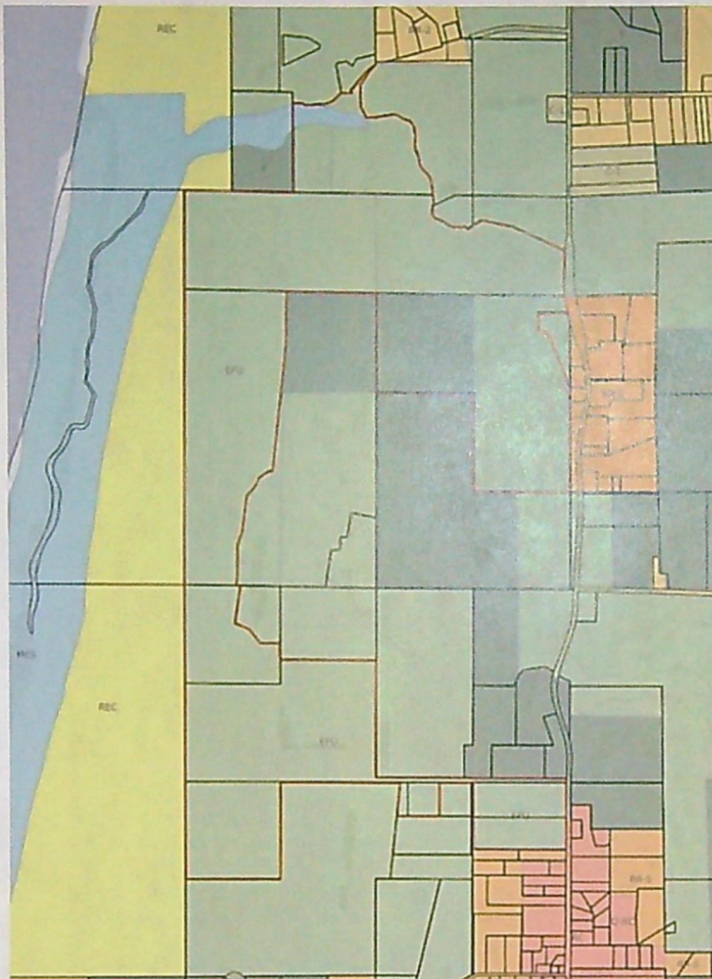




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- Commercial
- Controlled Development 10
- Controlled Development 5
- City Zoning
- City Estuary Plan - Aquatic
- City Estuary Plan - Shoreland
- Coos Bay Estuary Plan - Aquatic
- Coos Bay Estuary Plan - Shoreland
- Coquille River Estuary Plan - Aquatic
- Coquille River Estuary Plan - Shoreland
- Exclusive Farm Use
- Forest
- Industrial
- Minor Estuary and Shorelands
- Rural Center
- Recreation
- Rural Residential 2
- Rural Residential 5
- South Slough
- Urban Residential 1
- Urban Residential 2
- Urban Residential M

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ADDENDUM EXHIBIT "C"



SANDON, OREGON  
PROPOSED 18-HOLE / GOLF COURSE

REVISED

NEW RIVER DUNES GOLF COURSE

REVISED

DAVID McLAY KIDD

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## C. APPLICABLE IDENTIFIED REVIEW CRITERIA:

### I. SUMMARY OF PROPOSAL AND APPLICABLE REVIEW CRITERIA:

The proposal is for Planning Commission Approval of a Golf Course not on high-value farmland as defined in ORS 195.300 in the Exclusive Farm Use zone pursuant to Section 4.6.200.67. According to the application, the applicant is also requesting a clubhouse/restaurant with parking, an agronomy center/maintenance facility, a turn-stand (combination restrooms/vendor facility), a minimum of two standalone restrooms, a caddy shack, and a practice range.

Staff identified the applicable review criteria are found in Coos County Zoning and Land Development (CCZLDO) 4.6.200 Table 2 identifies the uses and activities in the Exclusive Farm Use zone. The tables describe the use, type of review, applicable review standards. Table 2 of CCZLDO Section 4.6.200.67 defines the relevant criteria for Golf Courses not on high-value farmland as defined in ORS 195.300 subject to an HBCU, Section 4.6.200 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses (2)(5)(20). Development shall also comply with Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone. Properties that are in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11. This proposal is subject to review under Natural Hazards Section 4.11.

Staff verbally reviewed the language from Section 5.0.350 Conditions of Approval, Section 5.0.400 Consolidated Applications, Section 5.2.100 Conditional Used and Section 5.2.500 Criteria for Approval of Application. Staff reiterated to the Planning Commission the following: A proposal that complies with all of the criteria will be approved. A proposal that can comply with the criteria with mitigation measures or limitations will be approved with conditions. A proposal that cannot comply with the criteria outright or cannot comply with mitigation measures will be denied. The record was closed by the Planning Commission but could be reopened if they wanted more information.

### II. GOLF COURSE CRITERIA AND FOREST SITING STANDARDS

#### SECTION 4.6.200 EXCLUSIVE FARM USE – USE TABLES

*Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone. The tables describe the use, type of review, applicable review standards and Section 4.6.210 Development and Siting Standards. Properties that are located in a Special Development Consideration and/or overlays shall comply with the applicable review process identified by that Special Development Consideration and/or overlay located in Article 4.11.*

*Table II identifies the uses and activities in the Exclusive Farm Use (EFU) zone*

*As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in*



this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3). Agricultural Land does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

67.	Golf courses not on high-value farmland as defined in ORS 195.300. (new golf course prohibited on High Value)	HBCU (2), (5), (20)
-----	---	------------------------

**PLANNING COMMISSION RESPONSE:** The first discussion by the Planning Commission was to determine if the new golf course was going to be located on high-value farmland. The Planning Commission considered testimony from Sean T. Malone, Attorney at Law (see Exhibit 9) that stated:

*"In response to this criterion, the applicant concedes that: "Aerial photographs confirm that on December 6, 2007 [195.300(10)(a)], the segment of the applicant's ownership upon which the golf course is proposed, does contain lands growing specified perennials." Applicant's Exhibit A, Page 3. Indeed, the 93.56-acre parcel identified as map no. 29S15W251000 is plainly in farm use according to aerial photos in the staff report. The applicant, therefore, concedes that the subject property contains high-value farmland. Because the subject properties are in common ownership, the entirety of the subject property is considered high-value farmland. Golf courses are not permitted on high-value farmland, except for limited circumstances that do not apply here."*

The next written testimony considered was the applicants (see Exhibit 17) which states the following:

*"OAR 60-033-020 (8)(a) defines High Value Farmland is as: "High-Value Farmland" means land in a tract composed predominantly of soils that are:*

*660-033-020 (I 4) defines a tract as: "Tract" means one or more contiguous lots or parcels under the same ownership.*

*The Bandon Biota tract consists of hundreds of acres, and the portion of the "tract" that contains High Value Farmland is less 40 acres. It is clear that the "tract" by definition, is not "predominantly" composed of High Value Farmland."*

In response to the testimony and the evidence in the record the Planning Commission stated that the tract was not "predominantly" considered High-Value Farm Land. There was an area to the north as defined in the record that would be considered High-Value and the applicant would be prohibited from siting the golf course in this area to ensure compliance. Therefore, a condition was placed the Golf Course would be located outside of the High-Value Farm Land. Therefore, this criterion has been met.

(2) (a) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to



ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(b) Any enclosed structures or group of enclosed structures described in subsection (a) within a tract must be separated by at least one-half mile. For purposes of this section, "tract" means a tract as defined by ORS 215.010(2) that is in existence as of June 17, 2010.

(c) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this rule.

**PLANNING COMMISSION RESPONSE:** Planning Staff initially deemed this application incomplete due to the fact that there were no specific building plans submitted in the application. The application included a building plan, but the applicant indicated those were the plans for a different clubhouse/restaurant from another golf course design, specifically the Bandon Trails Golf Courses. The applicant indicated they were not planning on constructing that building plan. However, during the open testimony time the applicant responded to this issue by stating:

*The applicant is changing their position regarding the development of the proposed clubhouse and pro-shop. The design submitted in the initial application; "Bandon Trails Clubhouse" is no longer conceptual. The applicant is committing to developing that exact design.*

*A new letter has been attached (Exhibit "A ") from Scott Edwards Architecture that states, "Bandon Dunes is planning to utilize the same design as the Bandon Trails Clubhouse, which is comparable to the proposed development in both scale of course and desired amenities, and has proven a successful model to replicate." Based upon the fact that there is no longer a conceptual plan that proposes 60 seats, the occupancy matrix in the architect letter is reduced to the 48 seats shown on the Bandon Trails Plan. This adjustment alone reduces the overall design capacity for all facilities from 90 to 78.*

*Above, ORCA states that "LUBA counseled, that to satisfy the design capacity requirement, the applicant must include a specific, detailed plan." However, ORCA is exaggerating at best. Planning staff also cited the LUBA cases in their staff report.*

The Planning Commission did not find it was appropriate to change the proposal. The applicant proposed in the application an occupancy of 90 total for the following enclosed structures:

- Clubhouse Restaurant: 80
- Turn-Stand: 1
- Agronomy: 9

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For a total of 90 people located in the enclosed structures. After reviewing the information in the record, the Planning Commission did not find there was adequate information to approve the structures listed under the clubhouse but felt that the necessary structures were the Turn-Stand and Agronomy which would provide a total capacity of 10. This is well below the required maximum. Therefore, these are the only structural development that can take place. The applicant may come back to the Planning Commission when they have the building designs along with parking and geohazards report completed.



Therefore, the total design capacity is far less than the maximum of 100 and meets the criteria.

- (5) *APPROVAL CRITERIA Approval requires review by the governing body or its designate under ORS 215.296. Uses may be approved only where such uses:*
- (a) *Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
  - (b) *Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

**PLANNING COMMISSION RESPONSE:** The County Planning Staff typically established the buffer of surrounding properties based on the notification range (notice to adjacent properties within 500 feet). Within the 500 foot buffer each property is listed out and the uses that are occurring are discussed. The use information is based on planning approvals, assessment records, zoning and aerial images. Other information may be obtained from testimony and comments if provided. Once that is complete the properties that are utilized for Farm and Forest Uses (we do not make a determination if it is commercial or not just what it is used for) then the consideration of what are accepted farm and forest practices are and how the proposed use may be impacted. The impact have to be significant which is for the county to decide base on evidence.

According to Oregon Department of Agriculture:

*Protected practices include farming or forest practices that are characterized by one or more of the following:*

- *Are or may be used on a farm or forestland of similar nature*
- *Are generally accepted, reasonable, and prudent methods for the operation to obtain profit in money (commercial)*
- *Comply with applicable law*
- *Are performed in a reasonable manner*

*The lawful and proper use of pesticides is considered a protected farming or forest practice.*

The applicant did explain that the development and maintenance of a golf course was similar in nature to the farm management in the sense it consists of seeding, irrigating, fertilizing, and mowing specialty grasses at various lengths.

The Planning Commission did not reject the staff analysis from the staff report or the applicant's justification but did find the biggest factor in this criteria was the water. When calculated water impacts on agricultural or forest use the boundary for impacts may be sustainably larger than suggested by staff.

However, the Planning Commission did accept the hydrology reports provided by the applicant in this case. The Planning Commission found the largest impact would be water. However, they found in favor of the applicant in this matter given the monitoring wells, junior water right and regulations from the Oregon Water Resources. With this information and a condition of approval that the applicant comply with Oregon Water Resources the proposal would not have a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- (20) *GOLF COURSE - "Golf Course" means an area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes, each including a tee, a fairway, a putting green, and often one or more natural or artificial hazards. A "golf course" for purposes of ORS*



- 215.213(2)(f), 215.283(2)(f), and this division means a nine or 18 hole regulation golf course or a combination nine and 18 hole regulation golf course consistent with the following:
- (a) A regulation 18 hole golf course is generally characterized by a site of about 120 to 150 acres of land, has a playable distance of 5,000 to 7,200 yards, and a par of 64 to 73 strokes;
  - (b) A regulation nine hole golf course is generally characterized by a site of about 65 to 90 acres of land, has a playable distance of 2,500 to 3,600 yards, and a par of 32 to 36 strokes;
  - (c) Non-regulation golf courses are not allowed uses within these areas. "Non-regulation golf course" means a golf course or golf course-like development that does not meet the definition of golf course in this rule, including but not limited to executive golf courses, Par three golf courses, pitch and putt golf courses, miniature golf courses and driving ranges;
  - (d) Counties shall limit accessory uses provided as part of a golf course consistent with the following standards:
    - (A) An accessory use to a golf course is a facility or improvement that is incidental to the operation of the golf course and is either necessary for the operation and maintenance of the golf course or that provides goods or services customarily provided to golfers at a golf course. An accessory use or activity does not serve the needs of the non-golfing public. Accessory uses to a golf course may include: Parking; maintenance buildings; cart storage and repair; practice range or driving range; clubhouse; restrooms; lockers and showers; food and beverage service; pro shop; a practice or beginners course as part of an 18 hole or larger golf course; or golf tournament. Accessory uses to a golf course do not include: Sporting facilities unrelated to golfing such as tennis courts, swimming pools, and weight rooms; wholesale or retail operations oriented to the non-golfing public; or housing;
    - (B) Accessory uses shall be limited in size and orientation on the site to serve the needs of persons and their guests who patronize the golf course to golf. An accessory use that provides commercial services (e.g., pro shop, etc.) shall be located in the clubhouse rather than in separate buildings; and
    - (C) Accessory uses may include one or more food and beverage service facilities in addition to food and beverage service facilities located in a clubhouse. Food and beverage service facilities must be part of and incidental to the operation of the golf course and must be limited in size and orientation on the site to serve only the needs of persons who patronize the golf course and their guests. Accessory food and beverage service facilities shall not be designed for or include structures for banquets, public gatherings or public entertainment.

**PLANNING COMMISSION RESPONSE:** The Planning Commission found that this an 18-hole golf course that will not exceed the 150 acres but this does not include the "surrounding open space". This is based on the record and as a condition of approval will be limited to the 150 acres that does not include surrounding open space.

The accessory uses that were accepted by the Planning Commission are limited to the items identified under the Turn-Stand and Agronomy which will ensure limited size and orientation on the site to serve the needs of persons and their guests who patronize the golf course.

Therefore, this has been addressed.

*Section 4.6.210 Development and Use Standards for the Exclusive Farm Use Zone.*

*Development Standards All dwellings and structures approved shall be sited in accordance with this section.*

1. *Minimum Lot Size: The minimum parcel size shall be at least 80 acres. Land divisions involving a house that existed prior to June 1, 1995 see § 4.6.210(5)(a). For land divisions where all resulting*



parcels are at least 80 acres, a conditional use is not required. However, the applicable standards in Chapter VI must be met. [OR96-06-007PL 9/4/96]

New lots or parcels for dwellings not in conjunction with farm use may be allowed when the requirements of § 4.6.210(3), § 4.6.210(4)(a or b) and § 4.6.210(5) are met. In addition, the creation of new parcels for nonfarm uses may be allowed only when such new parcel is the minimum size needed to accommodate the use in a manner consistent with other provisions of the Ordinance.

The size of the parcel will not prohibit development as long as it was lawfully created or otherwise required to be a certain size in order to qualify for a use.

**PLANNING COMMISSION RESPONSE:** No land division is being proposed at this time; therefore, this is not relevant criteria for this proposal.

2. *Setbacks*

a. *Road:* All buildings or structures with the exception of fences shall be setback a minimum of thirty five (35) feet from any road right-of-way centerline or five (5) feet from any right-of-way line, whichever is greater.

b. *Firebreak:* New or replacement dwellings on lots, parcels, or tracts abutting the "Forest" zone shall establish and maintain a firebreak for a distance of at least 30 in all directions. Vegetation within this firebreak may include mowed grasses, low shrubs (less than ground floor window height), and trees that are spaced with more than 15 feet between the crowns and pruned to remove dead and low (less than 8 feet from the ground) branches. Accumulated needles, limbs, and other dead vegetation should be removed from beneath trees.

**PLANNING COMMISSION RESPONSE:** The approved structures will meet the required setbacks.

3. *Structure Height:* Farm-related structures are exempt from height limits unless subject to Airport Overlay zone or Urban Growth Boundary requirements.

**PLANNING COMMISSION RESPONSE:** None of the subject properties are within the Airport Overlay or Urban Growth Boundary. Therefore, this criterion is not applicable with this proposal.

4. *Lot Coverage:* No requirements.

**PLANNING COMMISSION RESPONSE:** This is not relevant to the current proposal as there are no required lot coverage requirements in the zone.

5. *Fences, Hedges and Walls:* No requirement except for vision clearance provisions of § 7.1.525 apply.

**PLANNING COMMISSION RESPONSE:** The applicant stated that "the golf course development will comply with any vision clearance requirements of 7.1.525". This shall be addressed in the traffic plan.

6. *Off-street parking and Loading:* See Chapter VII.

**PLANNING COMMISSION RESPONSE:** This shall be addressed as part of any approval. This shall be addressed under the traffic plan requirements.



7. *Minimum Road Frontage/Lot Width unless waived by the Planning Director in consultation with the County Surveyor due to creating an unsafe or irregular configuration:*

- a. *Within UGB's – 50 feet*
- b. *Outside UGB's – 20 feet*

**PLANNING COMMISSION RESPONSE:** No land divisions are proposed in this application. Therefore, these criteria are not applicable with this proposal.

8. *Access: Access to new dwellings shall meet road design standards in Chapter VII.*

**PLANNING COMMISSION RESPONSE:** No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

9. *Minimizing Impacts: in order to minimize the impacts of dwellings in agricultural lands, all applicants requesting a nonfarm dwelling shall acknowledge and file in the deed records of Coos County, a Farm Practices Management Easement. The Farm Practices Easement shall be recorded in the deed records of the county prior to any final county approval for a single family dwelling. [OR96-06-007PL 9/4/96]*

**PLANNING COMMISSION RESPONSE:** No new dwellings are proposed in this application. Therefore, this criterion has been addressed.

10. *Riparian Vegetation Protection within 50 feet of a wetland, stream, lake or river, as identified on the Coastal Shoreland and Fish and Wildlife Habitat Inventory maps shall be maintained except that:*

- a. *Trees certified as posing an erosion or safety hazard. Property owner is responsible for ensuring compliance with all local, state and federal agencies for the removal of the tree.*
- b. *Riparian vegetation may be removed to provide direct access for a water-dependent use if it is a listed permitted within the zoning district;*
- c. *Riparian vegetation may be removed in order to allow establishment of authorized structural shoreline stabilization measures;*
- d. *Riparian vegetation may be removed to facilitate stream or stream bank clearance projects under a port district, ODFW, BLM, Soil & Water Conservation District, or USFS stream enhancement plan;*
- e. *Riparian vegetation may be removed in order to site or properly maintain public utilities and road right-of-ways;*
- f. *Riparian vegetation may be removed in conjunction with existing agricultural operations (e.g., to site or maintain irrigation pumps, to limit encroaching brush, to allow harvesting farm crops customarily grown within riparian corridors, etc.) provided that such vegetation removal does not encroach further into the vegetation buffer except as needed to provide an access to the water to site or maintain irrigation pumps; or*
- g. *The 50 foot riparian vegetation setback shall not apply in any instance where an existing structure was lawfully established and an addition or alteration to said structure is to be sited not closer to the estuarine wetland, stream, lake, or river than the existing structure and said addition or alteration represents not more than 100% of the size of the existing structure's "footprint".*
- h. *Riparian removal within the Coastal Shoreland Boundary will require a conditional use. See Special Development Considerations Coastal Shoreland Boundary.*
- i. *The 50' measurement shall be taken from the closest point of the ordinary high water mark to the structure using a right angle from the ordinary high water mark.*



**PLANNING COMMISSION RESPONSE:** All applicable riparian setbacks will be met and maintained.

**III. ARTICLE 4.11 SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS**

*SECTION 4.11.125 Special Development Considerations:*

*The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed in the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site.*

**PLANNING COMMISSION RESPONSE:** The staff addressed all Special Development Considerations but the only relevant criteria to the approved development is the Beaches and Dunes with Limited Development Suitability. This has been addressed below. Any new development proposed may have to comply with additional Special Development Considerations depending on location and type.

*4.11.129 Beaches and Dunes (Policy 5.10)*

*The Beaches and Dunes map has inventoried the following:*

- *Beaches and Dunes*
  - o Suitable for most uses; few or no constraints (Does not require a review)*
  - o Limited Suitability; special measures required for most development*
  - o Not Suitable for Residential, commercial or Industrial Structures*

*Purpose Statement:*

*Coos County shall base policy decisions for dunes on the boundaries for these areas as identified on the plan map titled "Development Potential within Ocean Shorelands and Dunes" and the boundaries delineates following specific areas "Suitable", "Limited Suitability" and "Not Suitable" areas of development potential.*

*a. Limited Suitability: "Beach and Dune Areas with Limited Development Suitability" includes all dune forms except older stabilized dunes, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and interdune areas (deflation plains) subject to ocean flooding.*

*The measures prescribed in this policy are specifically required by Statewide Planning Goal #18 for the above-referenced dune forms; and that this strategy recognizes that designated mitigation sites must be protected from other uses.*

*Implementation shall occur through an Administrative Conditional Use process, which shall include submission of a site investigation report that addresses this subsection, by a qualified registered and licensed geologist or engineer.*



i. Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:

- a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;
- b) The need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
- c) The need for methods for protecting the surrounding area from any adverse effects of the development; and
- d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

ii. Further, Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:

- a) Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);
- b) The exposure of stable and conditionally stable areas to erosion;
- c) Construction of shore structures which modify current air wave patterns leading to beach erosion; and
- d) Any other development actions with potential adverse impacts.

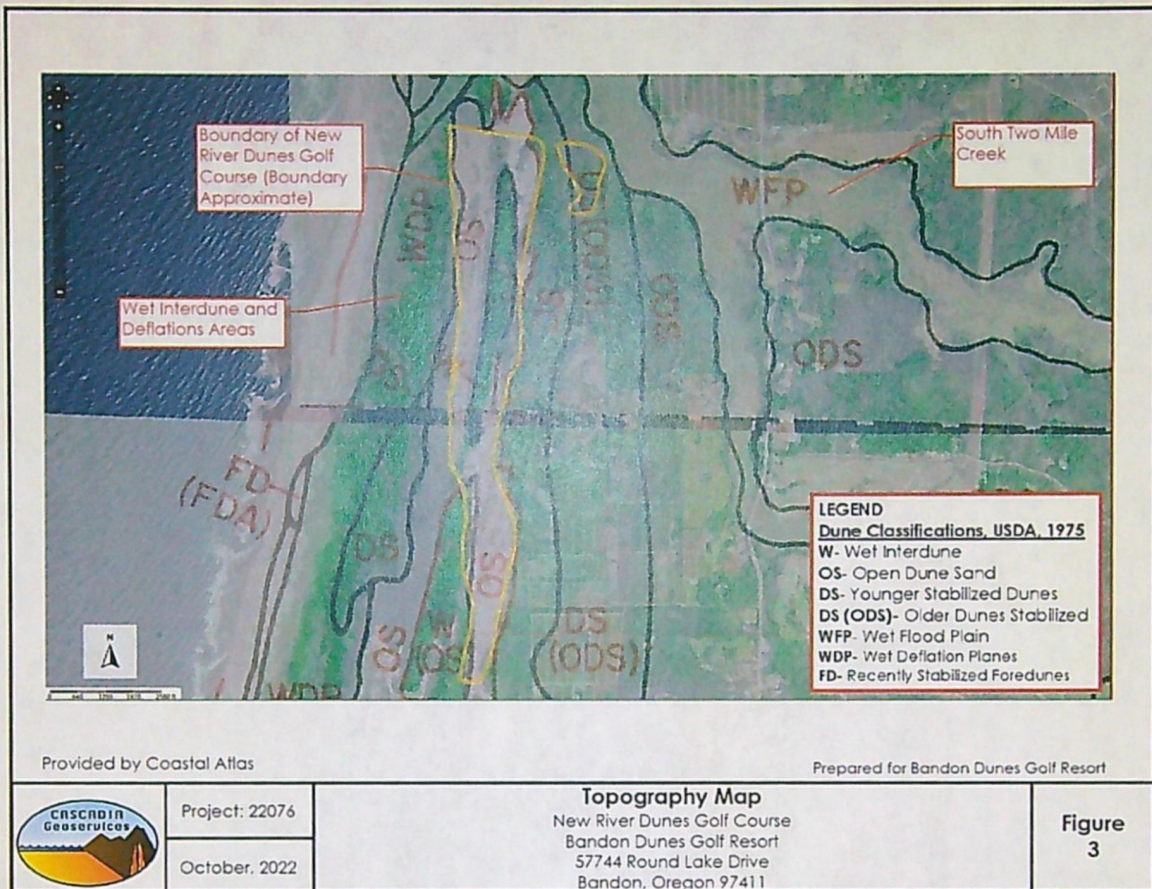
**PLANNING COMMISSION RESPONSE:** While not all of the subject tract is within the Beaches and Dunes Special Development Consideration, the entire proposed golf course and requested structural development is located within the Beaches and Dunes with Limited Development Suitability Special Development Consideration. The relevant criteria has been included above and the map shows the area gold.





According to the applicant's submitted technical memorandum, the proposed golf course is located in Open Dune Sand (OS), Wet Interdune (W), and Older Dunes Stabilized (DS-ODS).





The County's Beaches and Dunes overlay zone derives from the Oregon Planning Goal #18. Goal #18 specifically directed local governments to *"begin the beach and dune inventory with a review of Beaches and Dunes of the Oregon Coast, USDA Soil Conservation Service and OCCDC, March 1975, and determine what additional information is necessary"*.

Below is the reference table that relates to the USDA mapping classifications compared to the Goal 18 dune classifications.

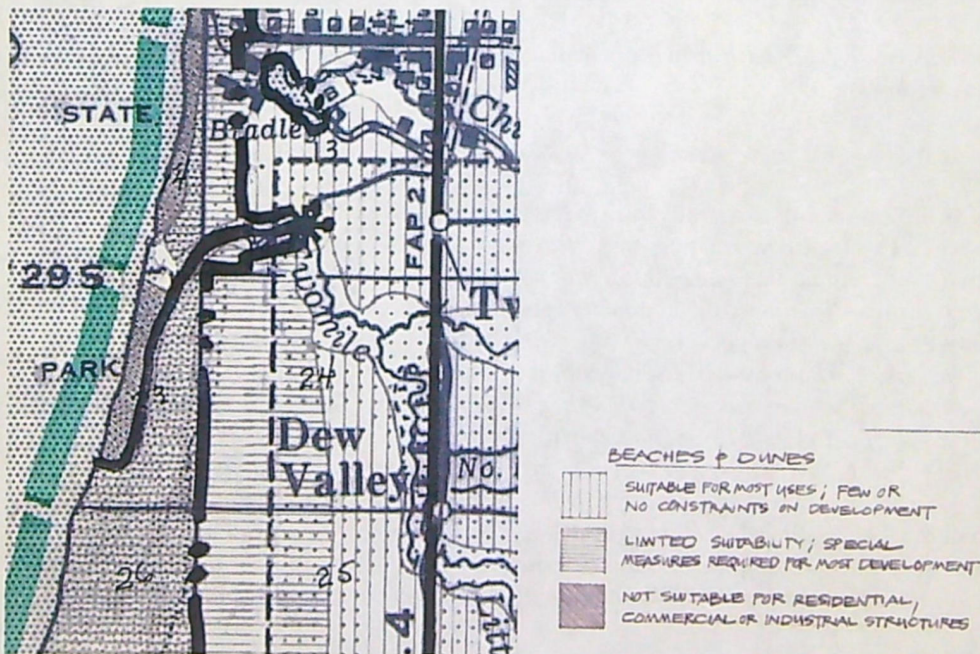


TABLE 2A  
SAND DUNE MAPPING UNITS AND DUNE FORMS

ASSOCIATED DUNE CATEGORIES	MAPPING UNIT		ABBREVIATED DESCRIPTION
	NAME	SYMBOL	
Active Dunes	Open Dune Sand	OS	Wind drifted sand in the form of dunes and ridges, that are essentially bare of vegetation.
	Active Dune Hummocks	H	Partly vegetated circular and elevated mounds of sand.
	Active Foredunes	FDA	A growing barrier ridge of sand paralleling the beach which lies immediately above the high tide line.
Recently Stabilized Dunes	Foredunes	FD	An active foredune that has become conditionally stable with regard to wind erosion.
	Open Dune Sand Conditionally Stable	OSC	A sand dune presently in wind stable condition but vegetated by fragile plantings.
	Dune Complex	DC	Various patterns of small dunes with partially stabilized intervening areas.
	Younger Stabilized Dunes	DS	A youthful wind stable dune landform.
Older Stabilized Dunes	Older Stabilized Dunes	ODS	A wind stable dune landform that has soils with weakly cemented nodules and lenses to strongly cemented nodules or strongly cemented Bir horizons.
	Older Foredunes	OFD	A wind stable former foredune landform that lies approximately parallel but back away from the beach.

January 1975

Below is the County's adopted Mylar maps for Beaches and Dunes.



Even with the differences between the USDA 1975 map and the County's Beaches and Dunes map. The proposed golf course is located within the Beaches and Dunes zones that require reviews.



i. Coos County shall permit development within areas designated as "Beach and Dune Areas with Limited Development Suitability" only upon the establishment of findings that consider at least:

- a) The type of use proposed and the adverse effects it might have on the site and adjacent areas;
- b) The need for temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;
- c) The need for methods for protecting the surrounding area from any adverse effects of the development; and
- d) Hazards to life, public and private property, and the natural environment which may be caused by the proposed use.

ii. Further, Coos County shall cooperate with affected local, state and federal agencies to protect the groundwater from drawdown, which would lead to loss of stabilizing vegetation, loss of water quality, or intrusion of saltwater into water supplies. Coos County shall cooperate with state and federal agencies in regulating the following actions in the beach and dune areas with limited development potential:

- a) Destruction of desirable vegetation (including inadvertent destruction by moisture loss or root damage);
- b) The exposure of stable and conditionally stable areas to erosion;
- c) Construction of shore structures which modify current air wave patterns leading to beach erosion; and
- d) Any other development actions with potential adverse impacts.

The applicant did submit a technical memorandum from Eric Oberbeck, CEG #1332, with Cascadia Geoservices. The technical memo states "Based on our site evaluation and on our experience working in this region, it is our opinion that developing the site into a golf course will not have an adverse impact on either the site or adjacent areas. Further, it is our opinion that because the golf course will provide and maintain permanent vegetation, the younger open dunes will be stabilize from further wind erosion. This permanent stabilization will occur after final shaping eliminating the need for temporary stabilization measures. As with other development projects in windy areas, erosion and sediment control measures should be adopted during clearing and shaping of the site in accordance with DEQ's Best Management Practices. Further, we see no hazards to either life, public and private property, or to the natural environment by the proposed development. Finally, it is our professional opinion that the proposed development will not cause excessive destruction of desirable vegetation, where preserved (including inadvertent destruction by moisture loss or root damage), cause exposure of stable and conditionally stable areas to erosion or modify current air wave patterns leading to beach erosion".

The Planning Commission found the applicant addressed the Beaches and Dunes with Limited Development Suitability for the golf course and limited development that is proposed. At the time the applicant submits a request for additional uses and/or structures are provided another review to determine the effect of that development will be required.

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#### IV. CHAPTER VII TRANSPORTATION, ACCESS, AND PARKING

*SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION: A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.*

1. *Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:*

**STAFF RESPONSE:** While the subject tract consists of multiple parcels, the applicant states *"The boundaries of the golf course subject to traffic and parking plans have been submitted in the form of the revised New River Dunes Conceptual Master Plan (Applicant's Exhibit "C") and Preliminary Clubhouse Site Plan (Applicant's Exhibit "D)."*

The Planning Commission discussed the traffic impacts and the proposed access roads. There was some concern about using Boak Lane during flood events. The Planning Commission conditioned that the applicant shall obtain a permit from the County Road Department, Oregon Department of Transportation (for any access onto Hwy 101 which may require moving the utility poles and creating a turn lane) and show proof of legal use of all roads.

The Roadmaster shall determine compliance with the county requirements of this section and will need to provide the final approval prior to receiving a Zoning Compliance Letter.

#### V. DECISION AND STAFF RESPONSE

*SECTION 5.7.100 REVIEWING AUTHORITY (4) Decision:*

- a. *Decision: After the record has been closed and all evidence submitted into the record has been reviewed the Review Authority shall:*
  - i. *Approve or deny all or part of the application; or*
  - ii. *Approve all or part with modifications or conditions of approval.*
- b. *Basis for Decision: An approval or denial of a development action shall be based upon substantial evidence in the record that addresses the pertinent standards and criteria set forth in the applicable provisions of state law, the Comprehensive Plan, Coos County Zoning and Land Development Ordinance and other applicable laws as determined by the Review Authority.*
- c. *Findings and Conclusions: The Review Authority shall provide brief and concise findings of fact, conclusions of law and an order for all development approvals, conditional approvals or denials. The findings and order shall set forth the criteria and standards considered relevant to the decision, state the facts relied upon and briefly indicate how those facts support the decision. In the case of denial, it shall be sufficient to address only those standards upon which the applicant failed to carry the burden of proof or, when appropriate, the facts in the record that support denial.*
- d. *Conditions of Approval: The Review Authority may impose conditions on any conditional use approval in compliance with Section 5.0.350.*
- e. *Appeal Deadlines: Appeal deadlines are set out in Section 5.0.900.*

*SECTION 5.0.350 CONDITIONS OF APPROVAL:*

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use*



or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.

2. An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.
3. At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.

**PLANNING COMMISSION DECISION:** The Planning Commission approved the 18-hole golf course in the Non-High-Value portion of the Exclusive Farm Use Zone. The course will not exceed 150 acres and that does not include the "surrounding open space". The golf course may only contain the following structures: Turn-Stand, Agronomy for maintenance and independent Restrooms. The approval is based on the following conditions:

1. Driveways, parking and access permit sign off by the County Roadmaster for all access roads;
2. Access and road permit signed off by Oregon Department of Transportation for all accesses from HWY 101;
3. Documents to show legal right to use all access roads;
4. No use of Boak Lane during flood events that cover the road;
5. Development is restricted to the essential buildings to include Turn-Stand, Agronomy for maintenance, and Restrooms.
6. Applicant shall comply with conditions set out in Exhibit 6 (Oregon Department of Fish and Wildlife).
7. Applicant shall obtain permits for Oregon Water Resources including installing and monitoring wells.
8. Any development beyond this approval will require a new application and Beaches and Dunes Review.
9. Development Transferability - Unless otherwise provided in the approval, a land use approval that was obtained through a conditional use process shall be transferable provided the transferor files a statement with the Planning Director signed by the transferee. This document shall be recorded in the chain of title of the property, indicating that the transferee has been provided a copy of the land use approval containing all conditions or restrictions understands the obligation and agrees to fulfill the conditions, unless a modification is approved as provided in this ordinance. The property owner is responsible for ensuring compliance, and land use authorization shall remain recorded in the chain of title to alert a purchaser that development was approved subject to conditions and possible restrictions.
10. Minimizing Impacts: In order to minimize the impact of dwellings in forest lands, all applicants requesting a single-family dwelling shall acknowledge and file in the deed record of Coos County, a Farm/Forest Management Covenant. The Forest Management Covenant shall be filed prior to issuance of a Zoning Compliance Letter.
11. Obtain Zoning Compliance Letter from the County once conditions are satisfied.



# Application for Water Right Transfer Evidence of Use Affidavit



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

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

State of Oregon )  
 ) ss  
County of Coos )

I, Warren Felton, in my capacity as Cranberry Manager,

mailing address 88854 Hull Loop, Bandon, OR 97411

telephone number (541) 297-1079, being first duly sworn depose and say:

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

☒ Personal observation ☐ Professional expertise

2. I attest that:

☒ Water was used during the previous five years on the entire place of use for  
Certificate # 86449; OR

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

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

OR

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

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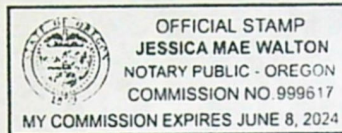


3. The water right was used for: (e.g., crops, pasture, etc.): Crops / Cranberries
4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Wanna D. Feltner  
Signature of Affiant

2/14/2024  
Date

Signed and sworn to (or affirmed) before me this 14<sup>th</sup> day of February, 2024.



Jessica Mae Walton  
Notary Public for Oregon

My Commission Expires: June 8, 2024

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of <b>confirming</b> water right certificate that shows issue date
<input checked="" type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>
<input checked="" type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>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.</p> <p>Sources for aerial photos:  OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a>  OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a>  Google Earth – <a href="http://earth.google.com">earth.google.com</a>  TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a></p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

Received



FELTON EVIDENCE OF USE AFFIDAVIT ATTACHMENT (Certificate 86449)

STATE OF OREGON                     )  
County of Coos                    ) ss.

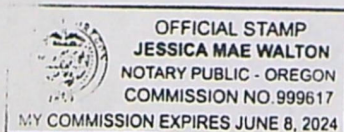
I, Warren Felton, in my capacity as a cranberry manager, being first duly sworn, depose and say:

1. As owner of Felton Farm Management, I managed all cranberry operations associated with the subject Bandon Biota cranberry bogs.
2. As cranberry manager, I personally observed and executed the use of water on the cranberry bogs described under Water Right Certificate 86449.
3. During the period between 2014 to 2019, the price per barrel of cranberries dropped to an average of \$26 which was below a rate of return threshold needed to implement standard farm practices, such as the applying fertilizers, insecticides, herbicides, and fungicides.
4. Water use between 2014 and 2019 was primarily intended to keep cranberry vines alive in the hopeful event that the production of cranberries would again become profitable.
5. Although cranberries were harvested throughout the period between 2014 and 2019, the majority of the 2018 and 2019 crops were unable to be processed due to a nominal harvest (lack of fertilizer) that was excessively inundated with weeds (lack of herbicides and fungicides).

DATE: 2/14/2024

Warren D Felton  
Warren Felton

SIGNED AND SWORN to (or affirmed) before me this 14<sup>th</sup> day of February, 2024.



Jessica Mae Walton  
Notary Public for Oregon  
My Commission expires: June 8, 2024



14438 -

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APR 15 2024

OWRD

Bill Date	Due Date	Bill Amount	Energy	Yr Charge	BB Amount	Paid Amt	Paid Date	Days Of	Penalty	Arrears	Read Date	Meter Read
01/21/20	02/14/20	209.90	209.90	.00	.00	-209.90	02/18/20	32	.00	.00	01/12/20	16839
12/21/19	01/15/20	232.80	232.80	.00	.00	-232.80	01/15/20	30	.00	.00	12/11/19	14820
11/21/19	12/16/19	383.81	344.25	.00	.00	-383.81	12/09/19	30	.00	.00	11/11/19	12530
10/21/19	11/15/19	846.21	462.97	.00	.00	-646.21	11/19/19	31	.00	.00	10/12/19	8921
09/21/19	10/16/19	515.55	341.21	.00	.00	-515.55	10/15/19	31	.00	.00	09/11/19	3907
08/21/19	09/16/19	520.99	345.60	.00	.00	-520.99	09/16/19	30	.00	.00	08/11/19	334
07/21/19	08/15/19	544.51	387.91	.00	.00	-544.51	08/05/19	31	.00	.00	07/12/19	96709
06/21/19	07/16/19	506.05	327.10	.00	.00	-506.05	07/16/19	30	.00	.00	06/11/19	92820
05/21/19	06/14/19	497.97	315.94	.00	.00	-497.97	06/06/19	30	.00	.00	05/12/19	89414
04/21/19	05/16/19	554.93	373.07	.00	.00	-554.93	05/13/19	32	.00	.00	04/12/19	86140
03/21/19	04/15/19	252.48	252.48	.00	.00	-252.48	04/15/19	28	.00	.00	03/11/19	82190
02/21/19	03/18/19	250.71	250.71	.00	.00	-250.71	03/13/19	30	.00	.00	02/11/19	79667
01/21/19	02/15/19	460.32	265.67	.00	.00	-460.32	02/11/19	32	.00	.00	01/12/19	77165

Get Usage Read Meter Change Demand History Change Member History Print History

## FELTON FARM MGMT.

Mbr Sep: 9754-002

Status: Inactive Electric

Location: 2915250013

Meter: 80150

Dist: 12

Rate: 28

Class: 28

Cycle: 997

Ladder:

Notes Exist

Add a Note

Future: .00

Balance: .00

## Payments(1)

## Adjustments(0)

## Misc

Read Date: 03/14/22 Read Type: 92 Days of Service: 30

Bill Date: 03/14/22 Bill Type: 4 Average Emp: 0.0

Due Date: 04/08/22 Multiplier: 1

Current Read: 18002 Demand Read: .060

Previous Read: 17961 Actual Demand: .060

KWH: 41 Billed Demand: .060

Lgt KWH: 0 view bill

KVA: .000 Horsepower: .00

KVAR: 20259.000

Energy: 42.86 Penalty: .00

Fuel: .00 Other Amt 1: .00

Lgt Charge: .00 Other Amt 2: .00

Tax: .00 Other Amt 3: .00

Local Tax: .00 Interest: .00

Franch Tax: .00 Member Fee: .00

Gross Tax: .00 Cons Deposit: .00

Other Tax: .00 Other Deposit: .00

Misc Chg: .00 BB Amount: 42.86

Other Chg: .00 BB Amount: .00

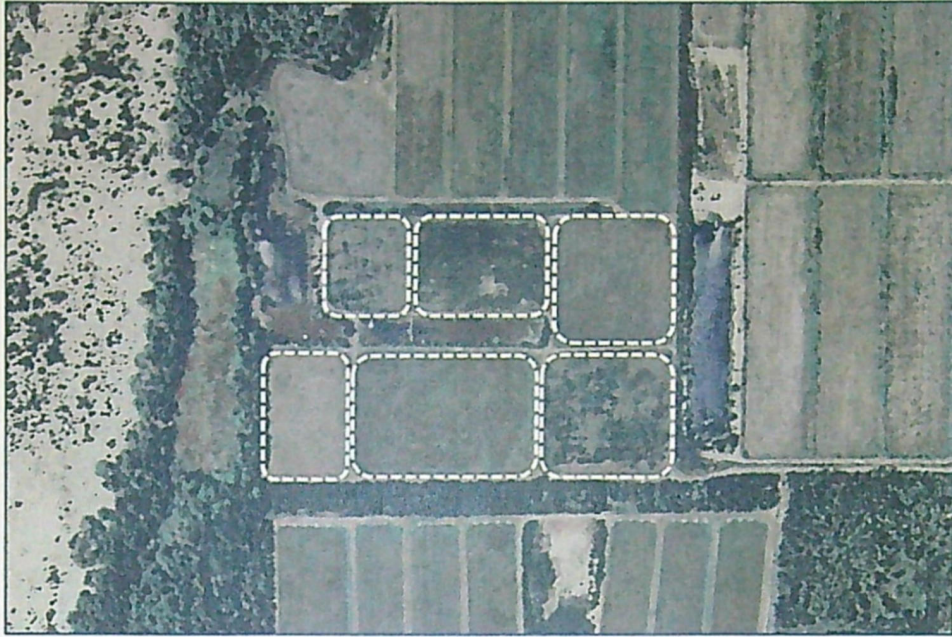
Equipment: .00 Arrears: .00

Round Up: .00 Ancillary: .00

Contract: .00 Net: .00




Attachment 2 - Imagery of the Place of Use



2020 NAIP Imagery



2018 NAIP Imagery

**CwM-H2O**   
Complete Water Management

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

**HISTORICAL USE OF CERTIFICATE 86449:**  
**Place of Use Imagery**  
Page 1 of 3

The approximate places of use for Cert. 86449 is indicated  
by the dashed outline.

Received

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APR 15 2024

OWRD






2016 NAIP Imagery



2012 NAIP Imagery

**CwM-H2O**   
Complete Water Management

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

# HISTORICAL USE OF CERTIFICATE 86449:

## Place of Use Imagery

Page 2 of 3

The approximate places of use for Cert. 86449 is indicated by the dashed outline.

Received  
14438 - APR 15 2024

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2009 NAIP Imagery



2005 NAIP Imagery

**CwM-H2O**   
Complete Water Management

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

# HISTORICAL USE OF CERTIFICATE 86449:

Place of Use Imagery

Page 3 of 3

The approximate places of use for Cert. 86449 is indicated by the dashed outline.

Received

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# Permanent Transfer Application Checklist

Check the Certificates in WRIS

Transfer # 14438

Checked by <u>Dante</u>	Type of Change(s) Proposed: <b>NO</b> other changes allowed other than those listed	
Date <u>4/18/2024</u>		
Fee Received: \$4630	<input checked="" type="checkbox"/> POU <input type="checkbox"/> POD <input type="checkbox"/> APOD <input type="checkbox"/> POA <input checked="" type="checkbox"/> APOA <input checked="" type="checkbox"/> USE	
Calculated Fee: \$4630		How many rights to be Transferred? <b>2</b>
Deficiencies and Observations: The hachuring on the map does not indicate different Certificates portions of the water rights being transferred to and from. <i>Sen Nice is not registered for Bandon Golf Club Resort</i>		Certificate #(s) 86449 86448

If OK, check box; if not, fill in.

- ☒ 1. Is the applicant information complete? Have all the applicants listed at the top of the page signed at the bottom?  
If not, what is missing? Whose signature is missing? \_\_\_\_\_
- ☒ 2. Has the applicant indicated that the place of use is in or near an irrigation district? Have they included a Form D? ☒ N/A.  
Name of the District \_\_\_\_\_
- ☒ 3. Part 5 of application, has the applicant completed the entire page and does the information match the description of the explanation of the reasons on Part 4 of the application?  
If not, you may need to contact the applicant or agent? \_\_\_\_\_
- ☒ 4. For multiple certificates, do each of the certificates listed on Application Page 1 have their own separate completed Part 5 tables 1 & 2? (compare with OAR 690-380-3220-may need to return)  
If no, which certificates are missing a separate Part 5, tables 1 & 2? \_\_\_\_\_
- ☒ 5. Has the map been completed and signed by a CWRE? Does the map meet the requirements?  
If not, what is missing? \_\_\_\_\_. Map waiver included? ☐
- ☒ 6. If a change in point of appropriation, have the well logs been included? ☐ N/A.
- ☒ 7. If a change in place of use within Umatilla County, have the applicant(s) provided a Supplemental Form U? ☒ N/A.
- ☒ 8. Has applicant filled out the Minimum Requirements Checklist (Part 1 of 5)? Is the application complete? If not, what is missing (check Evidence of Use and Land Use)? \_\_\_\_\_
- ☒ 9. If all boxes on this checklist are checked (with no remaining deficiencies identified), accept the application. Put this check sheet in the transfer folder.

OR:

- ☐ 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:

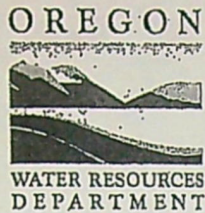
\_\_\_\_\_ date \_\_\_\_\_



## Permanent Transfer Application Checklist

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	\$1,360
	Types of change proposed: <input type="checkbox"/> Place of Use <input type="checkbox"/> Character of Use <input type="checkbox"/> Point of Diversion/Appropriation Number of above boxes checked = _____ (2a) Subtract 1 from the number in line 2a = _____ (2b) <i>If only one change, this will be 0</i>		
2	Multiply line 2b by \$930 and enter » » » » » » » » » » » » » » » »	2	0
	Number of water rights included in transfer _____ (3a) Subtract 1 from the number in line 3a above: _____ (3b) <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? <input type="checkbox"/> No: enter 0 » <input type="checkbox"/> Yes: enter \$410 »		
4		4	0
	Do you propose to change the place of use or character of use? <input type="checkbox"/> No: enter 0 on line 5 » <input type="checkbox"/> 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	0
	Is this transfer: <input type="checkbox"/> necessary to complete a project funded by the Oregon Watershed Enhancement Board (OWEB) under ORS 541.932? <input type="checkbox"/> 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 » <b>Transfer Fee:</b>	8	





Received by OWRD

APR 30 2024

Salem, OR

Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Bandon Dunes  
57744 Round Lake Rd, Bandon OR 97411

Transaction Type: RA

Fees Received: \$ 2731.90

☐ Cash

☒ Check:

Check No. 183662

Name(s) on Check: Same as above

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

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

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

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

Sincerely,

OWRD Customer Service Staff

Submission received by: Coni e. Carrien  
(Name of OWRD staff)

### Instructions for OWRD staff:

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





Received by OWRD

APR 24 2025

Salem, OR

Date Received (Date Stamp Here)

## OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Oregon Coast Alliance

PO Box 857 Astoria, OR 97103

Transaction Type: Protest

Fees Received: \$ 950.00

☐ Cash

☒ Check

Check No. 1991

Name(s) on Check: Oregon Coast Alliance

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

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

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

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

Sincerely,

OWRD Customer Service Staff

Submission received by: Sarah Benham  
(Name of OWRD staff)

### Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
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