

Regular

RA

Name Fessler Family LLC

Address 13009 McKee School Rd
Woodburn Oregon 97101
Tomf@woodburnnursery.com

Change in POU

Date Filed 7/24/2023

Initial notice date 8/8/2023

DPD issued date

PD issued date 4/10/24

PD notice date 4/16/24

Date of FO 6/11/24 Vol 131 Page 266-270

correcting order 7/2/24 131 490-491

C-Date

COBU due date

COBU Received date

Certificate issued

DESCRIPTION OF WATER RIGHT(S)

Name of Stream well

Trib. of Pudding river basin

Use Irrigation, SE nursery County marion

Quantity of water (CFS) No. of Acres

Name of ditch

App# G14013 Per # G131013 Cert # 95394 PR Date 3/24/1995

App# G14013 Per # G131013 Cert # 96728 PR Date 3/24/1995

App# Per # Cert # PR Date

App# Per # Cert # PR Date

App# Per # Cert # PR Date

FEES PAID

Date	Amount	Receipt #
<u>7-24-23</u>	<u>\$1,970.00</u>	<u>141247</u>
<u>7-24-23</u>	<u>\$125.00</u>	<u>141237</u>
<u>8-9-23</u>	<u>\$1831.50</u>	<u>141347</u>

FEES REFUNDED

Date	Amount	Receipt #

Assignments:

Irrigation District

Agent Aspen rural land Consulting Eric Urstadt

CWRE

CC's list marion County

☐ - Oversized map - Location



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

July 2, 2024

Fessler Family, LLC
C/O Tom Fessler
13009 McKee School Rd
Woodburn, OR 97071

Reference: T-14287 Superseding Correcting Final Order

Enclosed is a correcting final order recorded in Special Order Vol. 131, Page 490, issued to correct a scrivener's error in the order recorded in Special Order Vol. 131, Page 266.

If you have any questions please contact your caseworker, Dante Luongo, by telephone at (971) 304-5006 or by e-mail at dante.j.luongo@water.oregon.gov.

Sincerely,

Elyse Richman
Water Right Support
Transfers and Conservation Section

cc: Watermaster Dist. #16, Gregory J. Wacker (*via email*)
Eric Urstadt, Agent
Marion County Planning Department, Local Government

Enclosures

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Special Order Volume 131,)
Pages 266-270 approving T-14287, Marion) CORRECTING ORDER
County)

Applicant

FESSLER FAMILY, LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Findings of Fact

1. On July 24, 2023, FESSLER FAMILY LLC filed an application to change the places of use under Certificates 95394 and 96728. The Department assigned the application number T-14287.
2. On June 10, 2024, the Department issued an order approving Transfer T-14287. The order was recorded at Special Order Volume 131, Pages 266-270.
3. On June 12, 2024, the Department identified a scrivener's error in Condition #5, under **Now, therefore, it is ORDERED:**, specifically the water right Certificate number to be modified and cancelled:

Water right Certificate **95934** is modified and will be cancelled upon approval of T-14288. A new certificate will be issued describing that portion of the right not affected by this transfer.

4. Condition #5 is modified to read as follows:

Water right Certificate **95394** is modified and will be cancelled upon approval of T-14288. A new certificate will be issued describing that portion of the right not affected by this transfer.

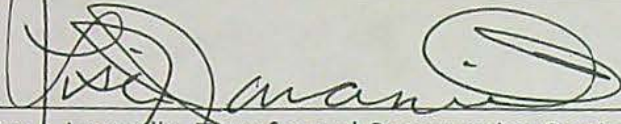
Now, therefore, it is ORDERED:

1. The order approving Transfer Application T-14287, as recorded in Special Order Volume 131, Pages 266-270, is modified to correctly describe the certificate to be cancelled.

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

2. All other provisions of Special Order Volume 131, Pages 266-270 remain in effect.

Dated at Salem, Oregon this JUL 2 - 2024.

A handwritten signature in black ink, appearing to read 'Lisa J. Jaramillo', is written over a horizontal line.

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

Mailing Date: JUL 3 - 2024



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

June 10, 2024

Fessler Family, LLC
C/O Tom Fessler
13009 McKee School Rd.
Woodburn, OR 97071
REFERENCE: Transfer Application T-14287

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

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

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

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

If you have any questions related to the approval of this transfer, you may contact your caseworker, Dante Luongo, by telephone at (971) 304-5006 or by e-mail at Dante.j.luongo@water.oregon.gov.

Sincerely,

Elyse D. Richman
Water Rights Services Support
Transfers and Conservation Section

cc: Gregory J. Wacker, Watermaster Dist. # 16 (via email)
Eric Urstadt, Agent
Marion County Planning Department, Local Government

Enclosure

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	FINAL ORDER
T-14287, Marion County)	APPROVING A CHANGE IN PLACE 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

FESSLER FAMILY, LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Findings of Fact

1. On July 24, 2023, Fessler Family LLC, filed an application to change the places of use under Certificates 95394 and 96728. The Department assigned the application number T-14287.
2. Notice of the application for transfer was published on August 8, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 6, 2023, the Department issued a Final Order approving Transfer Application T-14141 recorded at Special Order Volume 129, Page 3. The order cancelled a portion of Certificate 96728 and subsequently Certificate 97217 was issued describing that portion of the right not affected by T-14141.
4. The Department has determined that the portion of the former Certificate 96728 being transferred, is described in remaining right Certificate 97217.

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

5. On July 24, 2023, Transfer Application T-14288 was filed. This transfer modifies the same right, Certificate 95394, proposed for transfer in T-14287. Certificate 95394 shall be cancelled after both transfer applications are processed.
6. On December 20, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14287 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 19, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.
7. On April 10, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14287 and sent a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published in the Department's weekly notice on April 17, 2024, and April 24, 2024, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

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

Certificate: 95394 in the name of FESSLER FAMILY LLC (perfected under Permit G-13673)

Use: PRIMARY IRRIGATION OF 4.5 ACRES

Priority Date: MARCH 24, 1995

Rate: 0.056 CUBIC FOOT PER SECOND FOR IRRIGATION OF 4.5 ACRES

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

Period of Use: MARCH 1 through OCTOBER 31 for irrigation

Source: WELL 5 in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	4.5

9. Transfer Application T-14287 proposes to change the place of use of the right to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	4.5

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

Certificate: 97217 in the name of FESSLER FAMILY LLC (perfected under Permit G-13673)
Use: PRIMARY IRRIGATION OF 13.0 ACRES
Priority Date: MARCH 24, 1995
Rate: 0.163 CUBIC FOOT PER SECOND FOR IRRIGATION OF 13.0 ACRES
Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Source: WELL 5 in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	SW NE	6.9
5 S	1 W	WM	33	SE NW	6.1
TOTAL					13.0

11. Transfer Application T-14287 proposes to change the place of use of the right to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	13.0

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

12. Water has been used within the last five years prior to the submittal of Transfer Application T-14287 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
13. A 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-14287.
14. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
15. The proposed changes, as conditioned, would not result in enlargement of the rights.

16. The proposed changes, as conditioned, would not result in injury to other existing water rights.
17. All other application requirements are met.

Conclusions of Law

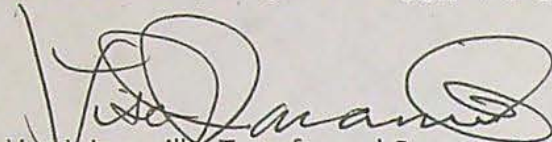
The change in places of use proposed in Transfer Application T-14287 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

Now, therefore, it is ORDERED:

1. The change in places of use proposed in Transfer Application T-14287 are approved.
2. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificates 95394, 97217 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 places of use.
4. Water right Certificate 97217 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.
5. Water right Certificate 95934 is modified and will be cancelled upon approval of T-14288. A new certificate will be issued describing that portion of the right not affected by this transfer.
6. The former places of use of the transferred rights shall no longer receive water under the rights.
7. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation (new and existing).
 - b. The water user shall maintain the meters or measuring devices in good working order.
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.
8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.

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

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

A handwritten signature in black ink, appearing to read 'Lisa J. Jaramillo', is written over the typed name.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

Mailing Date: **JUN 11 2024**

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FESSLER FAMILY LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

confirms the right to use the waters of WELL 5 in the PUDDING RIVER BASIN for SUPPLEMENTAL IRRIGATION of 21.5, AND NURSERY OPERATIONS ON 13.7 ACRES.

This right was perfected under Permit G-13673. The date of priority is MARCH 24, 1995. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 1.37 CUBIC FEET PER SECOND (CFS), BEING 1.37 CFS FOR NURSERY OPERATIONS, AND 0.27 CFS FOR SUPPLEMENTAL IRRIGATION OF 21.5 ACRES.

The period of use is March 1 through October 31 for irrigation and year-round for nursery operations.

The well is located as follows:

Twsp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

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

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

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

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	SE SW	20.0
5 S	1 W	WM	33	NE NW	1.5
TOTAL					21.5

NURSERY OPERATIONS					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	13.7

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter or other suitable measuring device approved by the Director in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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

- (1) Use of water from the well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall install a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The water user shall be responsible for complying with each of the following requirements for measuring water levels in the well.
 - (a) Use of water from a new well shall not begin until an initial static water level in the well

has been measured and submitted to the Department.

- (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
- (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the water user.
- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The water user shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

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

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

The Director may require water level or pump test results every ten years.

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

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

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

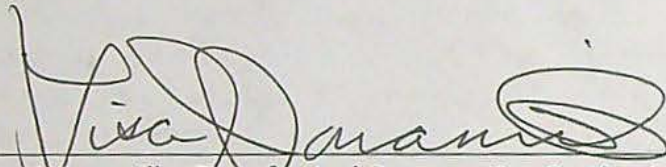
The use of water shall be limited when it interferes with any prior surface or ground water rights.

This certificate describes that portion of water right Certificate 95394, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JUN 10 2024, approving Transfer Applications T-14287 and T-14288.

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

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

WITNESS the signature of the Water Resources Director, affixed JUN 10 2024.

A handwritten signature in black ink, appearing to read "Lisa J. Jaramillo", written over a horizontal line.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

STATE OF OREGON

COUNTY OF MARION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

FESSLER FAMILY LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071-9089

confirms the right to use the waters of WELL 5 in the PUDDING RIVER BASIN for SUPPLEMENTAL IRRIGATION of 11.3 ACRES.

This right was perfected under Permit G-13673. The date of priority is MARCH 24, 1995. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.14 CUBIC FOOT PER SECOND FOR SUPPLEMENTAL IRRIGATION OF 11.3 ACRES, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

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

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

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	28	NE NW	43	0.4
5 S	1 W	WM	28	NW NW	43	0.1
5 S	1 W	WM	28	SW NW	43	7.9
5 S	1 W	WM	28	SE NW	43	2.4
5 S	1 W	WM	28	NE SW	43	0.1
5 S	1 W	WM	28	NW SW	43	0.4
TOTAL						11.3

Measurement, recording and reporting conditions:

- A. The water user shall maintain the meter other suitable measuring device approved by the Director in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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

- (1) Use of water from the well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The water user shall maintain a meter or other measuring device suitable to the Director, and shall submit an annual report of water used to the Department by December 1 of each year.
- (3) The water user shall be responsible for complying with each of the following requirements for measuring water levels in the well.
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and submitted to the Department.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the water user.

- (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
- (e) The water user shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (3).

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

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

The Director may require water level or pump test results every ten years.

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

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

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

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

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

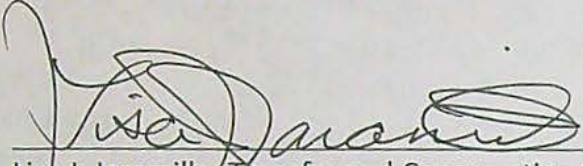
This certificate describes that portion of water right Certificate 97217, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered

JUN 10 2024, approving Transfer Application T-14287.

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

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

WITNESS the signature of the Water Resources Director, affixed JUN 10 2024.

A handwritten signature in black ink, appearing to read "Lisa J. Jaramillo", is written over a horizontal line.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING DIRECTOR
Oregon Water Resources Department

WATER RIGHT TRANSFER COVER SHEET

Transfer: T-14287

Transfer Specialist: *DA*

Transfer Type: Regular Transfer

Reimbursement Authority? ☒

Applicant: TOM FESSLER 13009 MCKEE SCHOOL RD WOODBURN, OR 97071	Agent: ERIC URSTADT 39290 NW MURTAUGH RD NORTH PLAINS, OR 97133	Receiving Landowner:
Current Landowner if other than Applicant:	CWRE:	Irrigation District:
Affected Local Gov'ts: Marion County Planning Department	Affected Tribal Gov't:	BOR Notified (date):

Water Rights Affected

File Marked	App. File # or Decree Name	Permit	Certificate	RR/CR Needed	RR/CR Nos.
<input type="checkbox"/>	G14013	G13673	95394	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	G14013	G13673	96728	<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: July 24, 2023	Proposed Action(s): PLACE OF USE	
Fees Pd: 1970.00	Acknowledgement Letter Sent <input checked="" type="checkbox"/>	Basin: 2 Willamette
Initial Public Notice: 8/8/2023	County sent cc: of Ack Letter <input checked="" type="checkbox"/>	County: MARION
WM District: 16 Gregory J. Wacker	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 checked="" 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: 10-10-23 Initials: <i>AL</i>	Date: 10-11-23 Initials: <i>RS</i>	Date: 12-18-23 Initials: <i>PRS</i>	Date: _____ Initials: _____	CW Sent: _____ WM Sheet <input type="checkbox"/> ODFW Sheet: <input type="checkbox"/>	N/A
PD	Date: 1-5-24 Initials: <i>AL</i>	Date: _____ Initials: _____	Date: 1-17-24 Initials: <i>PRS</i>	Date: 1-18-24 Initials: <i>AL</i> Data Review Date: 1-22-24	Date: 4-4-24	Date: 4/10/24
FO	Date: 2-24-24 Initials: <i>AL</i>	Date: _____ Initials: _____	Date: 2-25-24 Initials: <i>PRS</i>	Date: 2-25-24 Initials: <i>AL</i>	Date: 6-5-24 No. of docs for sig: 3	Date: 6/10/24

Special Issues: _____

Transfer Cover Sheet

★ shares RR cert with T-14287

Last Revised 1/26/2023

Special Order Volume: Vol. 131 Pages 166-170



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

April 10, 2024

VIA CERTIFIED MAIL AND E-MAIL

Applicant

FESSLER FAMILY LLC

13009 MCKEE SCHOOL RD

WOODBURN, OR 97071

SUBJECT: Water Right Transfer Application T-14287

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14287. 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, simultaneously with issuance of the Preliminary Determination. The notice initiates a period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision. The protest period will end 30 days after the Department's notice.

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

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

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

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Luongo', with a long horizontal stroke extending to the right.

Dante Luongo
Transfer Specialist
Transfer and Conservation Section

cc: T-14287
Gregory J. Wacker, District 16 Watermaster (*via e-mail*)
Eric Urstadt, Agent for the applicant (*via e-mail*)

encs

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)	PRELIMINARY DETERMINATION
T-14287, Marion County)	PROPOSING APPROVAL OF A CHANGE IN
)	PLACES 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

FESSLER FAMILY, LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Findings of Fact

1. On July 24, 2023, Fessler Family LLC, filed an application to change the places of use under Certificates 95394 and 96728. The Department assigned the application number T-14287.
2. Notice of the application for transfer was published on August 8, 2023, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On September 6, 2023, the Department issued a Final Order approving Transfer Application T-14141 recorded at Special Order Volume 129, Page 3. The order cancelled a portion of Certificate 96728 and subsequently Certificate 97217 was issued describing that portion of the right not affected by T-14141.
4. The Department has determined that the portion of the former Certificate 96728 being transferred, is described in remaining right Certificate 97217.
5. On July 24, 2023, Transfer Application T-14288 was filed. This transfer modifies the same right, Certificate 95394, proposed for transfer in T-14287. Certificate 95394 shall be cancelled after both transfer applications are processed.

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.

6. On December 20, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14287 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of January 19, 2024, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

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

Certificate: 95394 in the name of FESSLER FAMILY LLC (perfected under Permit G-13673)
Use: PRIMARY IRRIGATION OF 4.5 ACRES
Priority Date: MARCH 24, 1995
Rate: 0.056 CUBIC FOOT PER SECOND FOR IRRIGATION OF 4.5 ACRES
Limit/Duty: The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
Period of Use: MARCH 1 through OCTOBER 31 for irrigation
Source: WELL 5 in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	4.5

8. Transfer Application T-14287 proposes to change the place of use of the right to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	4.5

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

Certificate: 97217 in the name of FESSLER FAMILY LLC (perfected under Permit G-13673)
Use: PRIMARY IRRIGATION OF 13.0 ACRES
Priority Date: MARCH 24, 1995
Rate: 0.163 CUBIC FOOT PER SECOND FOR IRRIGATION OF 13.0 ACRES
Limit/Duty: The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, (or

its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Source: WELL 5 in the PUDDING RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SW NE	WELL 5 - 2390 FEET SOUTH AND 2800 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	SW NE	6.9
5 S	1 W	WM	33	SE NW	6.1
TOTAL					13.0

10. Transfer Application T-14287 proposes to change the place of use of the right to:

PRIMARY IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	13.0

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

11. Water has been used within the last five years prior to the submittal of Transfer Application T-14287 according to the terms and conditions of the rights. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
12. A 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-14287.
13. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
14. The proposed changes, as conditioned, would not result in enlargement of the rights.
15. The proposed changes, as conditioned, would not result in injury to other existing water rights.
16. All other application requirements are met.

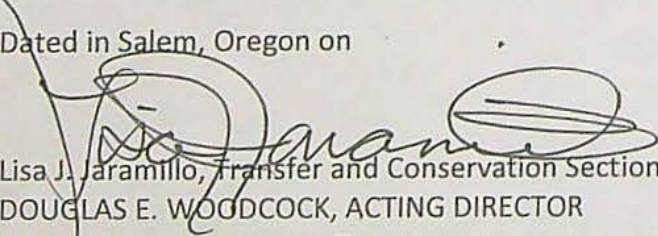
Determination and Proposed Action

The change in places of use proposed in Transfer Application T-14287 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-14287 is approved, the final order will include the following:

- 1. The change in places of use proposed in Transfer Application T-14287 are approved.*
- 2. The right to the use of the water is restricted to beneficial use at the places of use described and is subject to all other conditions and limitations contained in Certificates 95394, 97217 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 places of use.*
- 4. Water right Certificate 97217 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 5. Water right Certificate 95934 is modified and will be cancelled upon approval or denial of T-14288. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 6. The former places of use of the transferred rights shall no longer receive water under the rights.*
- 7. Water use measurement conditions:*
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of appropriation (new and existing).*
 - b. The water user shall maintain the meters or measuring devices in good working order.*
 - c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*
- 8. Full beneficial use of the water shall be made, consistent with the terms of this order, on or before **October 1, 2025**. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
- 9. After satisfactory proof of beneficial use is received, new certificates confirming the rights transferred will be issued.*

Dated in Salem, Oregon on


Lisa J. Jaramillo, Transfer and Conservation Section Manager, for
DOUGLAS E. WOODCOCK, ACTING 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.

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.

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.

Watermaster Review Form: Water Right Transfer



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

Transfer Application: T-14287

Review Due Date:

Applicant Name: Fessler Family LLC

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

Reviewer(s): G. Wacker

Date of Review: 09/18/2023

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

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

☒ N/A

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

☒ N/A

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

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

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

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

☐ Yes ☒ No If "Yes", explain:

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

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

☐ Yes ☐ No If "Yes", explain:

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

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

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

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

- i. "Injury" will occur to other water rights that share the same source? ☐ Yes ☐ No If "Yes", explain:
- ii. "Enlargement" of the water right being transferred will occur? ☐ Yes ☐ No If "Yes", explain:

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

☐ Yes ☒ No If "Yes", explain:

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

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

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

☐ A Headgate should be required prior to diverting water.

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

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

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

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

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

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

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

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

☐ Weir
☐ Parshall Flume
☐ Other: _____

☐ Submerged Orifice
☐ Flow Restrictor

Oregon Water Resources Department

Measurement Condition Information for the Applicant

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

Transfer #: T- 14287



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



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



at each new point of diversion/appropriation.

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

Watermaster name: Greg Wacker

District: 16

Address: 725 Summer St NE Ste A

City/State/Zip: Salem, OR 97301

Phone: 971-719-6262

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

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

Approval of an Alternate Measurement Device

T-

(to be filled out after consultation with the applicant, or after a site visit)

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

Watermaster signature

District

Date

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

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

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A

SALEM, OR 97301-4172

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

RECEIPT # **141347**

INVOICE # _____

RECEIVED FROM: Woodburn Nursery
BY: and Azaleas, Inc.

APPLICATION	
PERMIT	
TRANSFER	T-14287

CASH: ☐ CHECK # 71405 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,831.50

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47124 \$ R 11455.25
0412 OTHER: (IDENTIFY) Transf. reimbursement authority \$ 1,831.50
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	\$	0202	\$
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT:

141347

DATED:

8-7-23

BY:

[Signature]

**REIMBURSEMENT AUTHORITY
APPLICANT'S AGREEMENT
Contract Number: R11-455-25**

RECEIVED

AUG 07 2023

OWRD

This Agreement is between the Oregon Water Resources Department, hereafter OWRD, and Fessler Family, LLC, hereafter Applicant, hereafter known together as the parties.

OWRD Information	Applicant's Information	Applicant's Representative
Contact: Kelly Starnes	Name: Fessler Family, LLC	Name: Eric Urstadt
Title: Transfer Advisor	Contact:	Contact:
Address: 725 Summer Street, NE, Suite A Salem, OR 97301-1266	Address: 13009 McKee School Rd Woodburn, OR 97101	Address: 39290 NW Murtaugh Rd North Plains, OR 97133
Phone: 503 979-3511	Phone: (503) 559-1471	Phone: (971) 250-1520
Fax: 503 986-0901	Fax:	Fax:
Email: patrick.k.starnes@water.oregon.gov	Email: tomf@woodburnnursery.com	Email: ericurstadt@hotmail.com

Purpose The purpose of this Agreement is to expedite the processing of the Transfer Application. (Application Number: T-14287)

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 \$1,831.50. Applicant agrees to pay the full amount of \$1,831.50 to OWRD prior to commencement of any work stated in this Agreement. This payment will be placed in an account administered by OWRD and drawn upon as costs are actually incurred. If the actual cost of performing the work is less than payments received, OWRD will refund the unspent balance. If the actual cost of processing exceeds the estimate, the Applicant can either elect to terminate this Agreement or amend the Agreement to reflect the increase in cost.
 - b. The costs stated in this Agreement do not include the statutory application processing and filing fees.
5. **Confidentiality.** Applicant agrees that any information provided to or acquired by OWRD under this Agreement will be subject to the Oregon Public Records Law and shall be considered public records.
6. **Indemnity.** Applicant shall defend, save, hold harmless, and indemnify the State of Oregon, OWRD, and their officers, employees, and agents from and against all claims, suits, actions, losses, damages, liabilities, costs, and expenses of any nature resulting from or arising out of, or relating to the activities of Applicant or its representatives, officers, employees, contractors, or agents under this Agreement or with respect to the expedited service. The Applicant acknowledges that the Oregon Water Resources Department cannot and does not guarantee a favorable review under the subject regulatory process.

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

For Applicant:

Michael Mumber
Name/Title:

8-3-23
Date

For OWRD:

Dwight French
Dwight French - Administrator

Date

Mail signed Agreement to:

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

Fessler Family, LLC RA R11-455-25 T-14287

Review Step	Est. Time	Hourly Multiplier	Total Est. Hours	Individual	Hourly Rate	Est. Cost
Front Desk Staff receipts received AA funds						
Transfer Support process Application						
Administrator signs AA						
NRS 1 Support enters workflow record in WRIS and updates RA spreadsheet						
NRS 2 completes initial review of file for deficiencies						
NRS 2 consults with Kelly and/or Lisa						
NRS 2 writes and sends deficiency ltr (email and hard copy)						
NRS 2 addresses correspondence from app/agent regarding deficiencies						
Watermaster completes review						
NRS 2 completes DPD, PN, and RR						
Transfer staff peer reviews DPD, PN, RR						
Transfer Analyst completes policy check at DPD stage						
NRS 2 sends DPD to app/agent by email and/or mail						
NRS 2 drafts and sends revised DPD						
Transfer Staff peer reviews revised DPD						
NRS 2 reviews report of ownership						
NRS 2 completes PD						
Transfer Staff peer reviews PD						
Transfer Analyst peer reviews PD						
Data Center reviews PD AND RR: (RR where applicable)						
Transfer Analyst completes peer review of PN review for newspaper noticing						
Transfer Support processes public notice (dept notice)						
Administrator signs PD						
NRS 2 completes FO						
Transfer Staff peer reviews FO						
Transfer Analyst peer reviews FO						
Administrator signs FO						
Transfer Support issues FO, updates WRIS, copy to file, record markings, and sends hard copy						
NRS 1 closes out RA Contract						
TOTAL ESTIMATED HOURS			32.18	SUB-TOTAL ESTIMATE COST		
				10% OVERHEAD		
				TOTAL		\$1,831.50

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **141237**

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

INVOICE # _____

RECEIVED FROM: Woodburn Nursery
BY: and Azaleas, Inc.

APPLICATION	
PERMIT	
TRANSFER	T-14287

CASH: ☐ CHECK: # 71230 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 125.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 11455-23 \$
0412 OTHER: (IDENTIFY) Transfer Reimbursement Authority \$ 125.00

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

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

WELL CONSTRUCTION

0218	WELL DRILL CONSTRUCTOR	EXAM FEE \$	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	\$

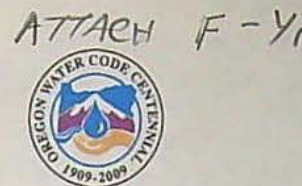
TREASURY OTHER / RDX

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

RECEIPT: **141237** DATED: 7-24-23 BY: emcally



OREGON WATER RESOURCES DEPARTMENT
TRANSFER REIMBURSEMENT AUTHORITY
ESTIMATE APPLICATION



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

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

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

REQUEST	TYPE	FILE NUMBER
<input checked="" type="checkbox"/>	Transfer Application	Transfer Number T-14287 <u>unknown</u>

	Applicant Information	Applicant's Representative/Contact
Name:	Fessler Family, LLC	Eric Urstadt, PE, PLS, CWRE
Address:	13009 McKee School Road	39290 NW Murtaugh Road
	Woodburn, OR 97101	North Plains, OR 97133
Phone:	503.559.1471	971.250.1520
Fax:	N/A	N/A
E-Mail Address:	tomf@woodburnnursery.com	ericurstadt@hotmail.com

I understand the following:

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

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

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JUL 24 2023

OWRD

I certify that I am the (check one):

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

Name: Eric Urstadt

Signature: _____

OWRD USE ONLY: Reimbursement Authority Number: R11-455 -23



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

August 2, 2023

FESSLER FAMILY LLC
TOM FESSLER
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Reference: Application T-14287

On July 24, 2023, the Department received your water right Permanent Transfer Application. The application was accompanied by \$1970.00. Receipt number 141247 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.

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

Except as provided under ORS 540.510(3) for municipalities, you may not use water in the new place of use 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. #16, Gregory J. Wacker (*via email*)
Marion County Planning
Eric Urstadt, Agent

Enclosure

71405

OREG00696

Oregon Water Resources Department

Check No: 71405

Document
PIN000693

Supplier Inv #
T-14287

Date
08/03/2023

Discount

Amount Paid Description
\$1,831.50

Check Total :

\$1,831.50

RECEIVED

AUG 07 2023

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 # 141247

INVOICE #

RECEIVED FROM: Woodburn Nursery and Azaleas, Inc.
BY:

CASH: ☐ CHECK: # 71229 OTHER: (IDENTIFY) ☐

APPLICATION	
PERMIT	
TRANSFER	<u>T-14287</u>
TOTAL REC'D	<u>\$1,970.00</u>

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES	\$
OTHER: (IDENTIFY)	\$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS		
0407 COPY & TAPE FEES	\$	
0410 RESEARCH FEES	\$	
0408 MISC REVENUE: (IDENTIFY)	\$	
TC162 DEPOSIT LIAB. (IDENTIFY)	\$	
0240 EXTENSION OF TIME	\$	
WATER RIGHTS:		
0201 SURFACE WATER	\$	0202
0203 GROUND WATER	\$	0204
0205 TRANSFER	<u>\$1,970.00</u>	
WELL CONSTRUCTION		
0218 WELL DRILL CONSTRUCTOR	\$	0219
LANDOWNER'S PERMIT		0220
OTHER (IDENTIFY)		

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE
OBJ. CODE	VENDOR #
DESCRIPTION	\$

RECEIPT: 141247 DATED: 7-24-23 BY: [Signature]

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)

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JUL 24 2023

OWRD

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:
http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator.
- ☒ 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: 95394 & 96728***

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. The certificates are between 2 parcels using water from the same source. *Note: certificate number 96728 shall be changed per T-14141.

Attachments:

- ☒ Completed Transfer Application Map.
- ☒ Completed Evidence of Use Affidavit and supporting documentation.
- ☒ ☐ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☐ ☒ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☒ ☐ N/A Oregon Water Resources Department's Land Use Information Form with approval and signature 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.

(For Staff Use Only)

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

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

Other/Explanation _____

Staff: _____ 503- _____

Date: _____

14287

Part 2 of 5 – Transfer Application Map

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

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

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

FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

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JUL 24 2023
OWRD

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).

TACS

Part 4 of 5 – Applicant Information and Signature

Applicant Information

APPLICANT/BUSINESS NAME Fessler Family, LLC		PHONE NO. 503.559.1471	ADDITIONAL CONTACT NO. N/A
ADDRESS 13009 McKee School Road			FAX NO. N/A
CITY Woodburn	STATE OR	ZIP 97101	E-MAIL See note below agent information
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 Aspen Rural Land Consulting c/o Eric Urstadt, PE/PLS		PHONE NO. 971.250.1520	ADDITIONAL CONTACT NO. N/A
ADDRESS 39290 NW Murtaugh Road			FAX NO. N/A
CITY North Plains	STATE OR	ZIP 97133	E-MAIL See note below
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.			
Note: We do not want all correspondence sent electronically; instead, please send correspondence via both regular mail and email to: tomf@woodburnnursery.com and ericurstadt@hotmail.com.			

Explain in your own words what you propose to accomplish with this transfer application, and why:
This transfer proposes to move the place of use for two rights that use the same source.

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

Check One Box

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

RECEIVED

JUL 24 2023

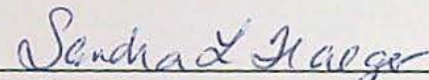
OWRD

14287

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: Woodburn Independent.
- 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

Sandra L. Traeger, Registered Agent
Print Name (and Title if applicable)

7/7/2023
Date

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

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

Check the following boxes that apply:

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

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

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

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:
https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf

RECEIVING LANDOWNER NAME N/A			PHONE NO.	ADDITIONAL CONTACT NO.
ADDRESS			FAX NO.	RECEIVED
CITY	STATE	ZIP	E-MAIL	JUL 24 2023
Describe any special ownership circumstances:				OWRD
The confirming Certificate shall be issued in the name of: <input type="checkbox"/> Applicant <input type="checkbox"/> Receiving Landowner				

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

IRRIGATION DISTRICT NAME None Known	ADDRESS	
CITY	STATE	ZIP

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

ENTITY NAME None Known	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 Marion County	ADDRESS 5155 Silverton Rd NE	
CITY Salem	STATE OR	ZIP 97305

RECEIVED

JUL 24 2023

OWRD

Part 5a 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 # **95394**

RECEIVED

Description of Water Delivery System

JUL 24 2023

System capacity: **1.37*** cubic feet per second (cfs) (per certificate) **OR**

N/A gallons per minute (gpm)

OWRD

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 current water delivery system uses a submerged pump in the well that conveys water via above ground and underground pipes to a variety of watering devices depending on the crop.

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

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

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-____)	Twp		Rng		Sec	¼ ¼		Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Well 5	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	MARI 19214	5	S	1	W	33	SW	NE	900	2390' S & 2800' E OF NW S33
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed										
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed										

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU) | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE) | <input type="checkbox"/> Point of Appropriation/Well (POA) |
| <input 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.

14287

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 # 95394

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				
5	S	1	W	33	NE	NW	700	-	4.5	IRRIG	Well 5	1995		POU	5	S	1	W	28	NE	SW	1400	-	4.5	IRRIG	Well 5	1995	
TOTAL ACRES:									4.5						TOTAL ACRES:									4.5				

Additional remarks:

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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: None.

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.

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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:

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

Tip: You may search for well logs on the Department's web page at:
http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx

AND/OR

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

Table 3. Construction of Point(s) of Appropriation

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

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-_____	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well-specific rate (cfs or gpm). If less than full rate of water right
Well 5	Yes	See well log - Attachment E								

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Part 5b of 5 – Water Right Information

CERTIFICATE # 96728*

*Note: the portion of certificate number 96728 moving is a remaining right of T-14141 and the certificate number shall change.

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Description of Water Delivery System

System capacity: 0.372* cubic feet per second (cfs) (*per certificate) OR
N/A 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 current water delivery system uses a submerged pump in the well that conveys water via above ground and underground pipes to a variety of watering devices depending on the crop.

Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)
(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼	¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Well 5	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	MARI 19214	5 S	1 W	33	SW	NE	900	2390' S & 2800' E OF NW S33
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed								
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed								

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU) | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE) | <input type="checkbox"/> Point of Appropriation/Well (POA) |
| <input 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.

14287

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 # 96728*

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				
5	S	1	W	33	SE	NW	900	-	6.1	IRRIG	Well #5	1995	POU	5	S	1	W	28	NE	SW	1400	-	13.0	IRRIG	Well 5	1995		
5	S	1	W	33	SW	NE	900	-	6.9	IRRIG	Well #5	1995	POU															
TOTAL ACRES:									13.0						TOTAL ACRES:									13.0				

Additional remarks: ***Note: certificate number 96728 shall be changed per T-14141; it is a remaining right.**

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For Place of Use or Character of Use Changes

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

If YES, list the certificate, water use permit, or ground water registration numbers: None.



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.

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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:

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

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

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

AND/OR

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

Table 3. Construction of Point(s) of Appropriation

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

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well-specific rate (cfs or gpm). If less than full rate of water right
Well 5	Yes	See well log - Attachment E								

14287

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 MARION

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JUL 24 2023

OWRD

I, TOM FESSLER, in my capacity as FARM MANAGER,
mailing address 13009 MCKEE SCHOOL ROAD, WOODBURN, OR 97101
telephone number (503) 559-1471, 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
- Certificates 75776, 87974, 95394, AND 96728*; 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)

*Note: certificate number 96728 shall be changed per T-14141.

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)

14287

(continues on reverse side)

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

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

[Signature]
Signature of Affiant

7-06-23

Date

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JUL 24 2023

OWRD

Signed and sworn to (or affirmed) before me this 6th day of July, 2023.

[Signature]
Notary Public for Oregon

My Commission Expires: 12-16-23

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 confirming 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"> • Power usage records for pumps associated with irrigation use • Fertilizer or seed bills related to irrigated crops • Farmers Co-op sales receipt
<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"> • District assessment records for water delivered • Crop reports submitted under a federal loan agreement • Beneficial use reports from district • IRS Farm Usage Deduction Report • Agricultural Stabilization Plan • CREP Report
<input 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 – www.oregonexplorer.info/imagery OWRD – www.wrd.state.or.us Google Earth – earth.google.com TerraServer – www.terraserver.com</p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

14287

Valley Agronomics LLC

200 Industrial Way
PO box 258
Mt. Angel OR 97362

Bill To: FESSLER FARMS INC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Ship To: FESSLER FARMS INC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97071

Comments: Micheal

Quantity	Description	Unit Price	Total \$
40.000 Gal	Bloom On II 2.5 Gal	36.125 /Gal	1,445.00
8.000 Gal	Besiege Gal EPA / PCP Reg. Num. 100-1402 Restricted	337.83 /Gal	2,702.64
3.000 Gal	Transfix Gal	47.90 /Gal	143.70
15.000 Gal	3-0-7 Primacy Alpha 2.5 gal	55.208 /Gal	828.12

Terms: Thank you for your business!

Sub Total 5,119.46

Amount Due 5,119.46

Invoice**70045749**

Invoice Date 09/21/2022
Due Date 10/15/2022

Customer ID 384142

Customer P.O. Micheal
Salesperson CDUERST
Shipping Loc. MTANGL

Ticket(s) 700522

RECEIVED**JUL 24 2023****OWRD***B-3/3*

js

FESSLER FARMS INC

Pesticide # MICHEAL ROBERT HARTENSTEIN | AG-_L10411354PAL Exp. Date 12/31/2022

Invoice**70045749****14287**

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

ATTACH C-1/2

Applicant(s): Fessler Family, LLC & Woodburn Nursery, Inc.

RECEIVED

Mailing Address: 13009 McKee School Road

JUL 24 2023

City: Woodburn

State: OR

Zip Code: 97101

Daytime Phone: 503.559.1471

OWRD

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:
<u>5S</u>	<u>1W</u>	<u>28</u>	<u>N/A</u>	<u>1400, 1500, 1800</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Farming</u>
<u>5S</u>	<u>1W</u>	<u>33</u>	<u>N/A</u>	<u>600, 700, 900</u>	<u>EFU</u>	<input checked="" type="checkbox"/> Diverted	<input checked="" type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Farming</u>
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

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

Marion

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) Zollner Creek

Estimated quantity of water needed: 0.22 (T1&T2)) ☒ cubic feet per second ☐ gallons per minute ☐ acre-feet

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

Briefly describe:

The landowner is moving water rights to better utilize the water due to changing crops being in demand.

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. →

C-2/2

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): Farm use is outright permitted in EFU per MCC 17.136.020
- ☐ 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:	
	RECEIVED	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	JUL 24 2023	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	OWRD	<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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

Name: Daniel Jansen Title: Assistant Planner

Signature:  Phone: (503) 588 5038 Date: 7/19/2023

Government Entity: Marion County

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Application for Water Right Transfer



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

Consent by Deeded Landowner

State of Oregon)
)ss
County of Marion)

RECEIVED

JUL 24 2023

OWRD

I, Tom Fessler, in my capacity as Vice President,

mailing address 13009 MCKEE SCHOOL ROAD, WOODBURN, OR 97101,

telephone number (503) 559-1471, duly sworn depose and say that I

consent to the proposed change(s) to Water Right Certificate Number 96728*

described in a Water Right Transfer Application (T-unknown),
(transfer number, if known)

submitted by Fessler Family, LLC

on the property in tax lot number(s) 900,

Section 33 Township 5 South Range 1 West, W.M.,

located at unknown
(site address)

*Note: certificate 96728 shall be changed per T-14141.

Tom Fessler
Tom Fessler, Vice President

7-7-23
Date

Subscribed and Sworn to before me this 7th day of July, 20 23.



Tia Marie Gorman
Notary Public for Oregon

My commission expires 12-16-23.

Transfer FROM Map

Section 33, T5S, R1W, Marion County
Certificate 95394



1 IN = 1320 FT
0 660 1320

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LOCATION OF POINT OF APPROPRIATION (WELL#5):
WELL #5 IS 2390' SOUTH & 2800' EAST FROM NW S33 (PER CERTIFICATE 96728).

WELL #5 =
MARI 19214

NOTES:

- THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
- PROPERTY LINES AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 33, T5S, R1W.

LEGEND



DONATION LAND CLAIM (DLC) CORNER
SECTION CORNER
POINT OF DIVERSION OR APPROPRIATION

STREAM OR SURFACE DRAINAGE

TAX LOT LINE

SECTION LINE

QUARTER-QUARTER LINE

DLC LINES (NONE)

CONVEYANCE PIPELINES.

FROM ACRES 95394 Irrig

FROM ACRES 95394 Suppl

REMAIN ACRES 95394 Suppl

REMAIN ACRES 95394 Nursery



MAP BY:
**ASPEN RURAL LAND
CONSULTING**

ERIC URSTADT, PE, PLS

971-250-1520

JUN 2023

FesslerJoeBeyer7S

14287

Transfer FROM Map

Sections 28 & 33, T5S, R1W, Marion County
Certificate 96728* (see note)

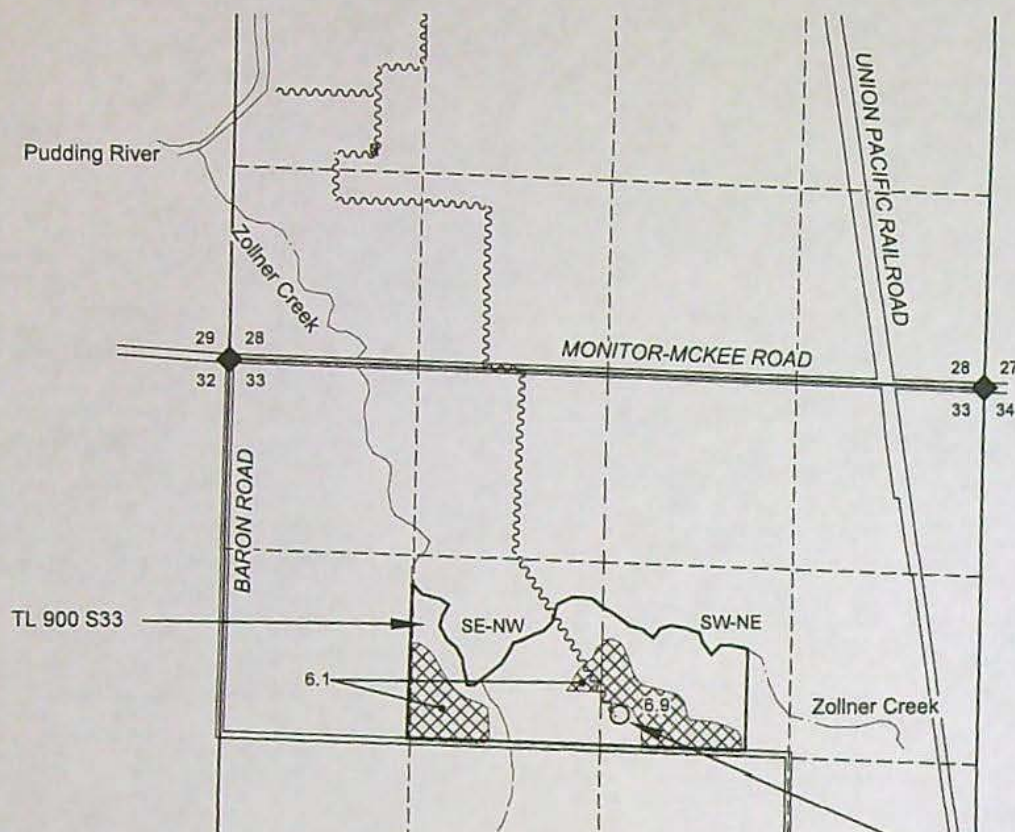


1 IN = 1320 FT
0 660 1320

RECEIVED

JUL 24 2023

OWRD



LOCATION OF POINT OF APPROPRIATION (WELL#5):
WELL #5 IS 2390' SOUTH & 2800' EAST FROM NW S33 (PER CERTIFICATE 96728).

WELL #5 =
MARI 19214

NOTES:

- THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
- PROPERTY LINES AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSESSOR MAP FOR SECTION 33, T5S, R1W.
- *THIS PART OF CERTIFICATE 96728 SHALL GET NEW CERTIFICATE NUMBER DUE TO BEING A REMAINING RIGHT PER (EXPEDITED) TRANSFER T-14141.
- THE BASIS OF THIS MAP IS THE APPLICATION MAP FOR T-14141.



LEGEND



- DONATION LAND CLAIM (DLC) CORNER
- SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION
- STREAM OR SURFACE DRAINAGE
- TAX LOT LINE
- SECTION LINE
- QUARTER-QUARTER LINE
- DLC LINES (NONE)
- CONVEYANCE PIPELINES.
- FROM ACRES 96728*

MAP BY:
**ASPEN RURAL LAND
CONSULTING**

ERIC URSTADT, PE, PLS
971-250-1520
JUN 2023
FesslerJoeBeyer7S

14287

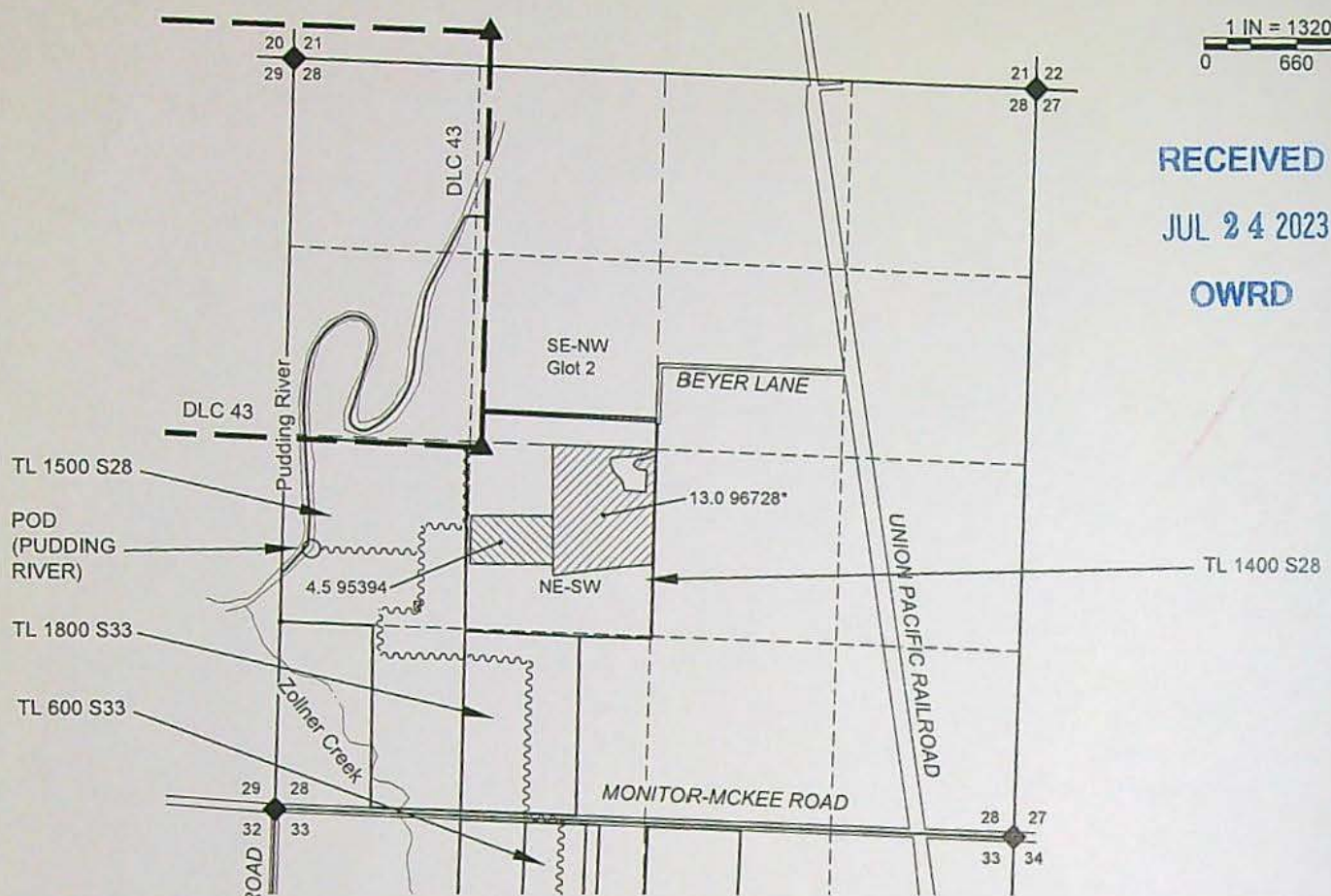
Transfer TO Map

Section 28, T5S, R1W, Marion County
Certificates 95394, 96728* See Note



1 IN = 1320 FT
0 660 1320

RECEIVED
JUL 24 2023
OWRD



LOCATIONS OF POINTS OF DIVERSION (POD) AND WELLS:
POD (ZOLLNER) SEE FROM MAP.
POD (PUDDING CREEK) IS 1830' NORTH AND 260' EAST FROM NW S33 (ADDITIONAL).
WELL #5 SEE FROM MAP

- NOTES:
- THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.
 - PROPERTY LINES AND QUARTER-QUARTER LINES ARE BASED ON THE TAX ASSES FOR SECTIONS 28 & 33, T5S, R1W.
 - *THIS PART OF CERTIFICATE 96728 SHALL GET NEW CERTIFICATE NUMBER DUE TO REMAINING RIGHT PER (EXPEDITED) TRANSFER T-14141.
 - THE BASIS OF THIS MAP IS THE APPLICATION MAP FOR T-14141.

LEGEND

- ▲ DONATION LAND CLAIM (DLC) CORNER
- ◆ SECTION CORNER
- POINT OF DIVERSION OR APPROPRIATION
- STREAM OR SURFACE DRAINAGE
- TAX LOT LINE
- SECTION LINE
- QUARTER-QUARTER LINE
- DLC LINES
- ~~~~~ CONVEYANCE PIPELINES.
- TO ACRES 96728 Irrig
- TO ACRES 95394 Irrig



MAP BY:
ASPEN RURAL LAND CONSULTING
ERIC URSTADT, PE, PLS
971-250-1520
JUN 2023
FesslerJoeBeyer7S

14287

STATE OF OREGON
WATER WELL REPORT
(as required by ORS 537.765)

RECEIVED

SEP 2 1994

(START CARD) # 65250

ATTACH

(1) OWNER:

Name Bob Fessler Woodburn Nursery
Address 11796 Monitor-McKee NE
City Woodburn State OR Zip 97071

(2) TYPE OF WORK:

☒ New Well ☐ Deepen ☐ Recondition ☐ Abandon

(3) DRILL METHOD:

☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

(4) PROPOSED USE:

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

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 391 ft.
Explosives used ☐ Yes ☒ No Type N/A Amount N/A

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
12"	0'	30'	Bentonite	0	30'	25 sacks
8	30	308	Neat Cemt	308	318	8 sacks
10"	308	318	Underreamed			
8	318	391				

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☒ Other Bentonite Poured Dry

Backfill placed from ft. to ft. Material

Gravel placed from ft. to ft. Size of gravel

(6) CASING/LINER:

Diameter	From	To	Gauge	Steel				Plastic	Welded	Threaded
				Steel	Plastic	Welded	Threaded			
Casing: 8"	+1	318	.250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Liner:				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Final location of shoe(s) 318

(7) PERFORATIONS/SCREENS:

☐ Perforations Method N/A
☐ Screens Type N/A Material OWRD

From	To	Slot size	Number	Diameter	Tele/plpe size	Casing	Liner
N/A						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

(8) WELL TESTS: Minimum testing time is 1 hour

☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
400	N/A	390	1 hr.

Temperature of Water 57 Depth Artesian Flow Found N/A

Was a water analysis done? ☐ Yes By whom

Did any strata contain water not suitable for intended use? ☒ Too little

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other

Depth of strata: upper Alluvium

(9) LOCATION OF WELL by legal description:

County Marion Latitude Longitude
Township 5 S N or S. Range 1 W E or W. WM.
Section 33 SW 1/4 NE 1/4
Tax Lot Lot Block Subdivision
Street Address of Well (or nearest address) Barron Road

(10) STATIC WATER LEVEL:

98 ft. below land surface. Date 8-11-94
Artesian pressure N/A lb. per square inch. Date

(11) WATER BEARING ZONES:

Depth at which water was first found <u>56</u>		EST. FLOW RATE	SWL
FROM	TO		
56	65	1 GPM	38
70	75	6 GPM	38
160	171	5 GPM	38
330	345	250 GPM	98
375	388	150 GPM	98

(12) WELL LOG:

Ground elevation

Material	From	To	SWL
Clay Sticky Brown	1	55	
Clay Sticky Blue	55	56	
Gravels Large with course Red	56		
Brown Sand		65	38
Claystone Med Green	65	70	
Sand Med Fine Grey some Gravels	70	75	38
Clay Sticky Grey	75	117	
Claystone Soft Grey & Brown	117	122	
Clay Sticky Grey & Brown	122	160	
Silt Grey with Wood	160	171	38
Clay Sticky Grey & Brown	171	267	
Claystone Med Grey & Dk Grey with	267		
Wood		272	
Clay Sticky Yellowish Brown	272	275	
Claystone Med Grey & Dk Gray	275	277	
Clay Sticky Yellowish Brown	277	312	
Basalt Hard Black	312	330	
Basalt Med Pourous Black	330	345	98
Basalt Hard Grey	345	375	
Basalt Med Pourous Black with	375		
Claystone Hard Dk Green		388	98
Claystone Hard Blue	388	391	

Date started 8-2-94 Completed 8-11-94

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed Carla Allen WWC Number 1633
Date 8-11-94

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed Dennis H. Hays WWC Number 1358
Date 9-21-94



Rural Land Consulting

Water Resources, Water Rights, Land
Surveying, Engineering, Land Use Planning

ERICURSTADT@HOTMAIL.COM
971-250-1520 (MOBILE)

RECEIVED

JUL 24 2023

OWRD

Water Resources Department
Attn: Transfer Section
725 Summer Street NE, Ste. A
Salem, OR, 97301

22 JUN 2023

Subject: New Transfer application for certificates 75776, 87974 and 95394.

To Whom It May Concern,

Enclosed is an application for a transfer to change the place of use for certificates 95394 and 96728* together with the following attachments:

- A. Transfer Maps
 - 1. 95394 FROM lands
 - 2. 96728* FROM lands
 - 3. TO lands
- B. Evidence of Use
 - 1. Evidence of Use Form
 - 2. Evidence of Use
- C. Land Use Compatibility Statement
- D. Consent from Landowner
- E. Well Log
- F. Transfer Reimbursement Authority Estimate Application
- G. 2 checks made out to "Oregon Water Resources Department".
 - 1. One for \$1970.00 (per application fee worksheet), and
 - 2. One for \$125.00 (for Reimbursement Authority).

Please let me know if there are any concerns or you need any more information.

*Note: certificate 96728 shall be changed per T-14141.

Respectfully,
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS

14287

Permanent Transfer Application Checklist

Check the Certificates in WRIS

Transfer # T-14287

Checked by <u>Dante</u>	Type of Change(s) Proposed: <u>NO</u> other changes allowed other than those listed	
Date <u>7/27/2023</u>		
Fee Received: \$1970	<input checked="" type="checkbox"/> POU <input type="checkbox"/> POD <input type="checkbox"/> APOD <input type="checkbox"/> POA <input type="checkbox"/> APOA <input type="checkbox"/> USE	
Calculated Fee: \$1970		How many rights to be Transferred? <u>2</u>
Deficiencies and Observations: Should be worked on and passed in conjunction with T-14141, as they involve the same right. There will be another transfer aside from these that also needs to be paired.		Certificate #(s) <u>95394, 96728</u>

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 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 » Transfer Fee:	8	