

Regular

RA

Name Fessler Family LLC

Address 13009 mckee School Rd
Woodburn Oregon 97101
Tamf@woodburnnursery.com

Change in PDV ADD
Date Filed 7/24/2023
Initial notice date 8/8/2023
DPD issued date _____
PD issued date 4/10/2024
PD notice date 4/16/2024
Date of FO 6/10/24 Vol 131 Page 275-281

C-Date _____
COBU due date _____
COBU Received date _____
Certificate issued _____

DESCRIPTION OF WATER RIGHT(s)

Name of Stream well

Trib. of Riding river basin

Use _____ County Marion

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

Name of ditch _____

App# 529014 Per # 523108 Cert # 757710 PR Date 3/19/94

App# " Per # " Cert # 87974 PR Date 3/19/94

App# 614013 Per # 613103 Cert # 95394 PR Date _____

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

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

FEES PAID

Date	Amount	Receipt #
<u>7-24-2023</u>	<u>\$3,670.00</u>	<u>141246</u>
<u>7-24-2023</u>	<u>\$125.00</u>	<u>141236</u>
<u>8-9-2023</u>	<u>\$1362.71</u>	<u>141349</u>

FEES REFUNDED

Date	Amount	Receipt #

Assignments: _____

Irrigation District _____

Agent Aspen rural - 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

June 10, 2024

Fessler Family, LLC

Tom Fessler

13009 McKee School Rd.

Woodburn, OR 97071

REFERENCE: Transfer Application T-14288

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-14288, Marion County)	APPROVING ADDITIONAL POINTS OF
)	DIVERSION AND TO CHANGE THE PLACE
)	OF USE

Authority

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

Applicant

FESSLER FAMILY, LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97101

Findings of Fact

1. On July 24, 2023, Fessler Family, LLC filed an application for an additional point of diversion and to change the places of use under Certificates 75776, and 87974 and to change the place of use under Certificate 95394. The Department assigned the application number T-14288.
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 July 24, 2023, Transfer Application T-14287 was filed. This transfer modifies the same right, Certificate 95394, proposed for transfer in T-14288. Certificate 95394 shall be cancelled after both transfer applications are processed.
4. On December 20, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14288 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

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.

Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

5. On April 10, 2024, the Department issued a Preliminary Determination proposing to approve Transfer Application T-14288 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 in the Woodburn Independent newspaper 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.

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

Certificate: 75776 in the name of ROBERT F. FESSLER AND MARTHA J. FESSLER
(perfected under Permit S-23108)

Use: IRRIGATION OF 8.0 ACRES

Priority Date: FEBRUARY 15, 1954

Rate: 0.099 CUBIC FOOT PER SECOND

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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: ZOLLNER CREEK, a tributary of the PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SE NW	NOT DESCRIBED IN CERTIFICATE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	SW NE	6.2
5 S	1 W	WM	33	NE NW	0.5
5 S	1 W	WM	33	SE NW	1.3
TOTAL					8.0

7. Transfer Application T-14288 proposes an additional point of diversion approximately 4,050 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	28	NW SW	(PUDDING) POD 2 - 1830 FEET NORTH AND 260 FEET EAST FROM THE NW CORNER OF SECTION 33

8. Transfer Application T-14288 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	28	SE NW	2	5.3
5 S	1 W	WM	28	NE SW		2.7
TOTAL						8.0

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

Certificate: 87974 in the name of ROBERT FESSLER (perfected under Permit S-23108)

Use: IRRIGATION OF 3.8 ACRES

Priority Date: FEBRUARY 15, 1954

Rate: 0.043 CUBIC FOOT PER SECOND

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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: ZOLLNER CREEK, tributary to PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SE NW	(ZOLLNER) POD 1 - 1630 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	1.8
5 S	1 W	WM	33	SE NW	2.0
TOTAL					3.8

10. Transfer Application T-14288 proposes an additional point of diversion approximately 4,050 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	28	NW SW	(PUDDING) POD 2 - 1830 FEET NORTH AND 260 FEET EAST FROM THE NW CORNER OF SECTION 33

11. Transfer Application T-14288 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	3.8

12. The portion of the third right to be transferred is as follows:

Certificate: 95394 in the name of FESSLER FAMILY LLC (perfected under Permit G-13673)
Use: SUPPLEMENTAL IRRIGATION OF 4.3 ACRES
Priority Date: MARCH 24, 1995
Rate: 0.053 CUBIC FOOT PER SECOND
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 per acre for each acre irrigated during the irrigation season of each year.
Period of Use: MARCH 1 THROUGH OCTOBER 31
Source: WELL 5, in the PUDDING RIVER BASIN

Authorized Point of Diversion:

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:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	2.3
5 S	1 W	WM	33	SE NW	2.0
TOTAL					4.3

13. Transfer Application T-14288 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	4.3

14. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

15. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.

16. 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-14288.
17. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
18. The proposed additional point of diversion diverts water from the same source of surface water as the authorized points of diversion, as required by OAR 690-380-2110(2).
19. The proposed changes, as conditioned, would not result in enlargement of the rights.
20. The proposed changes, as conditioned, would not result in injury to other existing water rights.
21. All other application requirements are met.

Conclusions of Law

The additional point of diversion and change in places of use proposed in Transfer Application T-14288 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

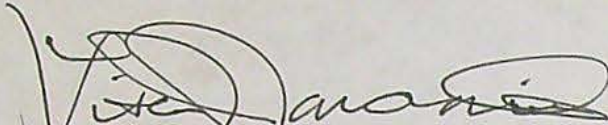
Now, therefore, it is ORDERED:

1. The additional point of diversion and change in places of use proposed in Transfer Application T-14288 is approved.
2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 75776, 87974, and 95394 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 additional point of diversion or the new places of use.
4. Water right Certificates 75776, and 87974 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.
5. Water right Certificate 95394 is modified and will be cancelled upon approval of T-14287. A new certificate will be issued describing that portion of the right not affected by this transfer.

6. The quantity of water diverted at the new additional point of diversion ((Pudding) POD 2), together with that diverted at the original point of diversion ((Zollner) POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion ((Zollner) POD 1).
7. Water shall be acquired from the same source of surface water as the original points of diversion.
8. The former place of use of the transferred rights shall no longer receive water under the rights.
9. Water use measurement conditions:
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (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.
10. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
11. 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.

12. 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

ROBERT F. FESSLER AND MARTHA J. FESSLER
11796 MONITOR-MCKEE ROAD
WOODBURN, OR 97071

confirms the right to use the waters of ZOLLNER CREEK, a tributary of the PUDDING RIVER, for IRRIGATION of 0.9 ACRE.

This right was perfected under Permit S-23108. The date of priority is FEBRUARY 15, 1954. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.011 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q
5 S	1 W	WM	33	SE NW

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

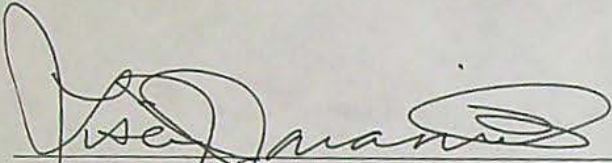
IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	0.9

This certificate describes that portion of water right Certificate 75776, 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-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. The use confirmed herein may be made only at times when sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

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

ROBERT FESSLER
11796 MONITOR MCKEE RD NE
WOODBURN, OR 97071

confirms the right to use the waters of ZOLLNER CREEK, tributary to PUDDING RIVER for IRRIGATION of 0.6 ACRE.

This right was perfected under Permit S-23108. The date of priority is FEBRUARY 15, 1954. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.007 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SE NW	1630 FEET SOUTH AND 2340 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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	0.6

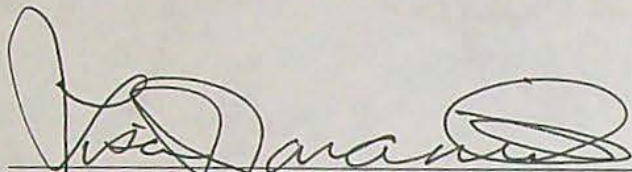
This certificate describes that portion of water right Certificate 87974, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered JUN 10 2024, approving Transfer Application T-14288.

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



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

June 10, 2024

Robert F. Fessler and Martha J. Fessler
11796 Monitor-McKee Rd.
Woodburn, OR 97071

RE: Water Right Certificates 97591 and 97592– Remaining Right

The enclosed water rights *may* be appurtenant to land you own. The water right certificates describe the water rights that remains UNCHANGED as a result of Transfer Application T-14288.

The enclosed documents (Certificates 97591 and 97592) **do NOT confirm** the validity or status of the water rights regarding the provisions of Oregon Revised Statute 540.610 pertaining to forfeiture or abandonment.

Please feel free to call the Department's Customer Service Group at (503) 986-0801, if you have any questions.

Sincerely,

Elyse Richman
Water Right Services Support
Transfers and Conservation Section

WATER RIGHT TRANSFER COVER SHEET

Transfer: T- 14288

Transfer Specialist: Dante L.

Transfer Type: Permanent Reimbursement Authority? ☒

Applicant: Fessler Family LLC	Agent: Aspen Rural Land Consulting Sara L. Traeger	Receiving Landowner:
Current Landowner if other than Applicant:	CWRE: Eric Vinstadt	Irrigation District:
Affected Local Gov'ts:	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"/>			75776	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>			87474	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>			95394	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions (Support Staff)

Rec'd:	Proposed Action(s):
Fees Pd: \$3570 \$125 \$1362.71	Acknowledgement Letter Sent <input type="checkbox"/>
Initial Public Notice:	County sent cc: of Ack Letter <input type="checkbox"/>
WM District: 16	WM Review request sent:
ODFW District:	ODFW Review sent:
Groundwater	GW Review sent:

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: 9-7-23 Initials: AZ	Date: 9-10-23 Initials: RF	Date: 12-13-24 Initials: PLS	Date: 12-18-24 Initials: AZ	CW Sent: <input type="checkbox"/> WM Sheet <input type="checkbox"/> ODFW Sheet: <input type="checkbox"/>	N/A
PD	Date: 1-5-24 Initials: AZ	Date: Initials:	Date: 1-17-24 Initials: PLS	Date: 1-18-24 Initials: AZ Data Review Date: 1-26-24	Date: 4-4-24	Date: 4/10/24
FO	Date: 2-24-24 Initials: AZ	Date: Initials:	Date: 2-25-24 Initials: PLS	Date: 2-25-24 Initials: AZ	Date: 4-5-24 No. of docs for sig: 3	Date: 6/10/24

Special Issues:

Special Order Volume: Vol. 131 Pages 275-281

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

INVOICE # _____

APPLICATION	
PERMIT	
TRANSFER	



OTHER: (IDENTIFY)

TOTAL REC'D	\$ 98.17
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RECORD FEE

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LICENSE FEE

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CARD#	
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CARD#

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2

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DESCRIPTION _____

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DATED: 3-29-2027 BY: [Signature]

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

WOODBURN NURSERY & AZALEAS, INC.

THE ATTACHED CHECK IS IN FULL PAYMENT OF ITEMS LISTED ABOVE

OWRD

PERIOD ENDING		DAYS HRS	RATE	REGULAR OVERTIME	GROSS	F.I.C.A	FED. INC. TAX	STATE INC. TAX	INS.	NET PAY
DATE										
DISCRIPTION					GROSS					AMOUNT
MAR 29 2024										

Received



PO Box 22109 Portland, OR 97269-2169
Phone: 503-684-0360 Fax: 503-620-3433
E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

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

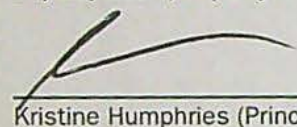
Ad#: 321142

Owner: Oregon Water Resources Department

Description: Notice of Preliminary Determination for Water Right Transfer T-14288

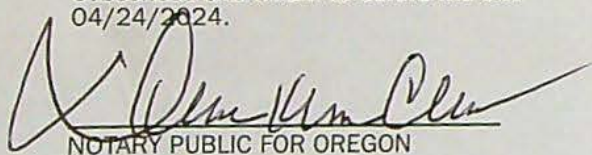
A copy of which is hereto annexed, was published in the entire issue of said newspaper for 2 week(s) in the following issue:

04/17/2024, 04/24/2024



Kristine Humphries (Principal Clerk)

Subscribed and sworn to before me this
04/24/2024.



NOTARY PUBLIC FOR OREGON

Acct #: 149038

Attn: ELYSE D. RICHMAN

OREGON WATER RESOURCES DEPARTMENT
725 SUMMER STREET SE, SUITE A
SALEM, OR 97301



SEE EXHIBIT A

Received
MAY 07 2024
OWRD

EXHIBIT A

Notice of Preliminary Determination for Water Right Transfer T-14288

T-14288 filed by Fessler Family LLC, 13009 McKee School Rd, Woodburn, OR 97071, proposes an additional point of diversion and a change in place of use under Certificates 75776, 87974, and 95934. Certificate 75776 allows the use of 0.10 cubic foot per second (cfs) from Zollner Creek in Sec. 33, T5S, R1W, WM for irrigation in Sec. 33, T5S, R1W, WM. The applicant proposes an additional point of diversion in Sec. 28, T5S, R1W, WM and to change the place of use to Sec. 28, T5S, R1W, WM. Certificate 87974 allows the use of 0.04 cfs from Zollner Creek in Sec. 33, T5S, R1W, WM for irrigation in Sec. 33, T5S, R1W, WM. The applicant proposes an additional point of diversion in Sec. 28, T5S, R1W, WM and to change the place of use to Sec. 28, T5S, R1W, WM. Certificate 95934 allows the use of 0.05 cfs from a well in Sec. 33, T5S, R1W, WM for supplemental irrigation in Sec. 33, T5S, R1W, WM. The applicant proposes to change the place of use to Sec. 28, T5S, R1W, WM. The Water Resources Department proposes to approve the transfer, based on the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, a protest or standing statement within 30 days after the last date of newspaper publication of this notice, April 24, 2024. Call (503) 986-0935 to obtain additional information. If no protests are filed, the Department will issue a final order consistent with the preliminary determination. Published April 17 & 24, 2024.

WI321142

Received
MAY 07 2024
OWRD



Oregon

Tina Kotek, Governor

Water Resources Department

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

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-14288

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-14288. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

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

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

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

Sincerely,

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

Dante Luongo
Transfer Specialist
Transfer and Conservation Section

cc: T-14288
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-14288, Marion County)	PROPOSING APPROVAL FOR ADDITIONAL
)	POINTS OF DIVERSION AND TO CHANGE
)	THE PLACE OF USE

Authority

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

Applicant

FESSLER FAMILY, LLC
13009 MCKEE SCHOOL RD
WOODBURN, OR 97101

Findings of Fact

1. On July 24, 2023, Fessler Family, LLC filed an application for an additional point of diversion and to change the places of use under Certificates 75776, and 87974 and to change the place of use under Certificate 95934. The Department assigned the application number T-14288.
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 July 24, 2023, Transfer Application T-14287 was filed. This transfer modifies the same right, Certificate 95394, proposed for transfer in T-14288. Certificate 95394 shall be cancelled after both transfer applications are processed.
4. On December 20, 2023, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-14288 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.

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.

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

Certificate: 75776 in the name of ROBERT F. FESSLER AND MARTHA J. FESSLER
(perfected under Permit S-23108)
Use: IRRIGATION OF 8.0 ACRES
Priority Date: FEBRUARY 15, 1954
Rate: 0.099 CUBIC FOOT PER SECOND
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 ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.
Source: ZOLLNER CREEK, a tributary of the PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SE NW	NOT DESCRIBED IN CERTIFICATE

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	SW NE	6.2
5 S	1 W	WM	33	NE NW	0.5
5 S	1 W	WM	33	SE NW	1.3
TOTAL					8.0

6. Transfer Application T-14288 proposes an additional point of diversion approximately 4050 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	28	NW SW	(PUDDING) POD 2 - 1830 FEET NORTH AND 260 FEET EAST FROM THE NW CORNER OF SECTION 33

7. Transfer Application T-14288 also proposes to change the place of use of the right to:

IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	DLC	Acres
5 S	1 W	WM	28	SE NW	2	5.3
5 S	1 W	WM	28	NE SW		2.7
TOTAL						8.0

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

Certificate: 87974 in the name of ROBERT FESSLER (perfected under Permit S-23108)
Use: IRRIGATION OF 3.8 ACRES
Priority Date: FEBRUARY 15, 1954
Rate: 0.043 CUBIC FOOT PER SECOND

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 for each acre irrigated, and shall be further limited to a diversion of not to exceed 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

Source: ZOLLNER CREEK, tributary to PUDDING RIVER

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	33	SE NW	(ZOLLNER) POD 1 - 1630 FEET SOUTH AND 2340 FEET EAST FROM THE NW CORNER OF SECTION 33

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	1.8
5 S	1 W	WM	33	SE NW	2.0
TOTAL					3.8

9. Transfer Application T-14288 proposes an additional point of diversion approximately 4050 feet downstream to:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
5 S	1 W	WM	28	NW SW	(PUDDING) POD 2 - 1830 FEET NORTH AND 260 FEET EAST FROM THE NW CORNER OF SECTION 33

10. Transfer Application T-14288 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	3.8

11. The portion of the third right to be transferred is as follows:

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

Use: SUPPLEMENTAL IRRIGATION OF 4.3 ACRES

Priority Date: MARCH 24, 1995

Rate: 0.053 CUBIC FOOT PER SECOND

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 per acre for each acre irrigated during the irrigation season of each year.

Period of Use: MARCH 1 THROUGH OCTOBER 31

Source: WELL 5, in the PUDDING RIVER BASIN

Authorized Point of Diversion:

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:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	33	NE NW	2.3
5 S	1 W	WM	33	SE NW	2.0
TOTAL					4.3

12. Transfer Application T-14288 proposes to change the place of use of the right to:

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
5 S	1 W	WM	28	NE SW	4.3

13. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

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

14. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the rights are subject to forfeiture under ORS 540.610.
15. 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-14288.
16. The water rights are subject to transfer as defined in ORS 540.505(4) and OAR 690-380-0100(14).
17. The proposed additional point of diversion diverts water from the same source of surface water as the authorized points of diversion, as required by OAR 690-380-2110(2).
18. The proposed changes, as conditioned, would not result in enlargement of the rights.
19. The proposed changes, as conditioned, would not result in injury to other existing water rights.

20. All other application requirements are met.

Determination and Proposed Action

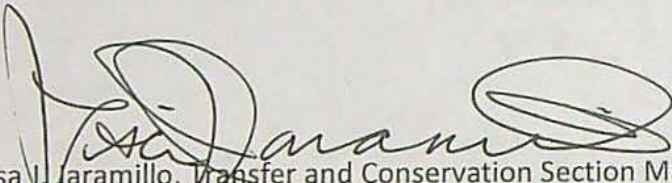
The additional point of diversion and change in places of use proposed in Transfer Application T-14288 appear to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

If Transfer Application T-14288 is approved, the final order will include the following:

- 1. The additional point of diversion and change in places of use proposed in Transfer Application T-14288 is approved.*
- 2. The right to the use of the water is restricted to beneficial use at the place of use described and is subject to all other conditions and limitations contained in Certificates 75776, 87974, and 95934 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 additional point of diversion or the new places of use.*
- 4. Water right Certificates 75776 and 87974 are cancelled. New certificates will be issued describing that portion of the rights not affected by this transfer.*
- 5. Water right Certificate 95934 is modified and will be cancelled upon approval or denial of T-14287. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 6. The quantity of water diverted at the new additional point of diversion ((Pudding) POD 2), together with that diverted at the original point of diversion ((Zollner) POD 1), shall not exceed the quantity of water lawfully available at the original point of diversion ((Zollner) POD 1).*
- 7. Water shall be acquired from the same source of surface water as the original points of diversion.*
- 8. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 9. Water use measurement conditions:*
 - a. Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each point of diversion (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.
10. Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.
11. 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.
12. 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.

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

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

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

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

☒ RA

PERMANENT TRANSFER APPLICATION CHECKLIST – Single Cert

Transfer #: T- 14288			Applicant: Fessler Family LLC		Caseworker:
Applicant Contact:			Phone Number: 603 554 1471		Email:
Applicant Agent: Eric Unstut			Phone Number: 603 250 1520		Email:
CW	PR	Coord	County:	Certificate: 75776 8774 95394	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Type of Change(s) Proposed: <input checked="" type="checkbox"/> POU <input checked="" type="checkbox"/> POD <input checked="" type="checkbox"/> APOD <input type="checkbox"/> POA <input type="checkbox"/> APOA <input type="checkbox"/> USE <input type="checkbox"/> Substitution <input type="checkbox"/> Gov't Action		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Transfer requiring supplemental review criteria (supplemental checklists to be developed) <input type="checkbox"/> CHAR OF USE <input type="checkbox"/> CONSENT TO INJURY OF ISWR <input type="checkbox"/> SW to GW <input type="checkbox"/> SUPPLEMENTAL IR to PRIMARY IR		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Print for file or save all certificates in electronic "T" folder and highlight Priority Date, Rate, Use and Limit/Duty paragraph		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Supplemental checklist for transfers w/in a District (S:\groups\wr\TACS\WRISApps Templates\Transfer Checklists\SUPP_Within District Processing Checklist 9-5-2019) <input checked="" type="checkbox"/> N/A District Name: If this is a Living Certificate – check with Ann Reece		
Supplemental Language document referenced below is located here: S:\groups\wr\TACS\6. Transfers\2. Caseworker Tools and Training\Supplemental Language					

Transfer Application Review and Deficiencies

CW	PR	Coord	Deficiencies that may cause a denial – please explain	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> Problem with Table 1, Range mislabelled	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Assign file in WRIS	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are all applicants/agents listed in WRIS with email addresses, if available?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have all permit/certificates been entered in WRIS under Transfer #?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Were Public Comments received? (if yes, enter commenter names/email on mailing list)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If yes, were they timely?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Add finding for any comments received (see Supplemental Language document)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notes:	

Review "From" and "To" Lands and/or POD/POA

CW	PR	Coord		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are the "from" acres on the map authorized POD(s)/POA(s)/POU?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does the "from" map match the certificate map? If No, what is different?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are any of the "from" lands being cancelled/diminished?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, were cancellation/diminution affidavits submitted? (see findings in Supplemental Language doc)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Compare FROM POU in application (Table 2) with certificate. <i>Mark certificate with acres being xferred (FROM acres), any RR acres and any acres being cancelled.</i>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Compare TO POU in Table 2 with the TO Lands on map (<i>for accuracy</i>)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are any instream water rights affected? If Yes, Cert # (If Yes, check criteria for injury-upstream POD move, moving closer to SW, or return flows affected)
			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Layered/Supplemental Rights				
CW	PR	Coord	<input type="checkbox"/> N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are any supplemental rights being transferred? (<i>verify that it is actually a supplemental right</i>)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, are they being transferred to a "like" primary (i.e. similar reliability) or are they moving with a primary under the transfer?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Are there any layered irrigation rights not included in the transfer?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If No, they must move with the primary, to a "like" primary, or be cancelled via a cancellation affidavit.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Layered right(s) Cert: 95434	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notes:	

Transfer Review Criteria				
CW	PR	Coord		
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Validity of the right – Has the right been used in the last 5 years and is not subject to forfeiture?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/> Evidence of use and supporting documentation <input type="checkbox"/> Confirming (not a remaining right) cert issued within the last 5 years <input type="checkbox"/> Rebuttal to forfeiture (ORS 540.610)	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Ready, Willing and Able – <input type="checkbox"/> Current delivery system sufficiently described in application. Does delivery system have capacity to fully divert and use the authorized rate/duty of the right?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Would the proposed transfer result in enlargement? If Yes, why? What conditions, if any, will avoid?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Would the proposed transfer result in injury? If Yes, why? What conditions, if any, will avoid?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If injury, has WM or GW provided a list of injured water right holders? <input type="checkbox"/> N/A	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If POD/POA/APOD/APOA change, will it be from the same source? If No, deny per OAR 690-380-2110(2) <input type="checkbox"/> N/A	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notes:	

Reviews and Conditions				
CW	PR	Coord	<i>If review is required and has not been submitted, contact reviewer. DPD cannot be issued without reviews.</i>	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has the Watermaster review been received? Conditions:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has the ODFW review been received? (<i>required on SW POD or APOD change only</i>) <input type="checkbox"/> N/A Conditions:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has the Groundwater review been received? <input type="checkbox"/> N/A Conditions: (<i>required on POA change, APOA or SW to GW only</i>)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Draft Preliminary Determination and Cover Letter – 12 pt. Calibri font

CW	PR	Coord	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare ModPod workareas (see S:\groups\wr\TACS\Resources & Reference\Procedures ModPod Procedures 10-2022 for instructions on creating work areas through ModPod)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare DPD (save as T-XXXXX-dpd) (where XXXXX is the transfer number)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare DPD Cover letter (save as T-XXXXX-dpd-cov)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare Notice (save as T-XXXXX-pd-notice)

Remaining Right(s)

CW	PR	Coord	<input type="checkbox"/> N/A
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare Remaining Right (RR) (if applicable). Save as T-XXXXX-rr-CCCCC-NNNNN (CCCCC = current certificate number, NNNNN = new certificate number). Send with DPD, cover letter and notice for peer review.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Assign new certificate number to remaining right cert (send cert number to Data with PD)
			Orig Cert # RR Cert #
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Make sure all RRs are issued in the original name*, conditions match and duty paragraph matches (if irrigation)
			*Note: Remaining rights can only be issued in the name of the current landowner(s) of the remaining rights IF 1) the Report of Ownership information supplied for the transfer covers all of the remaining right lands (as well as the right being transferred) and 2) the applicant asks for the remaining right to be issued in their name. IF there is a change to remaining right (other than what transfer authorizes) – ADD RECONSIDERATION LANGUAGE “other than contested case.”
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Send DPD, cover letter, remaining right and notice for Peer Review

Issue Draft Preliminary Determination

CW	PR	Coord	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	DPD, cover letter and notice are peer reviewed and signed off by Analyst
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Copy DPD and cover letter for paper file
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Save DPD and cover letter as PDF
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Mail/email to applicant/agent/WM
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Add workflow item “Draft PD Issued”

Report of Ownership Information (ROI)

CW	PR	Coord			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Does legal description in ROI/Deed match “from” lands?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have all owners on the ROI/Deed signed the application?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Has a notarized statement of consent been submitted? (if applicable) <input type="checkbox"/> N/A	<input type="checkbox"/> Yes	<input type="checkbox"/> No

Newspaper Notice (if required)

CW	PR	Coord	<input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Name of newspaper: (A list of approved newspapers can be obtained from Elyse)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare/send letter to applicant/agent regarding newspaper notice cost
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	NRS1 delivered receipted funds to caseworker

Preliminary Determination and Cover Letter Preparation

CW	PR	Coord	See cheat sheet at (S:\groups\wr\TACS\6. Transfers\Procedures\DPD to PD Conversion 12-8-2016) for more detailed instructions
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Was application amended after DPD was issued? - Make sure amended pages were scanned to WRIS (see support staff) and make sure you mark amended (replaced) pages with SUPERSEDE. Also make findings in PD. <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If Yes, what was amended?
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Did amendment change determination from denial to approval? <i>Make findings in PD.</i> <input type="checkbox"/> Yes <input type="checkbox"/> No
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> If POD/POA changes or changes in "from" lands – re-review required from WM <input type="checkbox"/> If POA changes – re-review required from GW
<i>Note: If POD was amended and changed from a downstream move to upstream within an ISWR reach – Consent to Injury may be required.</i>			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Save DPD as a new document (T-XXXXX-pd.doc) – 12 pt. Calibri font
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Remove "Draft" from document
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unhide hidden findings (cntrl-A, select Font, uncheck "hidden" box) and add dates
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If application was amended, add finding including date of amendment
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Change language resulting from any amendments in response to the DPD, including language under Determination and Proposed Action
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Unhide appeal (protest) language at the end of the document
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Prepare PD Cover Letter (save as T-XXXXX-pd-cov)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Check email address(s) for accuracy
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Notes:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Send to caseworker/Kelly for Peer Review

Data Center Review of PD

CW	PR	Coord	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Email PD and RR(s)(with new cert numbers) to Duff for review – indicate if file is RA
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Data Center will send notification that file is complete
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Make any necessary changes to PD or prepare Revised DPD (if substantive changes)

Issue Preliminary Determination

CW	PR	Coord	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Print PD and put in Manager's box for signature and issuance (support will print cover letter)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Add workflow notes

Final Order

CW	PR	Coord	See cheat sheet at (S:\groups\wr\TACS\6. Transfers\Procedures\PD to FO Conversion 12-8-2016) for more detailed instructions
Do not issue Final Order before this date: (protest period end date or 30 days after date of last newspaper publication)			
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have protests been received? If YES, STOP! Coordinate with Protest section.
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	If application had a newspaper notice, verify that Affidavit of Publication was received. Date:
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Save PD as a new document (T-XXXXX-ord-approve (or deny))
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Remove "PRELIMINARY DETERMINATION" from document title and replace with "FINAL ORDER." Unhide hidden findings (cntrl-a, select Font, uncheck "hidden" box)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Replace "PROPOSING APPROVAL/DENIAL OF" with APPROVING/DENYING
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Replace the "judicial review/reconsideration rights" box in the first page footer for the "Final Order" judicial review language; unhide and add Special Order Volume (support will add page #)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Update the hidden paragraph following the public notice and amendments findings (regarding issuance of PD)
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Change "Determination and Proposed Action" to "Conclusions of Law" and update paragraph
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Replace "If application T-XXXXX is approved . . ." with Now, therefore, it is ORDERED:"
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Select list of conditions below "It is ORDERED" section and turn off Italics. Check numbering (start at "1").
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Delete Protest language, Document preparation box, and Notice Regarding Servicemembers; Insert "Mailing Date: _____"
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Final Check: All Conclusions of Law are supported by Findings and Transfer Review Criteria

Remaining Rights

CW	PR	Coord	<input type="checkbox"/> N/A
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Make sure all RR certs have new cert numbers and are entered on the right side of the footer of each RR
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Update left side of footer to read: T-XXXXX.rr.YYYYY.ZZZZ.ini, where YYYYY is original cert number, ZZZZ is the new cert number, and .ini stands for your initials
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Print RR on certificate paper and include with Final Order for signature

Issue Final Order

CW	PR	Coord	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Pull "Working Copy" folder from file
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Print and put FO and RR in Manager's box for signature (manager will deliver to support for processing and issuance)

Mailing List

CW	PR	Coord	
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Commenter(s):

Notes:

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **141349**

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

INVOICE # _____

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

APPLICATION	
PERMIT	
TRANSFER	<u>7-14288</u>

CASH: ☐ CHECK: # 71406 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,362.71

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47124 R 11456.25 \$ _____
0412 OTHER: (IDENTIFY) Transfer Reimbursement Authority \$ 1,362.71
0243 I/S Lease _____ 0244 Muni Water Mgmt. Plan _____ 0245 Cons. Water _____

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

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

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: **141349**

DATE: 8-7-23 BY: [Signature]

**REIMBURSEMENT AUTHORITY
APPLICANT'S AGREEMENT
Contract Number: R11-456-25**

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-14288)

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 **\$1,362.71**. Applicant agrees to pay the full amount of **\$1,362.71** 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.

Step	Review Step	Est. Time	Hourly Multiplier	Total Est. Hours	Individual	Hourly Rate	Est. Cost
4b	Caseworker receipts received AA funds						
4c	RA Support process Application						
5	Administrator signs AA						
6	RA Support enters workflow record in WRIS and updates RA spreadsheet						
7a	NRS 2 completes initial review of file for deficiencies						
7b	NRS 2 consults with Analyst and/or Manager						
9	Watermaster completes review						
11	NRS 2 completes DPD, PN, RR						
12	Caseworker peer reviews DPD, PN, cov ltr						
13	Transfer Analyst completes policy check at DPD stage						
14a	NRS 2 sends DPD to app/agent by email and/or mail						
15	NRS 2 reviews report of ownership						
16	NRS 2 completes PD						
17	Caseworker peer reviews PD						
17a	Transfer Analyst peer reviews PD						
17b	Data Center reviews PD (and RR where applicable)						
18e	Transfer Support processes public notice (dept notice)						
19	Administrator signs PD						
20	Transfer Support issues PD, updates WRIS, copy to file, and mails hard copy to applicant						
21	NRS 2 completes FO						
22	Caseworker peer reviews FO						
22b	Transfer Analyst peer reviews FO						
23	Administrator signs FO						
24	Transfer Support issues FO, updates WRIS, copy to file, record markings, and sends hard copy						
25	RA Support closes out RA Contract						
TOTAL ESTIMATED HOURS				24.74	SUB-TOTAL ESTIMATE COST		
					10% OVERHEAD		
					TOTAL		
					\$1,362.71		

**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 # **141236**

INVOICE # _____

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

APPLICATION	
PERMIT	
TRANSFER	T-14288

CASH: ☐ CHECK: # 71228 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 125.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES RII45623 \$ _____
0412 OTHER: (IDENTIFY) Transfer Reimbursement \$ 125.00
Authority

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:

141236

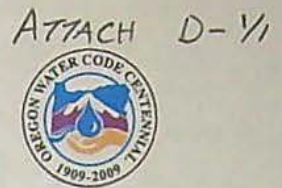
DATED:

7.24.23

BY: _____



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-14288 <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

RECEIVED

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: R11-456 -23

WATER RIGHT TRANSFER COVER SHEET

Transfer: T-14288

Transfer Specialist:

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"/>	S29014	S23108	75776	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	S29014	S23108	87974	<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	G14013	G13673	95394	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Key Dates & Initial Actions (Support Staff)

Rec'd: July 24, 2023	Proposed Action(s): ADDITIONAL POINT OF DIVERSION; PLACE OF USE	
Fees Pd: 3670.00	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 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: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	CW Sent: _____ WM Sheet <input type="checkbox"/> ODFW Sheet: <input type="checkbox"/>	N/A
PD	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____ Data Review Date: _____	Date: _____	Date: _____
FO	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ Initials: _____	Date: _____ No. of docs for sig: _____	Date: _____

Special Issues: _____



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 FARMS LLC

TOM FESSLER

13009 MCKEE SCHOOL RD

WOODBURN, OR 97071

Reference: Application T-14288

On July 24, 2023, the Department received your water right Permanent Transfer Application. The application was accompanied by \$3670.00. Receipt number 141246 is enclosed.

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

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

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

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

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

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

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

Marion County Planning Department

Eric Urstadt, Agent

Enclosure

OREGO0696

Oregon Water Resources Department

Check No: 71406

Document
PIN000694Supplier Inv #
T-14288Date
08/03/2023Discount
Amount Paid Description
\$1,362.71

Check Total : \$1,362.71

RECEIVED

AUG 07 2023

OWRD

STATE OF OREGON
WATER RESOURCES DEPARTMENT725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # 141246

INVOICE # _____

RECEIVED FROM: Woodburn Nursery and
BY: Azaleas, Inc.APPLICATION
PERMIT
TRANSFER T-14288CASH: ☐ CHECK: # 71227 OTHER: (IDENTIFY) ☐TOTAL REC'D \$ 3,670.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$
OTHER: (IDENTIFY) \$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201 SURFACE WATER \$ EXAM FEE 0202 \$
0203 GROUND WATER \$ EXAM FEE 0204 \$
0205 TRANSFER \$ 3,670.00

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:

141246

DATED: 7-24-23BY: Logan D. Miller

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.

RECEIVED

JUL 24 2023

OWRD

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:
http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator.
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 3 List them here: 75776, 87974 & 95394**

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 and using a new common point of diversion.

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. See OAR 690-380-2130 for requirements and applicability.

(For Staff Use Only)

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

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

Other/Explanation _____

Staff: _____ 503- _____ Date: 1/4/28

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°).

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FEE WORKSHEET for PERMANENT TRANSFER (except Substitution)

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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 cfs ÷ 100 ac*); then multiply by the number of acres to be transferred to get the transfer cfs (*x 45 ac = 0.56 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 ac x 0.0125 cfs/ac = 0.56 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*).

14288

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: Due to problems with both email and USPS, we do not want all correspondence sent electronically; instead, please send correspondence via both regular mail (USPS) 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 certificates 75776 and 87974 that use the same source and both will use an additional common point of diversion together with layered supplemental rights in certificate 95394.

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.

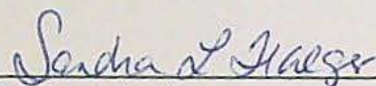
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By my signature below, I confirm that I understand:

- 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)

7/2/2023
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* All FROM lands are owned by Fessler Family, LLC

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

Check the following boxes that apply:

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

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

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

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

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

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

IRRIGATION DISTRICT NAME 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

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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 # 75776

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Description of Water Delivery System

System capacity: 0.11* cubic feet per second (cfs) (per certificate) OR

N/A gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. The current water delivery system uses a pump is Zollner Creek 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)
(Zollner) POD 1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	N/A	5 S	1 W	33	SE NW	900	Per certificate
(Pudding) POD 2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed	N/A	5 S	1 S	28	NW SW	1500	1830' N & 260' 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 checked="" 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.

14288

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 # 75776

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.													Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.														
Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date				
5	S	1	W	33	SW	NE	700	-	6.2	IRRIG	POD 1	1954	POU/APOD	5	S	1	W	28	SE	NW	1400	2	5.3	IRRIG	POD 1,2	1954		
5	S	1	W	33	SE	NW	700	-	1.3	IRRIG	POD 1	1954	POU/APOD	5	S	1	W	28	SE	NW	1400	-	2.7	IRRIG	POD 1,2	1954		
5	S	1	W	33	NE	NW	600 700	-	0.5	IRRIG	POD 1	1954	POU/APOD															
TOTAL ACRES:									8.0						TOTAL ACRES:									8.0				

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: 95394.

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
N/A										

Part 5b 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 # **87974**

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Description of Water Delivery System

System capacity: **0.05*** cubic feet per second (cfs) (*per certificate) OR

N/A gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. The current water delivery system uses a pump is Zollner Creek 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)
(Zollner) POD 1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	N/A	5 S	1 W	33	SE NW	900	Per certificate
(Pudding) POD 2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed	N/A	5 S	1 S	28	NW SW	1500	1830' N & 260' E OF NW 533
	<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 checked="" 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.

14288

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 # 87974

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	600/ 700	-	1.8	IRRIG	POD 1	1954	POU/APOD	5	S	1	W	28	NE	SW	1400	-	3.8	IRRIG	POD 1,2	1954		
5	S	1	W	33	SE	NW	700	-	2.0	IRRIG	POD 1	1954	POU/APOD															
TOTAL ACRES:									3.8						TOTAL ACRES:									3.8				

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: 95394.

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

JUL 24 2023

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

OWRD

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
N/A										

Part 5c 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**

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Description of Water Delivery System

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

JUL 24 2023

N/A gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. The current water delivery system uses a submerged pump in Well 5 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.

14288

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	600/ 700	-	2.3	Suppl	Well 5	1995		POU	5	S	1	W	28	NE	SW	1400	-	4.3	Suppl	Well 5	1995	
5	S	1	W	33	SE	NW	600/ 700	-	2.0	Suppl	Well 5	1995	POU															
TOTAL ACRES:									4.3						TOTAL ACRES:									4.3				

Additional remarks: This right had to be transferred because it is layered with the other rights being transferred.

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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: **75776 & 87974.**



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
N/A										

14288

Permanent Transfer Application Checklist

Check the Certificates in WRIS

Transfer # T-14288

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: \$3670	<input checked="" type="checkbox"/> POU <input type="checkbox"/> POD <input checked="" type="checkbox"/> APOD <input type="checkbox"/> POA <input type="checkbox"/> APOA <input type="checkbox"/> USE	
Calculated Fee: \$3670		How many rights to be Transferred? 3
Deficiencies and Observations: 95394 is involved in T-14141 and T-14287. EoU and Land Use are the exact same as T-14287. These three should be worked together?		Certificate #(s) 75776, 87974, 95394

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	



Rural Land Consulting

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

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

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

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JUL 24 2023

OWRD

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 certificates 75776, 87974, and 95394 together with the following attachments:

- A. Transfer Maps
 - 1. 75776 FROM lands
 - 2. 87974 FROM lands
 - 3. 95394 FROM lands
 - 4. TO lands
- B. Evidence of Use
 - 1. Evidence of Use Form
 - 2. Evidence of Use
- C. Land Use Compatibility Statement
- D. Transfer Reimbursement Authority Estimate Application
- E. 2 checks made out to "Oregon Water Resources Department".
 - 1. One for \$3670.00 (per application fee worksheet),
 - 2. One for \$125.00 (for Reimbursement Authority).

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

Respectfully,
Aspen Rural Land Consulting

Eric Urstadt, PE, PLS

14288

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

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:

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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)

14288

(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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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.</p> <p>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.terra-server.com</p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number

14288

B-3/3

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

Invoice

70045749

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

Customer ID 384142

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

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JUL 24 2023

OWRD

Ticket(s) 700522

Terms: Thank you for your business!

Sub Total 5,119.46

Amount Due 5,119.46

js

FESSLER FARMS INC

Pesticide # MICHEAL ROBERT HARTENSTEIN | AG- L10411354PAL Exp. Date 12/31/2022

Invoice

70045749

14288

Land Use Information Form



ATTACH C-1/2
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD

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

Mailing Address: 13009 McKee School Road

City: Woodburn

State: OR

Zip Code: 97101

Daytime Phone: 503.559.1471

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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:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
	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

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: _____

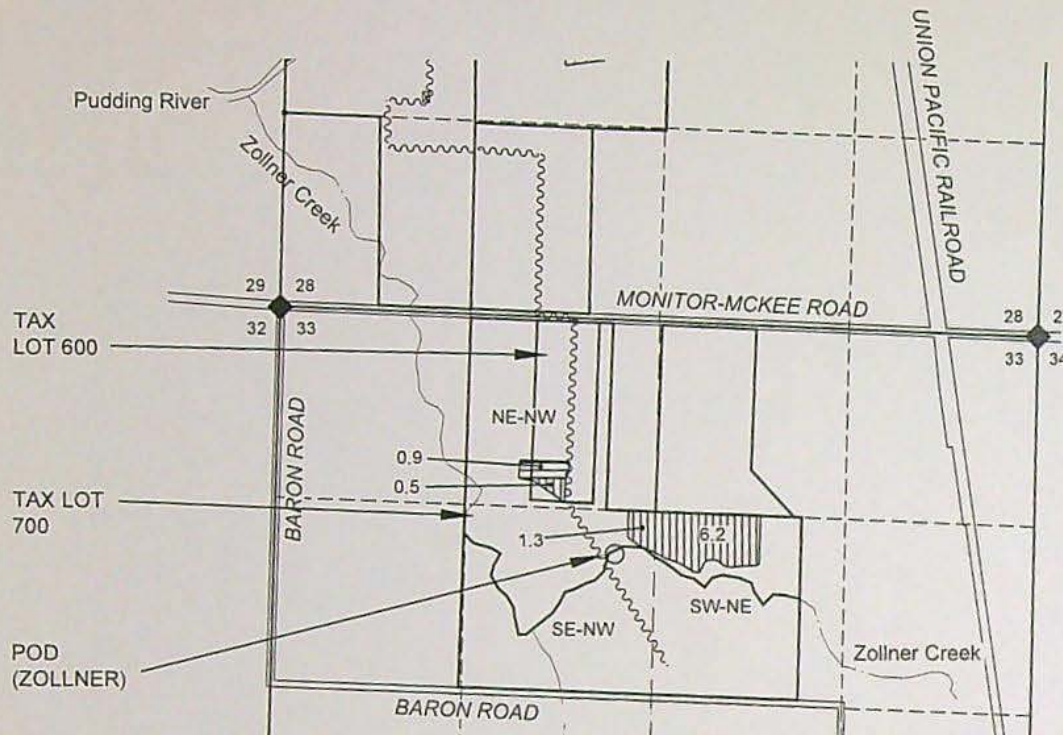
14288

Transfer FROM Map

Section 33, T5S, R1W, Marion County
Certificate 75776



1 IN = 1320 FT
0 660 1320



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LOCATION OF POINT OF DIVERSION (POD):

POD (ZOLLNER) IS 1630' SOUTH AND 2340' EAST OF NW S33 (PER CERT. 87974)

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.
- THE BASIS OF THIS MAP IS A MAP FROM THE FILE OF T-7335 THAT SHOWS WHICH ACRES WERE CANCELLED, MOVED AND REMAINED FROM CERTIFICATE 22402 IN THAT TRANSFER.

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 75776
- REMAIN ACRES 75776



MAP BY:
**ASPEN RURAL LAND
CONSULTING**

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

14288

Transfer FROM Map

Section 33, T5S, R1W, Marion County
Certificate 87974

A-2/4



1 IN = 1320 FT
0 660 1320

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LOCATION OF POINT OF DIVERSION (POD):
POD (ZOLLNER) IS 1630' SOUTH AND 2340' EAST OF NW S33 (PER CERT. 87974)

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.
- THE BASIS OF THIS MAP IS THE FINAL PROOF MAP FOR CERTIFICATE 87974.

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 87974

--- REMAIN ACRES 87974



MAP BY:
**ASPEN RURAL LAND
CONSULTING**

ERIC URSTADT, PE, PLS

971-250-1520

JUN 2023

FesslerJoeBeyer7S

14288

A-3/4

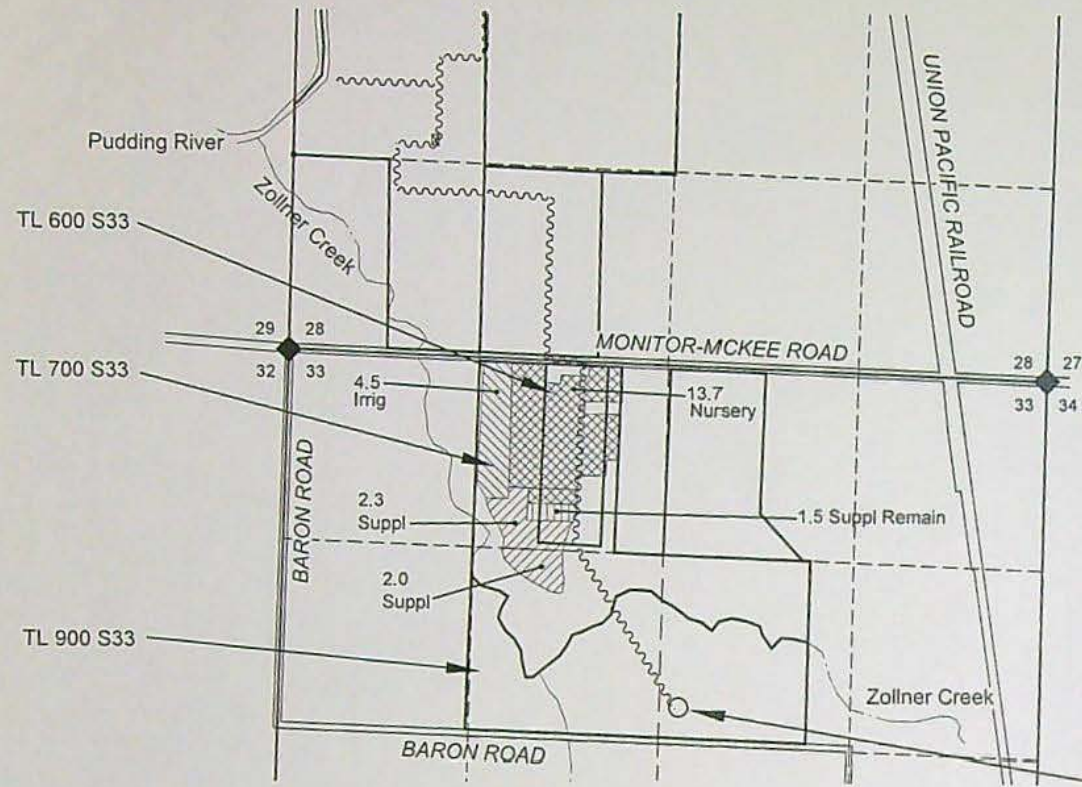
Transfer FROM Map

Section 33, T5S, R1W, Marion County
Certificate 95394



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).

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.
- [Hatched Box] FROM ACRES 95394 Irrig
- [Diagonal Lines Box] FROM ACRES 95394 Suppl
- [Vertical Lines Box] REMAIN ACRES 95394 Suppl
- [Cross-hatched Box] REMAIN ACRES 95394 Nursery



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

14288

A-4/4

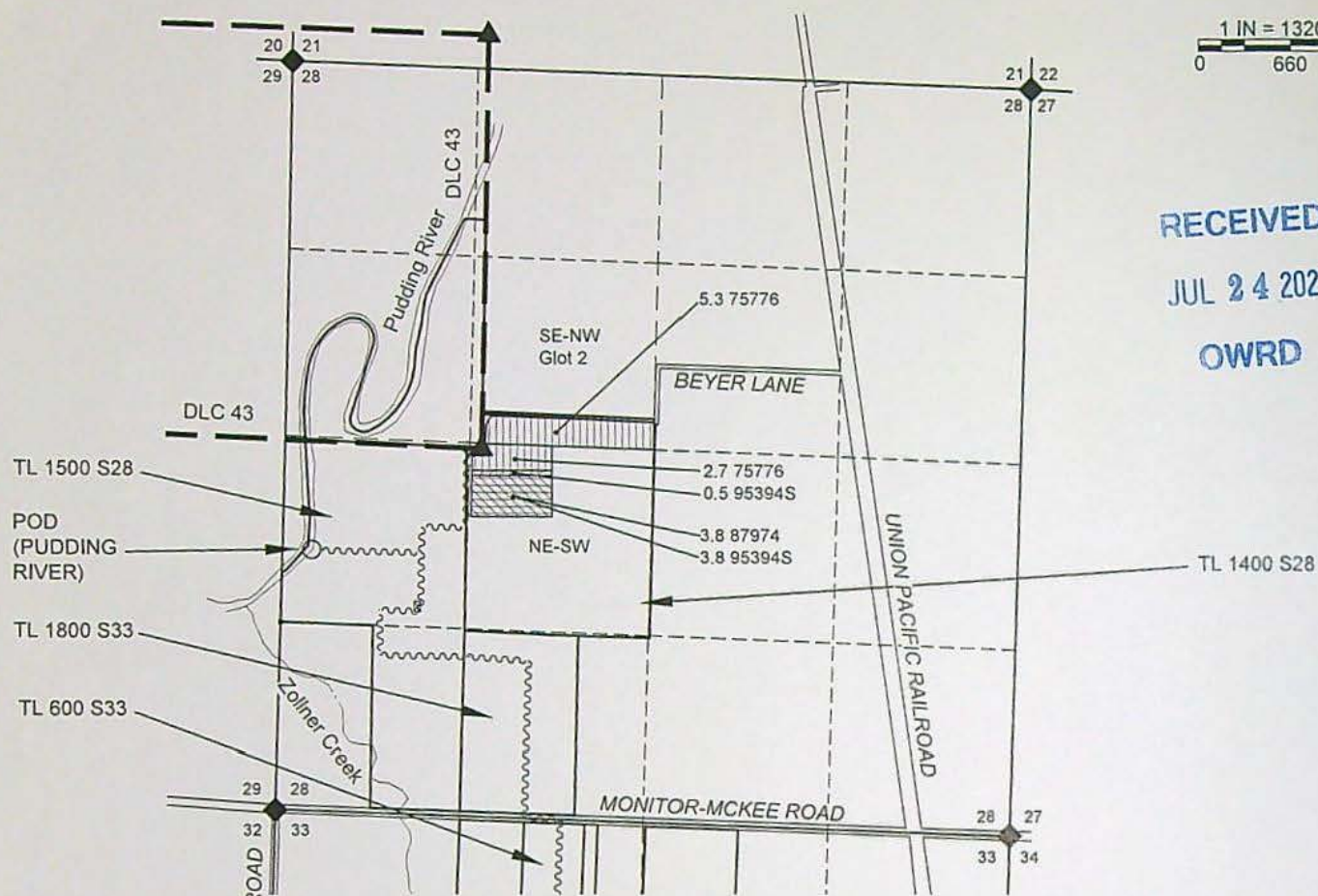
Transfer TO Map

Section 28, T5S, R1W, Marion County
Certificates 75776, 87974, & 95394



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 ASSESSOR MAP FOR SECTIONS 28 & 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
- ~~~~~ CONVEYANCE PIPELINES.
- ▨ TO ACRES 75776 Irrig
- ▩ TO ACRES 75776 Irrig & 95394 Suppl
- ▧ TO ACRES 87974 Irrig & 95394 Suppl



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