

T-10405

T-10405

Name US Dept. of the Interior / Agent: James HammettBy John Day Fossil Beds National MonumentAddress 32651 Highway A
Kimberly, OR 97848fx 541-987-2336 - 541-932-4860Change in POLDate filed 6-6-07

Date of hearing _____

Place of hearing _____

Date of order 3-25-09 Vol. 77, page 439

Date for application of water _____

Proof mailed _____

Proof received COBU 9/1/2010Certificate issued 10/4/2013 Vol. _____, page 88400
85366

DESCRIPTION OF WATER RIGHT

Name of stream Rock CreekTrib. of John Day River County of GrantUse Irrigation

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority 12-31-1899In name of James Cant

_____ Adjudication, Vol. _____, page _____

App. No. _____ Per. No. _____ Cert. No. 24976

Certificate cancelled _____

Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>6-11-07</u>	<u>350.00</u>	<u>88071</u>
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

NOID/CWRE: Carl StoutREC'D SEP 17 2007

Mailing List for Transfer Certificate

Application: T-10405

Certificate: 88400

Certificate/Transfer Holder: (include copy of map)

U.S. DEPT OF INTERIOR
JOHN DAY FOSSIL BEDS NATIONAL MONUMENT
32651 HWY 19
KIMBERLY OR 97848

Copies Mailed

By: *Sarah H.*
(SUPPORT STAFF)

on: OCT 04 2013
(DATE)

Copies of final Certificate to be sent to:

1. Watermaster #04 (Include map)
2. Data Center
3. Water Availability
4. Vault
5. File

Other Persons to receive copies (proposed and/or final certificate: (Include map)

CARL STOUT, CWRE

Record Marking(s):

1. Original Application# NA- DECREED RIGHT
2. Old Certificate# 24976



Oregon

John A. Blumenthal, M.D., Governor

Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0901

Date Mailed: OCT 04 2013

NOTICE OF CERTIFICATE ISSUANCE

Attached is a certificate that confirms the water rights established under the terms of a transfer order issued by this Department.

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

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If you have any questions please contact Gerry Clark at 503-986-0811.

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

U.S. DEPT OF INTERIOR
JOHN DAY FOSSIL BEDS NATIONAL MONUMENT
32651 HWY 19
KIMBERLY OR 97848

confirms the right to use the waters of ROCK CREEK, tributary to JOHN DAY RIVER for IRRIGATION of 8.46 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Grant County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 15, at Page 461. The date of priority is 1899.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed ONE-FORTIETH of one cubic foot per second per acre irrigated to June 1 and ONE-EIGHTIETH cubic foot per second per acre thereafter; further limited to 1.0 ACRE-FOOT per calendar month to June 1 and 4.0 ACRE-FEET per acre during the season April 1 to September 30, 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
12 S	26 E	WM	18	NE SE	ROCK CREEK DITCH - NONE GIVEN

A description of the place of use is as follows:

Twp	Rng	Mer	Sec	Q-Q	Acres
12 S	26 E	WM	6	SW NE	2.03
12 S	26 E	WM	7	SE SE	6.43

The water user shall maintain and operate a fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.

The water user shall maintain an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted.

The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.

The right to the use of the water for the above purpose is restricted to beneficial use on place of use described, and is subject to all other conditions and limitations contained in said decree.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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

This certificate is issued to confirm a change in PLACE OF USE approved by an order of the Water Resources Director entered MARCH 25, 2009, at Special Order Volume 77, Page 439, approving Transfer Application 10405, and together with Certificate 85366, supersedes Certificate 24976, State Record of Water Right Certificates.

Issued OCT 04 2013.



Dwight W. French
Administrator, Water Right Services, for
Phillip C. Ward, Director

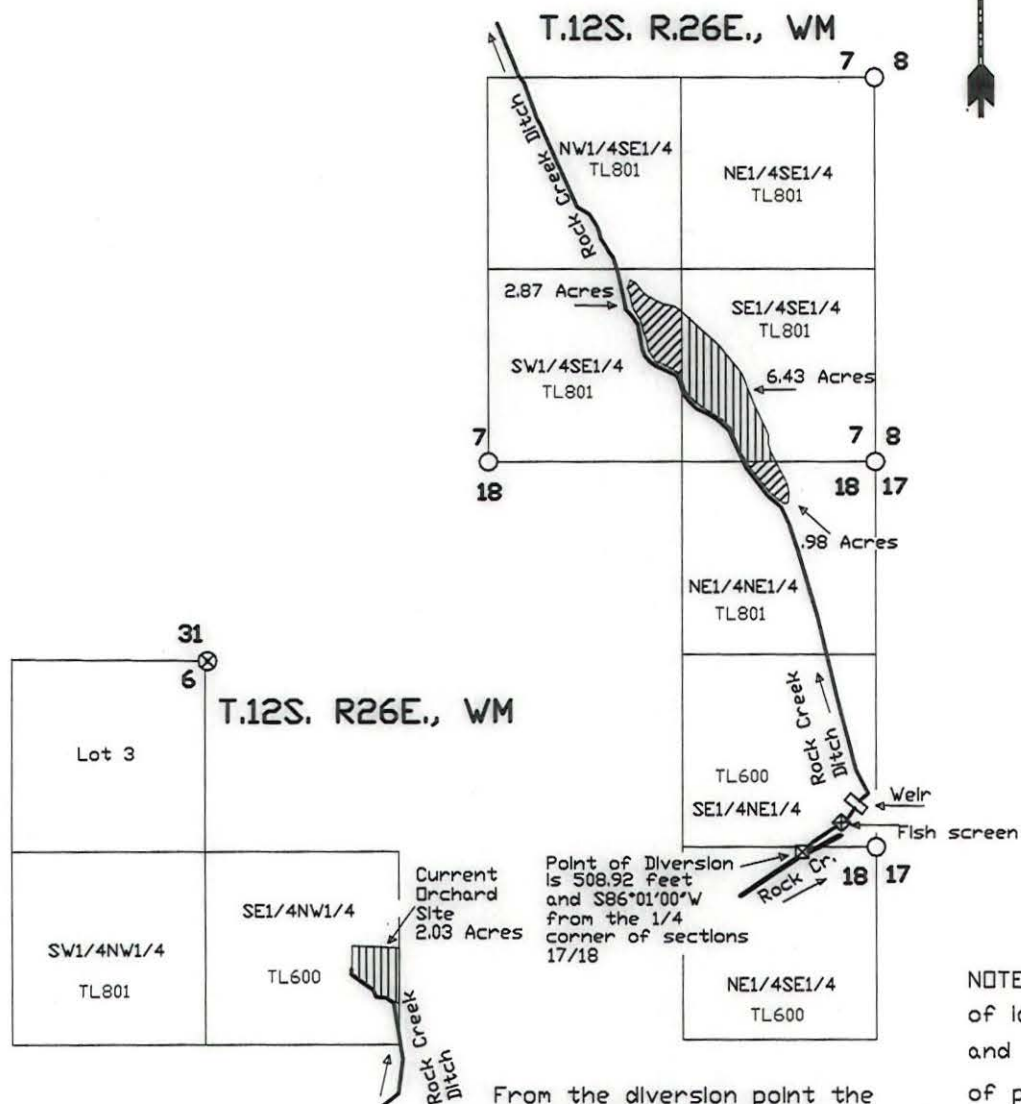
COPY

T 10405

Final Proof Survey
In the name of
The National Park Service



RECEIVED
SEP - 11 - 2010



From the diversion point the fish screen is N51°E, 350 ft. and the weir is N47°E, 490 ft.

Basis of Bearings
Solar Observation
at the Corner 1/6/7/12
SCALE: 1 inch = 1320 feet
Surveyed March, 2007
Amended December, 2008
Amended August 25, 2010

LEGEND

- Lands with existing rights; Certificate #24976
- Lands receiving transferred rights
- Projected section corner
- GLO corner found Grant Co. Survey #716
- Point of Diversion
- Fish screen and bypass
- Weir

NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.

T 10405

Final Proof Survey
In the name of
The National Park Service



RECEIVED

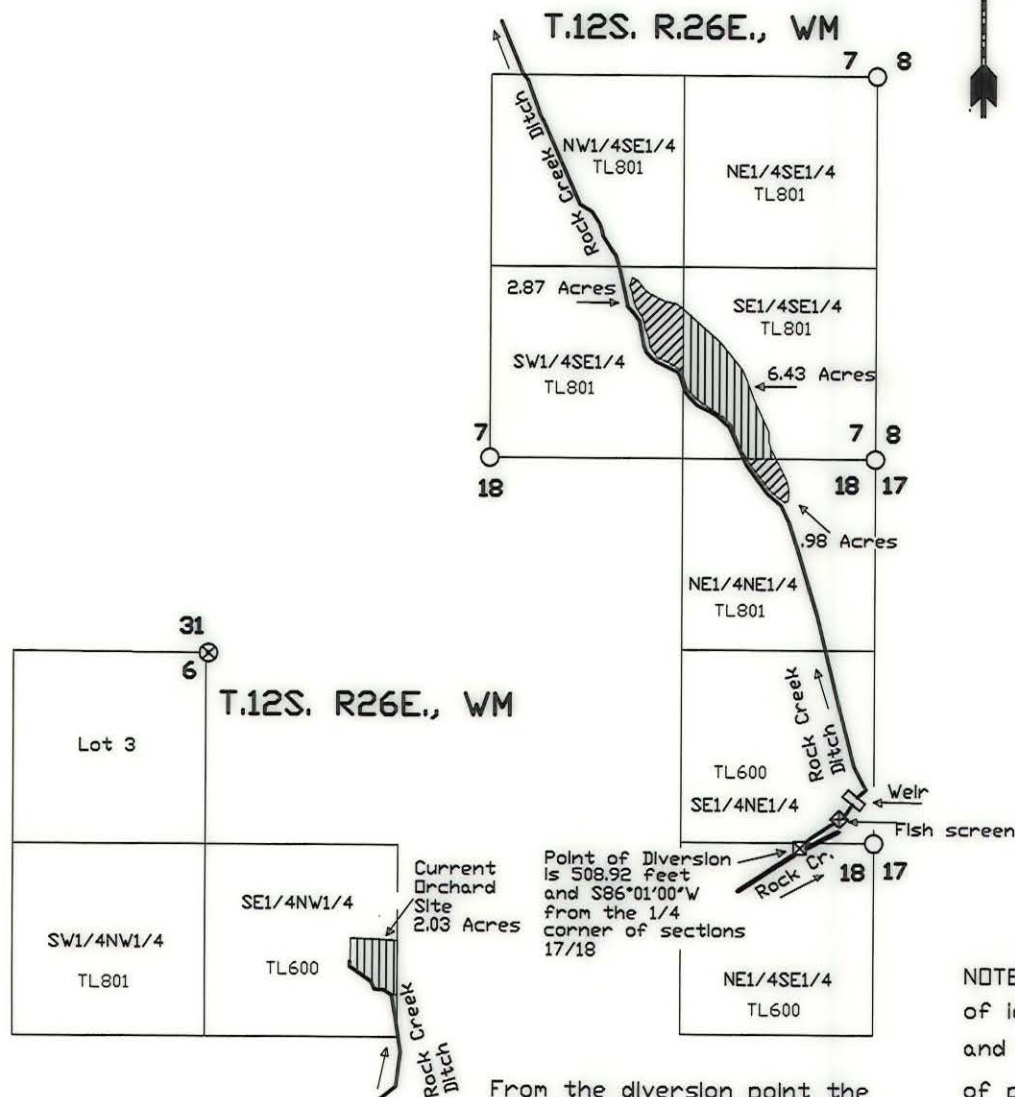
SEP - 2 2010

WATER RESOURCES DEPT
SALEM, OREGON

Basis of Bearings
Solar Observation
at the Corner 1/6/7/12
SCALE: 1 Inch = 1320 feet
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Amended December, 2008
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NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.

MEMO

TO: FILE T-10405

FROM: JWG

DATE: 5.21, 2013

RE: DETERMINATION OF PROOF

I've determined that a PROPOSED ☒ FINAL certificate should be prepared and mailed to the permit holder consistent with:

Permit ☒ Transfer

FPS ☒ COBU

As described in the permit/transfer but as clarified by the FPS COBU

As described in the PERMIT/TRANSFER and FPS or COBU but as further specified below:

Conflict? ☒ No Yes: _____

stamped PROPOSED or assign Cert # 88400

Draft certificate(s) are available in the transfer directory.

☒ Water Organization identified using area of interest tool? ☒ No Yes, cc: _____

☒ Check ownership; and if there is a new owner, add them to the mailing list.

☒ Prepare a mailing list.

Record marking: App _____ Cert _____

NOTES:

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

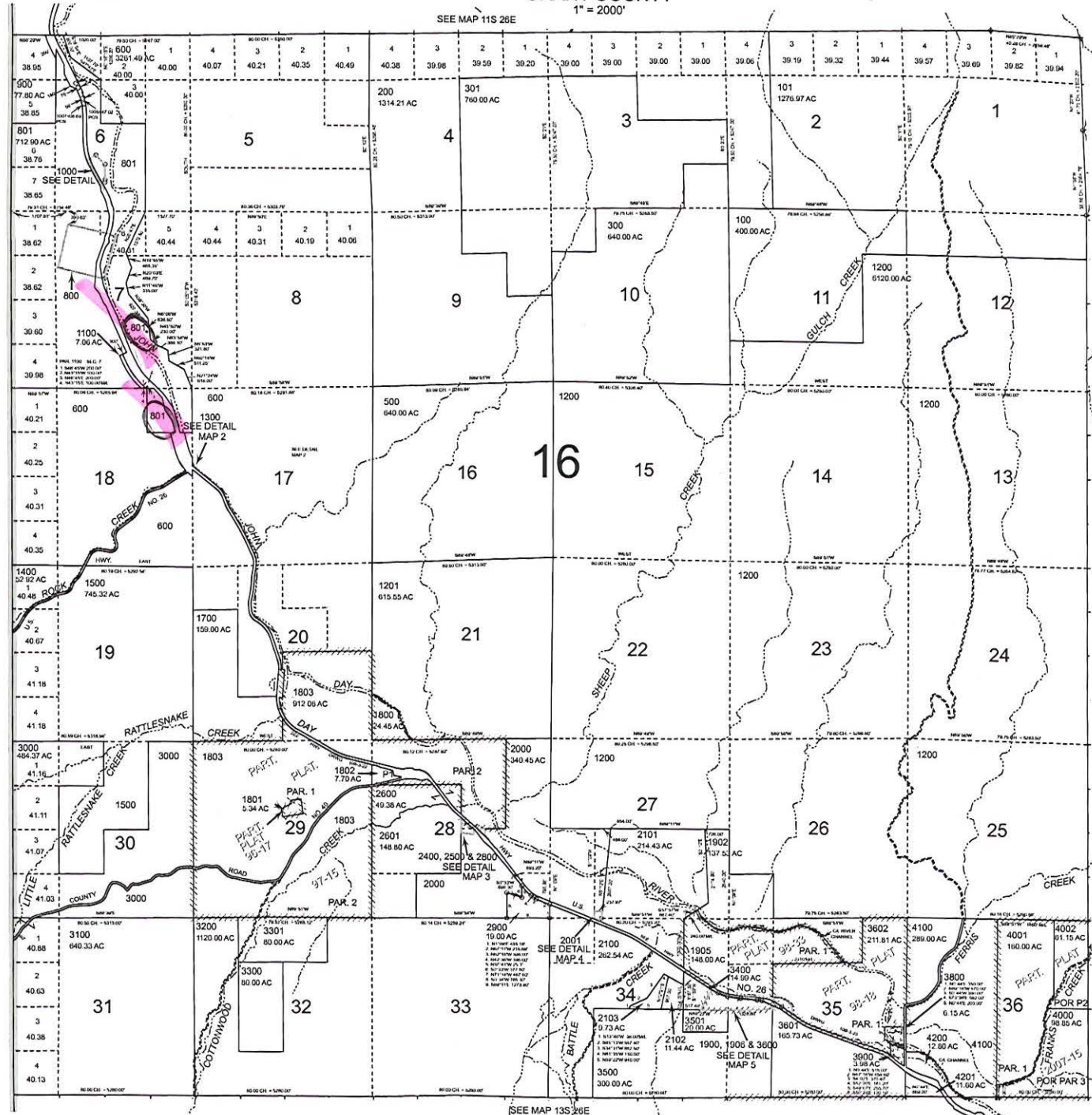
0 1,000 2,000 4,000 Feet

T.12S. R.26E. W.M.
GRANT COUNTY
1" = 2000'

12S26E

COUNTY

WHEELER



CANCELLED:
201
400
501
700
1600
1901
1903
1904
2200
2300
2501
2700
3700

Revised: SH
8/15/2011

12S26E



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

April 7, 2009

US DEPT. OF INTERIOR
JOHN DAY FOSSIL BEDS NAT'L MON.
JAMES E. HAMMETT
32651 HWY 19
KIMBERLY OR 97848

REFERENCE: Transfer Application T-10405

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 me by telephone at (503) 986-0883 or by e-mail at Sarah.A.Henderson@ wrd.state.or.us.

Sincerely,

Sarah Henderson
Executive Support
Field Services Division

cc: Watermaster Dist. #4
Carl Stout, CWRE

Enclosure



Rate & Duty: ONE-FORTIETH of one cubic foot per second (cfs) per acre irrigated to June 1 and ONE-EIGHTIETH of one cfs per acre thereafter; further limited to 1.0 ACRE-FOOT per calendar month to June 1 and 4.0 ACRE-FEET per acre during the season April 1 to September 30, measured at the point of diversion from the stream.

Source: ROCK CREEK, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
11 S	26 E	WM	31	SE NW	2.72
11 S	26 E	WM	31	NE SW	1.43
11 S	26 E	WM	31	SE SW	4.31
TOTAL:					8.46

4. Certificate 24976 does not describe the location of the point of diversion, however information is available from the John Day River Decree tabulation and associated adjudication map that describes the location of the ditch and dam as follows:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
12 S	26 E	WM	18	NE SE	Rock Creek Ditch

5. Transfer Application T-10405 proposes to change the place of use of the above described acres to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
12 S	26 E	WM	6	SW NE	2.03
12 S	26 E	WM	7	SE SE	6.43
TOTAL:					8.46

6. Notice of the application for transfer was originally published on June 12, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. 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 currently equipped with an appropriate fish screening and/or by-pass device.
8. On January 8, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10405 to the applicant. The draft Preliminary Determination set forth a deadline of February 8, 2009, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

9. On February 10, 2009, the Department issued a Preliminary Determination proposing to approve Transfer Application T-10405 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 17, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria [OAR 690-380-4010(2)]

10. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A ditch, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10405.
12. The proposed change would not result in enlargement of the right.
13. The proposed change would not result in injury to other water rights.

Conclusions of Law

The change in place of use proposed in Transfer Application T-10405 is consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The change in place of use proposed in Transfer Application T-10405 is approved.
2. Water right certificate 24976 is cancelled. A new certificate will be issued describing that portion of the right NOT affected by this transfer and further describing the authorized point of diversion (as identified in Finding of Fact #4).
3. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 24976 and any related decree.
4. The former place of use of the transferred right shall no longer receive water under the right.
5. The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.

6. Prior to diverting water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
7. The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.
8. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
9. When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 25th day of March 2009.

for William E. Feiber
Phillip C. Ward, Director

Mailing date: APR 08 2009

STATE OF OREGON
COUNTY OF GRANT
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JAMES CANT
DAYVILLE, OR

confirms the right to use the waters of ROCK CREEK, tributary to JOHN DAY RIVER, for IRRIGATION of 47.04 acres.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Grant County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 15, at Page 461. The date of priority is 1899.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed ONE-FORTIETH of one cubic foot per second (cfs) per acre irrigated to June 1 and ONE-EIGHTIETH of one cfs per acre thereafter; further limited to 1.0 ACRE FOOT per calendar month to June 1 and 4.0 ACRE FEET per acre during the season April 1 to September 30, measured at the point of diversion. Said right shall be subject to all other conditions and limitations contained in said decree. 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 point of diversion is located as follows:

Twp	Rng	Mer	Sec	¼ ¼	Survey Coordinates
12 S	26 E	WM	18	NE SE	ROCK CREEK DITCH

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

IRRIGATION					
Twp	Rng	Mer	Sec	¼ ¼	Acres
11 S	26 E	WM	31	SE NW	1.18
11 S	26 E	WM	31	NE SW	1.87
11 S	26 E	WM	31	SE SW	0.39
12 S	26 E	WM	6	SW NE	5.20
12 S	26 E	WM	6	SE NW	5.70
12 S	26 E	WM	6	NW SE	5.30
12 S	26 E	WM	6	SW SE	3.50
12 S	26 E	WM	7	NW NE	0.90
12 S	26 E	WM	7	SW NE	4.00
12 S	26 E	WM	7	NW SE	4.00
12 S	26 E	WM	7	SW SE	10.00
12 S	26 E	WM	18	NE NE	5.00
TOTAL:					47.04

This certificate describes that portion of the water right confirmed by Certificate 24976, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered MAR 25 2009 approving Transfer Application T-10405 and further describing the authorized point of diversion.

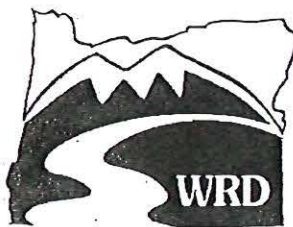
The issuance of this superseding certificate does not confirm the status of the water right in regard to the provisions of ORS 540.610 pertaining to forfeiture or abandonment.

WITNESS the signature of the Water Resources Director, affixed MAR 25 2009.

for William S. Frakes
Phillip C. Ward, Director

Completion Checklist for CWRE Claims of Beneficial Use

Application # T10405



Date Received 9-1-2010

CWRE Name Carl Stout

Claim Logged _____

File Marked _____

Oversized Map # _____

Read the file and attach a copy of the permit or transfer final order. _____

Map Review:

- ☒ Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
- ☒ Application & permit #; or transfer # (OAR 690-014-0100(1)) *added by WR staff, c.o. 9/2/2010*
- ☒ Disclaimer (OAR 690-014-0170(5))
- ☒ North arrow (OAR 690-310-0050(2)(c))
- ☒ CWRE stamp and signature (OAR 690-014 & 310-0050)
- ☒ Appropriate scale (1" = 1320', 1" = 400', or the original full-size scale of the county assessor map) (014 & 310)
- ☒ Township, range, section, and tax lot numbers (OAR 690-310-0050(4))
- ☐ Source illustrated if surface water (OAR 690-014-0170(3))
- ☐ Point(s) of diversion or appropriation (illustrated) (OAR 690-014(4) & 690-310-0050)
- ☐ Point(s) of diversion or appropriation (coordinates) (OAR 690-014(4) & 690-310-0050)
- ☐ Conveyance structures illustrated (pump, pipelines, ditches, etc.) (OAR 690-310-0050)
- ☐ Description of the location, in relation to the point of diversion or appropriation, of any fish screens, by-pass devices, and measuring devices required (OAR 690-014(4))
- ☐ Place of use (1/4 1/4, or projected 1/4 1/4 lines within DLCs, or Gov Lots; if irrigation, # of acres in each subdivision; if for domestic or human consumption, location of dwelling or spigot) (OAR 690-310-0050, 690-014, 690-380-6010)

Report Review:

- ☒ On form or format provided by the Department (OAR 690-014-0100(1))
- ☒ Application & permit #; or transfer # (OAR 690-014)
- ☒ Ownership information (OAR 690-014)
- ☒ Date of survey (OAR 690-014)
- ☒ Person interviewed (OAR 690-014)
- ☒ County (OAR 690-014)
- ☒ Tax lot information (OAR 690-014)
- ☐ Description of conveyances system (from POD to POU) (OAR 690-014-0100)
- ☐ Source(s) of water (OAR 690-014-0100)
- ☐ Point of diversion/appropriation location (OAR 690-014-0100)
- ☐ Use, period of use, and rate for use (OAR 690-014-0100)
- ☐ Place of use location (OAR 690-014-0100)
- ☐ Type of use (OAR 690-014-0100)
- ☐ Extent of use (OAR 690-014-0100)
- ☐ Rate and Duty (OAR 690-014-0100)
- ☐ Diversion rate for each use (OAR 690-014-0100)
- ☐ Diversion works description (pump make, serial model, capacity, and description) (OAR 690-014-0100)
- ☐ System capacity (OAR 690-014-0100)
 - ☐ Calculated capacity of system (required)
 - ☐ Measured amount of use (optional)
- ☐ Permit/Transfer Final Order Conditions (OAR 690-014-0100)
 - ☐ Time limits
 - ☐ Initial water level measurements
 - ☐ Annual static water level measurements
 - ☐ Measurement, recording, and reporting
 - ☐ Meter/measuring device
 - ☐ Water use reporting
 - ☐ Fish screening and/or by-pass
 - ☐ Pump test (ground water)
 - ☐ Other conditions
- ☒ CWRE stamp and signature (OAR 690-014-0100)
- ☒ Signature(s) of permittee of transfer holder (OAR 690-014-0100)

DEF = deficient

N/A = Not Applicable

Certificate Issuance Processing Checklist

_____ Map and COBU reviewed
_____ Conflict check (include copy of plat card printout) Any Conflicts? _____
_____ Check for ownership

Staff Recommendations:

_____ Proof to the Satisfaction has been established to the full extent as described in the permit or transfer order.

_____ Proof to the Satisfaction has been not been established to the full extent as described in the permit or transfer order and the right should be limited as follows: _____

_____ Proof to the Satisfaction has not been established for the following reasons: _____

_____ **Proposed Actions:**
Send letter requesting the following items/information: _____
Send letter recommending extension to cure deficiencies: _____

Can certificate be processed further?

_____ Yes

If "Yes":

_____ Proposed
_____ Final

Certificate # _____

Mailing list:

Proposed:

Final:

**CLAIM OF
BENEFICIAL USE
for Permits claiming more
than 0.1 cfs and All Transfers**



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

**A fee of \$150 must accompany this form to be accepted for permits
with a priority date of July 9, 1987, or later. (ORS 536.050(1))**

A separate form shall be completed for each permit.

In cases where a permit has been amended through the permit amendment process, a separate claim for the permit amendment is not required. Incorporate the permit amendment into the claim for the permit.

This form is subject to revision. **Begin each new claim** by checking for a new version of this form at:
http://www.wrd.state.or.us/OWRD/WR/cwre_info.shtml#.

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0110(4).

Please type or print in dark ink. If this form is found to contain errors or omissions, it may be returned to you. **Every item must have a response.** If any requested information does not apply to the claim, insert "NA." **Do not delete or alter any section of this form unless directed by the form.** The Department may require the submittal of additional information from any water user or authorized agent.

If you have questions regarding the completion of this form, please call 503-986-0900 and ask for the Certificate Section.

The Department has a program that allows it to enter into a voluntary agreement with an applicant for expedited services. Under such an agreement, the applicant pays the cost to hire additional staff that would not otherwise be available. This program means a certificate may be issued in about a month. For more information on this program see http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml.

SECTION 1

GENERAL INFORMATION

1. File Information

APPLICATION # (G, R, S or T) T-10405	PERMIT # (IF APPLICABLE)	PERMIT AMENDMENT # (IF APPLICABLE)
--	--------------------------	------------------------------------

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME United States National Park Service		PHONE NO. 541-987-2333	ADDITIONAL CONTACT NO.
ADDRESS John Day FBNM; 32651 Highway 19			
CITY Kimberly	STATE OR	ZIP 97848	E-MAIL Jim_hammett@nps.gov

RECEIVED

SEP - 1 2010

**WATER RESOURCES DEPT
STATE OF OREGON**

If the current property owner is not the permit or transfer holder of record, it is recommended that an assignment be filed with the Department. **The COBU must be signed by the permit or transfer holder of record.**

3. Is the Property Owner the permit or transfer holder of record? **YES**
 Are there additional permit or transfer holders of record? **NO**

4. Date of Site Inspection: **06/10/2010**

5. Person(s) interviewed and description of their association with the project:

NAME	DATE	ASSOCIATION WITH THE PROJECT
James F. Hammett	06/10/2010	Manager of the National Monument

6. County: **Grant**

7. If any property described in the place of use of the permit or transfer final order is excluded from this report, identify the owner of record for that property (ORS 537.230(4)):

****Mark "NA" if there are no owners of property not included in this claim**

OWNER OF RECORD NA		
ADDRESS		
CITY	STATE	ZIP

Are there additional Owners of Record? **NO**

SECTION 2 SYSTEM DESCRIPTION

A. Points of Diversion/Appropriation

1. Point of diversion/appropriation name or number:

POINT OF DIVERSION/APPROPRIATION (POD/POA) NAME OR NUMBER (CORRESPOND TO MAP)	WELL LOG ID # FOR ALL WORK PERFORMED ON THE WELL (IF APPLICABLE)	WELL TAG # (IF APPLICABLE)
Certificate 24976 does not describe the location of the POD. However, information in the John Day River Decree describes the location as: 12S 26E WM Section 18 NE SE*	NA	NA

Attach each well log available for the well (include the log for the original well and any subsequent alterations, reconstructions, or deepenings)

2. Point of diversion/appropriation source and, if from surface water, the tributary:

POD/POA NAME OR NUMBER	SOURCE	TRIBUTARY
*see above	Rock Creek	Rock Creek

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WATER RESOURCES DEPT
SALEM, OREGON

3. Developed use(s), period of use, and rate for each use:

POD/POA NAME OR NUMBER	USES	IF IRRIGATION, LIST CROP TYPE	SEASON OR MONTHS WHEN WATER WAS USED	RATE OR VOLUME FOR USE (CFS, GPM, OR AF)
*see above	Irrigation	Grass Hay and small fruit orchard	April – May	1/40 CFS per acre Or 0.2115 CFS
	Irrigation	Grass Hay and small fruit orchard	June – September	1/80 CFS per acre Or 0.10575 CFS
Total Quantity of Water Used				6 feet per acre per year or 50.76 acre feet

4. Provide a general narrative description of the distribution works. This description must trace the water system from **each** point of diversion or appropriation to the place of use:

The water is diverted from Rock Creek at POD indicated on attached map. This POD was reconstructed in the 2002 in cooperation with NRCS. This is the only POD for this transfer. The water then flows approximately 400 feet through an open ditch to a fish screen maintained by Oregon Department of Fish and Wildlife and a volumetric weir installed and maintained by the owner. The water then enters a 24" steel culvert, flows east under State Highway 19, then north approximately 550 feet parallel to the John Day River, still in a 24" steel culvert. The water then enters a concrete lined ditch which measures 81" at the top in cross section, is 2.5' deep and measures 3 feet horizontally at the bottom of the ditch. The water continues in a concrete-lined ditch for approximately 1260' to the first place of use covered by this transfer. After the first place of use, the remaining water enters a 18" diameter plastic pipe and travels approximately 3000 feet to a second concrete-lined open ditch segment. All concrete-lined ditch is identical in cross section. The water then travels approximately 680' through this concrete-lined ditch, before entering another 18" plastic pipe. The water travels through this plastic pipe for approximately 242 feet at which point it enters another concrete-lined ditch identical in cross section to the first. This concrete-lined ditch is approximately 900 feet long. After this, the water again enters a 18" diameter plastic pipe which extends for approximately 1800 feet to a transition and vertical culvert where the water enters from the 18" diameter pipe and exits into a 8" diameter pipe which extends for approximately 3000' to the second point of use. This arrangement allows approximately 4 feet of head pressure to be maintained at the entrance to the 8" pipe. This section of pipe is the most restrictive segment of the distribution system, but is capable of flowing sufficient water to irrigate the orchard area, which is incorporated into this transfer, and, in addition, a 16.4-acre alfalfa field (see flow calculations later in this document).

This transfer only transfers the point of use of this water in this distribution works. There is no change to the volume of water taken from the POD as the POD is the same for the original point of use as for the new point of use.

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SALEM, OREGON

SECTION 2

SYSTEM DESCRIPTION (B through H)

Are there multiple PODs or POAs?

NO

B. Place of Use

1. Is the right for municipal use?

NO

C. Diversion and Delivery System Information

Provide the following information concerning the diversion and delivery system. Information provided must describe the equipment used to transport and apply the water from the point of diversion/appropriation to the place of use.

1. Is a pump used?

NO

If "NO" items 2 through item 6 may be deleted.

7. Is the distribution system piped?

YES, partially

If "NO" items 8 through item 11 may be deleted.

8. Mainline Information

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
24 inch diameter	1012'	Steel culvert	Except where it passes under SR 19, it is above ground
18 inch diameter	8,000'	Plastic pipe	Shallow burial
8 inch diameter	3000'	Plastic pipe	Shallow burial

9. Lateral or Handline Information

LATERAL OR HANDLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
NA			

10. Sprinkler Information

SIZE	OPERATING PSI	SPRINKLER OUTPUT (GPM)	TOTAL NUMBER OF SPRINKLERS	MAXIMUM NUMBER USED	TOTAL SPRINKLER OUTPUT (CFS)
NA					

Reminder: For sprinkler output determination use the reference information at the end of this document.

11. Pivot Information

MANUFACTURER	MAXIMUM WETTED RADIUS	OPERATING PSI	TOTAL PIVOT OUTPUT (GPM)	TOTAL PIVOT OUTPUT (CFS)
NA				

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12. Additional notes or comments related to the system:

Again, additional water for other acreage also flows through this distribution system. This represents all the water associated with certificate 85366 (originally certificate 24976).

D. Groundwater Source Information (Well and Sump)

1. Is the appropriation from ground water (well or sump)? **NO**

E. Storage

1. Does the distribution system include in-system storage (i.e. storage tank, bulge in system / reservoir) **NO**

F. Gravity Flow Pipe

(THE DEPARTMENT TYPICALLY USES THE HAZEN-WILLIAM'S FORMULA FOR A GRAVITY FLOW PIPE SYSTEM)

1. Does the system involve a gravity flow pipe? **Yes**

If "NO", items 2 through 4 relating to this section may be deleted. If "NO", items 2 through 4 relating to this section may be deleted.

2. Complete the table:

PIPE SIZE	PIPE TYPE	"C" FACTOR	AMOUNT OF FALL	LENGTH OF PIPE	SLOPE	COMPUTED RATE OF WATER FLOW (IN CFS)
24 inch	Cor. Steel	100	2.4'	452	0.5%	15.8
18 inch	Plastic	150	5.7*	2934*	0.2	6.466
8 inch	Plastic	150	6.1	3000	0.2	0.778

3. Provide calculations:

* The slope shown for the 18-inch plastic pipe is representative of all segments of this pipe type. The section shown above is the most restrictive section.

Calculations below are for the 8inch pipe, the most restrictive section of the distribution system.

Area of cross-section = 0.349066 square feet
Wetted Perimeter = 2.094395 feet
Hydraulic Radius = 0.166667
Velocity = 2.230117 feet per second

Pipe Capacity = 0.778 cubic feet per second

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4. If an actual measurement was taken, provide the following:

DATE OF MEASUREMENT	WHO MADE THE MEASUREMENT	MEASUREMENT METHOD	MEASURED QUANTITY OF WATER (IN CFS)

Attach measurement notes.

All pipe sections are obviously capable of flowing well more than the water right.

G. Gravity Flow Canal or Ditch

(THE DEPARTMENT TYPICALLY USES MANNING'S FORMULA FOR CANALS AND DITCHES)

1. Is a gravity flow canal or ditch used to convey the water as part of the distribution system? **YES**

If "NO", items 2 through 4 relating to this section may be deleted.

2. Complete the table:

CANAL OR DITCH TYPE (MATERIAL)	TOP WIDTH OF CANAL OR DITCH	BOTTOM WIDTH OF CANAL OR DITCH	DEPTH	"N" FACTOR	AMOUNT OF FALL	LENGTH OF CANAL / DITCH	SLOPE	COMPUTED RATE (IN CFS)
Dirt and Clay	4 – 8 feet	3 – 6 feet	3-4 ft.	0.3	24"	532	0.4%	11.3
Concrete lined*	81 inches	33 inches	22.5 inches	0.12	8"	280	0.3	6

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SALEM, OREGON

3. Provide calculations:

The ditch also conveys other water not associated with this transfer. The total flow of the ditch is measured with a weir installed below the fish screen.

*The concrete lined ditch calculation indicated here is representative of all the concrete lined segments. The slope is similar and the cross-section is identical. The concrete lined ditch is the most restrictive of the two ditch types.

Top Width = 7 feet
Bottom Width = 3 feet
Depth = 2 feet
Fall = 0.66 feet per 280 feet of distance
Grade = 0.00235714 , or 0.2%
n Factor = 0.12

Results calculated

Area of cross-section = 10 square feet
Wetted Perimeter = 8.656854 feet
Hydraulic Radius = 1.155154
Velocity = 0.662 feet per second
Calculated Ditch Capacity = 6.6 cubic feet per second

4. If an actual measurement was taken, provide the following:

DATE OF MEASUREMENT	WHO MADE THE MEASUREMENT	MEASUREMENT METHOD	MEASURED QUANTITY OF WATER (IN CFS)
6/10/2010	Jim Hammett	Weir below fish screen	0.65 CFS

Attach measurement notes.

The headgate was restricted to flow only the water right at the time of measurement.

H. Reservoir

1. Does the claim involve a reservoir modified through a transfer?

NO

Reminder: This section should only be completed if the reservoir right has been modified through the transfer process. If the claim is for a permitted reservoir use the Claim of Beneficial Use form for reservoirs.

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SECTION 3 CONDITIONS

Please pay special attention to this section. All conditions contained in the permit, permit amendment, transfer final order, or any extension final order shall be addressed. Reports that do not address all performance related conditions will be returned.

1. Time Limits:

Permits, transfer final orders, and any extension final orders contain any or all of the following dates; the date when the actual construction work was to begin, the date when the construction was to be completed, and the date when the complete application of water to the proposed use is to be completed by. These dates may be referred to as ABC dates. Describe how the water user has complied with each of the development timelines established in the permit, extension or transfer final order:

	DATE FROM PERMIT OR TRANSFER	DATE ACCOMPLISHED*	DESCRIPTION OF ACTIONS TAKEN BY WATER USER TO COMPLY WITH THE TIME LIMITS
ISSUANCE DATE	March 25, 2009		
BEGIN CONSTRUCTION (A)	April, 2009	May, 2009	Very little construction was involved as the ditch transferring the water is immediately adjacent to the new point of use
COMPLETE CONSTRUCTION (B)	April, 2009	May, 2009	Very little construction was involved as the ditch transferring the water is immediately adjacent to the new point of use
COMPLETE APPLICATION OF WATER (C)	April, 2009	May, 2009	Very little construction was involved as the ditch transferring the water is immediately adjacent to the new point of use

* MUST BE WITHIN PERIOD BETWEEN PERMIT, TRANSFER FINAL ORDER, OR ANY EXTENSION FINAL ORDER ISSUANCE AND THE DATE TO COMPLETELY APPLY WATER

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2. Is there an extension final order(s)?

NO

If "NO", you may delete item 3 in this section.

4. Initial Water Level Measurements:

a. Was the water user required to submit an initial static water level measurement?

NO

5. Annual Static Water Level Measurements:

a. Was the water user required to submit annual static water level measurements?

NO

If "NO", items 5b through 5e relating to this section may be deleted.

6. Pump Test (Required for most ground water permits prior to issuance of a certificate)

a. Did the permit require the submittal of a pump test?

NO

7a. Does the permit, permit amendment, transfer final order, or any extension final order require the installation of a meter or approved measuring device?

YES

If "NO", items 7b through 7f relating to this section may be deleted.

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Reminder: If a meter or approved measuring device was required, the COBU map must indicate the location of the device in relation to the point of diversion or appropriation.

b. Has a meter been installed?

NO

d. If a meter has not been installed, has a suitable measuring device been installed and approved by the Department?

YES

If a meter has been installed, items 7e through 7g relating to this section may be deleted.

e. If "YES", provide a copy of the letter approving the device, if available. If the letter is not available provide the name and title of the Water Resources Department employee approving the measuring device, and the approximate date of the approval:

NAME	TITLE	APPROXIMATE DATE
Kelly Rise	Grant County Watermaster	6/4/2002

f. Measurement Device Description

DEVICE DESCRIPTION	CONDITION (WORKING OR NOT)	DATE INSTALLED
It is a purchased Adjust-a-flume manufactured by Nu-Way Flume and Equipment, Raymond, WA	Working	7/2002

8. Recording and reporting conditions

a. Is the water user required to report the water use to the Department?

YES

If "NO", item 8b relating to this section may be deleted.

b. Have the reports been submitted?

YES

METHOD OF SUBMITTING REPORT (PAPER OR ELECTRONIC)	WATER USER REPORTING ID
Paper	4063

If the reports have not been submitted, attach a copy of the reports if available.

9. Fish Screening

a. Are any points of diversion required to be screened to prevent fish from entering the point of diversion?

YES

If "NO", items 9b through 9e relating to this section may be deleted.

Reminder: If fish screening devices were required, the COBU map must indicate their location in relation to the point of diversion.

b. Has the fish screening been installed?

YES

c. When was the fish screening installed?

DATE	BY WHOM
7/2003	Oregon Department of Fish and Wildlife

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SALEM, OREGON**

d. If the diversion **involves a pump** *and* the **total** diversion rate of all rights at the point of diversion is less than 225 gpm (0.5 cfs):

- Has the self-certification form previously been submitted to the Department?
- If not, go to <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>, complete and attach a copy of the self-certification form to this claim, and send a copy of it to the Oregon Department of Fish and Wildlife (ODFW).

NA

Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. The ODFW self certification form needs to have been previously submitted or be attached to this form.

e. If the diversion does **not involve a pump** *or* the **total** diversion rate of all rights at the point of diversion is 225 gpm (0.5 cfs) or greater:

- Has the ODFW approval been previously submitted?
- If not, contact and work with ODFW to ensure compliance. To demonstrate compliance, provide signed documentation from ODFW. A form is available at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>

YES

Reminder: Failure to submit evidence of a timely installed fish screen may result in an unfavorable determination. In order to receive a favorable approval, the ODFW/WRD "Fish Screen Inspection" form needs to have been previously submitted or be attached to this form.

10. By-pass Devices

a. Are any points of diversion required to have a by-pass device to prevent fish from entering the point of diversion?

NO

If "NO", items 10b and 10c relating to this section may be deleted.

Reminder: If by-pass devices were required, the COBU map must indicate their location in relation to the point of diversion.

Provide a letter from ODFW indicating the device is approved or is unnecessary. If there is no letter from ODFW, explain whether or not a by-pass device is necessary.)

Other conditions required by permit, permit amendment final order, extension final order, or transfer final order

- a. Were there special well construction standards? NO
- b. Was submittal of a ground water monitoring plan required? NO
- c. Was the water user required to restore the riparian area if it was disturbed? NO
- d. Was a fishway required? NO
- e. Was submittal of a letter from an engineer required prior to storage of water? NO
- f. Was submittal of a water management and conservation plan required? NO
- g. Other conditions? NO

If "YES" to any of the above, identify the condition and describe the water user's actions to comply with the condition(s):

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SECTION 4 VARIATIONS

Include a description of variations from the permit, permit amendment final order, extension final order, or transfer final order. (i.e. *"The permit allowed three points of diversion. The water user only developed one of the points."* or *"The permit allowed 40.0 acres of irrigation. The water user only developed 10.0 acres."*)

SECTION 5 ATTACHMENTS

If you are attaching any documents to this report, provide a list:

ATTACHMENT NAME	DESCRIPTION

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SALEM, OREGON

SECTION 6

CLAIM SUMMARY

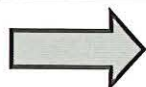
POD / POA NAME OR #	MAXIMUM RATE AUTHORIZED	CALCULATED THEORETICAL RATE BASED ON SYSTEM	AMOUNT OF WATER MEASURED	USE	# OF ACRES ALLOWED	# OF ACRES DEVELOPED
Certificate 24976 does not describe the location of the POD. However, information in the John Day River Decree describes the location as: 12S 26E WM Section 18 NE SE*	0.2115 CFS	0.778 CFS	Water associated with this transfer is incorporated with other water in the ditch and cannot be measured separately.	Irrigation	8.47	8.47

SECTION 7

CLAIM OF BENEFICIAL USE MAP

The Claim of Beneficial Use Map must be submitted with this claim. Claims submitted without the Claim of Beneficial Use map will be returned. The map shall be submitted on poly film at a scale of 1" = 1320 feet, 1" = 400 feet, or the original full-size scale of the county assessor map for the location.

Provide a general description of the survey method used to prepare the map. Examples of possible methods include, but are not limited to, a traverse survey, GPS, or the use of aerial photos. If the basis of the survey is an aerial photo, provide the source, date, series and the aerial photo identification number.



Map Checklist

Please be sure that the map you submit includes ALL the items listed below.

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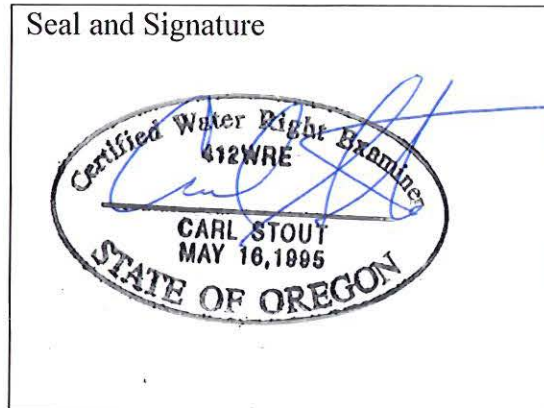
SEP - 1 2010

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SECTION 8 SIGNATURES

CWRE Statement, Seal and Signature

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge.



CWRE NAME <i>CARL STOUT</i>	PHONE NO. <i>541-575-1877</i>	ADDITIONAL CONTACT No.
ADDRESS <i>210 NW CANTON</i>		
CITY <i>JOHN DAY</i>	STATE <i>OR</i>	ZIP <i>97845</i>
E-MAIL <i>CSTOUTOR@GMAIL.COM</i>		

Permit or Transfer Holder's of Record Signature or Acknowledgement

The facts contained in this Claim of Beneficial Use are true and correct to the best of my knowledge. I request that the Department issue a water right certificate.

SIGNATURE	PRINT OR TYPE NAME	DATE
<i>James F. Hammett</i>	<i>James F. Hammett</i>	<i>8/30/2010</i>

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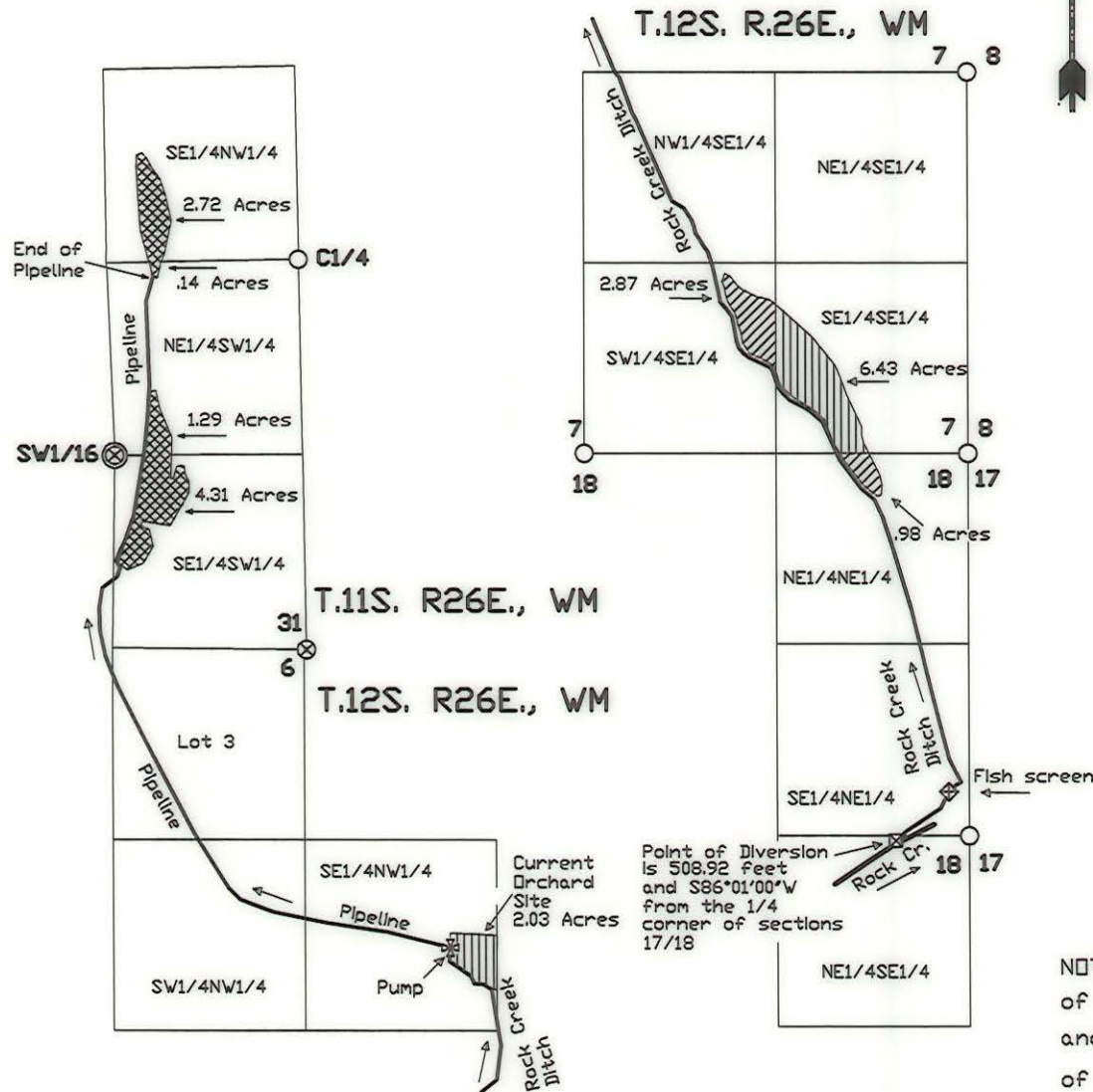
SEP - 1 2010

WATER RESOURCES DEPT
SALEM, OREGON

REC'D JAN 08 2009



Transfer of Rights In the name of The National Park Service



Basis of Bearings
Solar Observation
at the Corner 1/6/7/12
SCALE: 1 Inch = 1320 feet
Surveyed March 2007
Amended December, 2008

LEGEND

- Lands transferring rights; Certificate #24976
- Lands with existing rights; Certificate #24976
- Lands receiving transferred rights
- Projected section corner
- Corner established Grant Co. Survey #716
- GLO corner found Grant Co. Survey #716
- Point of Diversion
- Pump for sprinklers
- Fish screen and bypass

NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.

Water Right Transfer Checklist

Transfer T-10405

Transfer Specialist: Ken Dowden

Transfer Type: ▲ Change in Place of Use

Applicant Name/Address: US Department of the Interior, John Day Fossil Beds National Monument, 32651 Highway 19, Kimberly, OR 97848

Agent Name/Address: James Hammett, Same address as above

CWRE Name/Number: Carl Stout

Rec Landowner Name/Address: NONE

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: Grant County, 201 S. Humbolt St, Suite 180, Canyon City, OR 97820

Commentors: Name/Address: NONE

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
☒	☒			24976	☒ Yes ☐ No	<u>85366</u>
☐	☐				☐ Yes ☐ No	
☐	☐				☐ Yes ☐ No	

Key Dates & Initial Actions

Rec'd: <u>06/11/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER: <u>POU</u>	
Fees Pd: <u>350</u>	WM District: <u>4</u>	ODFW District: <u>Tim Unterwegner</u>
Initial Notice: <u>06/12/07</u>	WM Review sent: <u>06/13/07</u>	ODFW Review sent: <u>06/13/07</u>
Acknowledgement Letter Sent ☒		GW Review sent: <u>NONE</u>

Processing Dates & Actions

Deficiency Contacts: 8/28/008

Newspaper Pub Affid Due: _____

☒ not required

DPD Mailed: 1/09/2009

Affid of Pub Rec'd: _____

☐ ODFW contact sheet sent with DPD, or ☐ N/A

Last Day Published: _____

PD Mailed: _____

Affidavit Reminder Sent: _____

PD Weekly Notice: _____

Reminder Deadline: _____

Preliminary Determination

☒ Electronic Files uploaded

☒ Preliminary Determination

☒ PD Cover letter

☐ Fee Refund Due

☒ PD Notice

☒ Remaining Rights

☒ File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____ Date: _____ Coordinator: _____ Date: _____	Reviewer: _____ Date: <u>2-6-09</u> Coordinator: _____ Date: _____	Reviewer: _____ Date: _____ Coordinator: <u>B. B.</u> Date: <u>3/20/09</u>
Comments/Special Issues: <u>POU Change Only. No injury or enlargement.</u>		

Special Order Volume: Vol 77 Pages 439

Final Order Signature Date: 3-25-09

Notice of FO email'd to processors Ken/mike

Application

- ☒ The type of change is clearly indicated.
- ☒ The application is appropriately signed.
- ☒ Appropriate fees were paid. ☐ If overpayment, Refund Request to be sent with FO
- ☐ Land use form matches affected tax lots and is signed by proper official. (from ALL affected Govt's)
- ☐ Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
- ☒ All required attachments received.

Water right subject to transfer

- ☒ Certificated right or Proof accepted "to the satisfaction...."
- ☒ The right been exercised according to terms & conditions of certificate.
- ☒ Delivery system has the capacity to fully divert the rate/duty of the right.
- ☒ No information in record that suggests forfeiture.
- ☒ No conflicts identified on the plat cards and plat card reports printed.
- ☐ Affidavits prepared for rights that need to be canceled or diminished.

Application Map

- ☒ The map has an original CWRE signature.
- ☒ The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- ☒ All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- ☒ Metes and bounds for the POD's/POA's are properly described on the map.
- ☒ The POD/POA dimensions & ¼ ¼ on map match the transfer application and certificate descriptions.
- ☒ Map acres match the tabulation on the certificate.
- ☒ Have final proof maps/deed maps for the rights. ☐ Application map matches certificate FPS.
- ☐ Have necessary aerial photos.

Determining the "From" and "To" Lands (make working copy of application and certificates to mark on)

- ☒ Only the authorized POD's/POA's and POU's to be transferred are listed.
- ☒ Application & certificate tabulations match. (Mark on appl. and cert. copies and note corrections needed)
- ☒ Marked on certificate the acreage being transferred, cancelled and remaining by ¼ ¼.

Ownership

- ☒ The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- ☒ Have current tax lot map. (If transfer application is several years old, contact assessor's office)
- ☒ The applicant is the owner of the "from" lands.
- ☒ All owners on the deed/ROLI have signed the application. *superintendent for NATI Park Service*
- ☐ If necessary, there is a notarized, signed statement of consent from landowners other than applicant.
- ☐ If necessary, there is a copy of written notification to each lien holder identified on ROLI.
- ☒ Agent has authorization to make decisions.

Evaluation (materials needed for peer reviewer in bold)

- | | | | | |
|--|---|------------------------------------|---|---|
| ☒ application complete | ☒ map | ☐ FPS | ☒ evidence of use | ☒ land-use form |
| ☒ deed/ROLI | ☒ certificate | ☐ fees paid | ☐ well logs | ☒ plat card |
| ☐ audit | ☒ dpd | | | |

Reviews/comments/conditions received?

Headgate

Measuring Devices

Injury: Y N

Conditions to avoid enlargement/injury -

☒ Watermaster

☐ When in the judgment

☒ When in the judgment

Enlargement: Y N

☒ ODFW

☐ Prior to diverting

☐ Prior to diverting

☐ GW

☒ Existing and maintain

☐ Existing and maintain

** Verified w/
Eric Julsrud
wm Dist 4
that R.R.
would also be
better described
& accurate
on the
POD location
as being:
T. 12S, R. 26E
Sec 18
NESE
Rock Cr.
Ditch.*

3-20-09



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

February 13, 2009

*Pd Noticed
2-17-09*

U.S. DEPARTMENT OF THE INTERIOR;
JOHN DAY FOSSIL BEDS NAT'L MONUMENT
ATTN: JAMES F. HAMMETT
32651 HWY 19
KIMBERLY, OR 97848

SUBJECT: Transfer Application T-10405

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve Transfer Application T-10405. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day 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.

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 do not hesitate to contact me at (503) 986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us if I may be of assistance.

Sincerely,

Dorothy I. Pedersen
Transfer Section Advisor
Field Services Division

cc: Transfer T-10405
Eric W. Julsrud, District 4 Watermaster
Carl Stout, CWRE, 210 NW Canton Street, John Day, OR 97845

encs



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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10405, Grant County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

U.S. DEPARTMENT OF THE INTERIOR;
JOHN DAY FOSSIL BEDS NAT'L MONUMENT
ATTNN: JAMES F. HAMMETT
32651 HIGHWAY 19
KIMBERLY, OR 97848

Findings of Fact

Background

1. On June 6, 2007, James F. Hammett of the U.S. Department of Interior (John Day Fossil Beds National Monument) filed an application to change the place of use under a portion of Certificate 24976. The Department assigned the application number T-10405.
2. The Department received an amended application and revised map from the applicant on January 8, 2009, to clarify the proposed place of use.
3. The portion of the right to be transferred is as follows:
Certificate: 24976 in the name of JAMES CANT (confirmed by John Day River (F) decree)
Use: IRRIGATION of 8.46 ACRES
Priority Date: 1899

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 notice of this preliminary determination.
--

Rate & Duty: ONE-FORTIETH of one cubic foot per second (cfs) per acre irrigated to June 1 and ONE-EIGHTIETH of one cfs per acre thereafter; further limited to 1.0 ACRE-FOOT per calendar month to June 1 and 4.0 ACRE-FEET per acre during the season April 1 to September 30, measured at the point of diversion from the stream.

Source: ROCK CREEK, tributary to JOHN DAY RIVER

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
11 S	26 E	WM	31	SE NW	2.72
11 S	26 E	WM	31	NE SW	1.43
11 S	26 E	WM	31	SE SW	4.31
TOTAL:					8.46

4. Certificate 24976 does not describe the location of the point of diversion, however information is available from the John Day River Decree tabulation and associated adjudication map that describes the location of the ditch and dam as follows:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
12 S	26 E	WM	18	NE SE	Rock Creek Ditch

5. Transfer Application T-10405 proposes to change the place of use of the above described acres to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
12 S	26 E	WM	6	SW NE	2.03
12 S	26 E	WM	7	SE SE	6.43
TOTAL:					8.46

6. Notice of the application for transfer was originally published on June 12, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. 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 currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria [OAR 690-380-4010(2)]

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

9. A ditch, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10405.
10. On January 8, 2009, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10405 to the applicant. The draft Preliminary Determination set forth a deadline of February 8, 2009, 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.
11. The proposed change would not result in enlargement of the right.
12. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use proposed in Transfer Application T-10405 appears 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 application will be approved.

If Transfer Application T-10405 is approved, the final order will include the following:

1. *The change in place of use proposed in Transfer Application T-10405 is approved.*
2. *Water right certificate 24976 is cancelled. A new certificate will be issued describing that portion of the right NOT affected by this transfer and further describing the authorized point of diversion (as identified in Finding of Fact #4).*
3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 24976 and any related decree.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*
6. *Prior to diverting water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*

7. *The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.*
8. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
9. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 10th day of February 2009.

William S. Feiber
for Phillip C. Ward, Director

This Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@wrld.state.or.us.

Protests should be addressed to the attention of Field Services Division, Water Resources Department, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

**Notice of Preliminary Determination for
Water Right Transfer T-10405**

T-10405 filed by James F. Hammett, of the U.S. Department of the Interior, John Day Fossil Beds Nat'l Monument, 32651 Hwy 19, Kimberly, OR 97848, proposes to change the place of use under Certificate 24976 (priority date of 1899). The right allows the use of one-fortieth of one cubic foot per second (cfs) to June 1 and one-eightieth of one cfs thereafter; further limited to 1.0 acre foot per acre per calendar month to June 1 and 4.0 acre feet per acre during the season April 1 September 30, from Rock Creek, tributary to John Day River, in Sec 18, T12S, R26E, W.M., for irrigation in Section 31, T. 11S, R 26E, W.M. The applicant proposes to change the place of use to Sections 6 and 7, of T12S, R26E, W.M. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or of this newspaper notice, whichever is later. A protest form and additional information on filing protests may be obtained by calling (503) 986-0881. The last date of newspaper publication is **[DATE OF LAST PUBLICATION]**. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.



Oregon

Theodore R. Kulongoski, Governor

file copy

Water Resources Department

North Central Region
116 S.E. Dorian Avenue
Pendleton, OR 97801
Phone (541) 278-5456
FAX (541) 278-0287

January 8, 2009

U.S. DEPARTMENT OF THE INTERIOR/
JOHN DAY FOSSIL BEDS NAT'L MONUMENT
attn: JAMES HAMMETT
32651 HIGHWAY 19
KIMBERLY, OR 97848

SUBJECT: Application T-10405

Enclosed please find a draft of our Preliminary Determination regarding transfer application T-10405. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action. By copy of this letter, consistent with the Department's administrative rules, you must submit a written response on whether you agree on the enclosed draft.

At this time, you must submit a report of ownership and lien information prepared by a title company within the last three months, as required by Oregon Administrative Rule (OAR) 690-380-4010(5). As required on Page 7 of your transfer application under "10. ATTACHMENTS", and in the signature block, a report of ownership and lien information is now to be submitted prior to the next document being sent out by the Department. This report may describe any lien holders or other parties who may potentially have an interest in the transfer request. If there are additional lienholders identified in the report that have not previously been notified of the transfer, you must send notice of the transfer to them, and submit copies of each such notice to the Department to document that each lienholder has been informed of the transfer.

Issuance of the Preliminary Determination will occur shortly after we receive both your written response and the report of ownership and lien information. If we do not receive your response and the report by February 8, 2009, a Preliminary Determination may be issued denying the application as incomplete.

Please do not hesitate to contact me at (541) 278-5456 or at Ken.D.DOWDEN@wr.d.state.or.us if you should have any questions.

Sincerely,

Ken Dowden
Field Services Division

cc: Eric Julsrud, District 4 Watermaster
Carl Stout, CWRE

enc

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

In the Matter of Transfer Application
T-10405, Grant County

) **D R A F T**
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN PLACE OF USE

Authority

ORS 540.505 to 540.580 establishes 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. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

U.S. DEPARTMENT OF THE INTERIOR/
JOHN DAY FOSSIL BEDS NAT'L MONUMENT
32651 HIGHWAY 19
KIMBERLY, OR 97848

Findings of Fact

Background

1. On June 6, 2007, Jim Hammett, of the U.S. Department of Interior, (John Day Fossil Beds National Monument) filed an application to change the place of use under Certificate 24976. The Department assigned the application number T-10405.

2. The right to be transferred is as follows:

Certificate: 24976 in the name of JAMES CANT (confirmed by John Day River (F) decree)

Use: IRRIGATION of 8.46 ACRES

Priority Date: 1899

Rate & Duty: ONE-FORTIETH of one cubic foot per second (cfs) per acre irrigated to June 1 and ONE-EIGHTIETH of one cfs per acre thereafter; further limited to 1.0 ACRE-FOOT per calendar month to June 1 and 4.0 ACRE-FEET per acre during the season April 1 to September 30, measured at the point of diversion from the stream

Source: ROCK CREEK, tributary to JOHN DAY RIVER

Authorized Point of Diversion: Based upon the John Day River Decree and associated adjudication map, the tabulation describing the right recognizes and identifies a ditch and dam located:

Twp	Rng	Mer	Sec	Q - Q	Survey Coordinates
12 S	26 E	WM	18	NE SE	Rock Creek Ditch

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
11 S	26 E	WM	31	SE NW	2.72
11 S	26 E	WM	31	NE SW	1.43
11 S	26 E	WM	31	SE SW	4.31
TOTAL:					8.46

3. Application T-10405 proposes to change the place of use of the above described acres to:

Proposed Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q - Q	Acres
12 S	26 E	WM	6	SE NW	2.03
12 S	26 E	WM	7	SE SE	6.43
TOTAL:					8.46

4. Notice of the application for transfer was originally published on June 12, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
5. 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 currently equipped with an appropriate fish screening and/or by-pass device.

Transfer Review Criteria [OAR 690-380-4010(2)]

6. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
7. A ditch, pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10405.
8. The proposed change would not result in enlargement of the right.
9. The proposed change would not result in injury to other water rights.

Determination and Proposed Action

The change in place of use proposed in application T-10405 appears 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 application will be approved.

If application T-10405 is approved, the final order will include the following:

1. *The change in place of use proposed in application T-10405 is approved.*
2. *Water right certificate 24976 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
3. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 24976 and any related decree.*
4. *The former place of use of the transferred right shall no longer receive water under the right.*
5. *The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.*
6. *Prior to diverting water, the water user shall install an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*
7. *The water user shall maintain the existing headgate and shall make such improvements as may be required by the Department.*
8. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2010**. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
9. *When satisfactory proof of the completed change is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this _____ day of _____ 2009.

D R A F T

Phillip C. Ward, Director

This draft Preliminary Determination was prepared by Ken Dowden. If you have questions about the information in this document, you may reach me at 541-278-5456 or Ken.D.Dowden@wrdd.state.or.us.
--

STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That, JAMES CANT

of Dayville, State of Oregon, has a right to the use of
the waters of Rock Creek,
for the purpose of Irrigation

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Grant County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 15, at page 461; that the priority of the right thereby confirmed dates from 1899

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed $1/40$ cubic foot per second per acre irrigated to June 1 and $1/80$ cubic foot per second per acre thereafter; further limited to one acre-foot per calendar month to June 1 and four acre-foot per acre during season April 1 to Sept. 30, measured at point of diversion.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

3.9 acres in SE 1/4 NW 1/4 - 2.72
3.3 acres in NE 1/4 SW 1/4 - 1.43
4.7 acres in SE 1/4 SW 1/4 - 4.31
Section 31,
T. 11 S., R. 26 E., W. M.

5.2 acres in SW 1/4 NE 1/4
5.7 acres in SE 1/4 NW 1/4
5.3 acres in NW 1/4 SE 1/4
3.5 acres in SW 1/4 SE 1/4
Section 6,
0.9 acres in NW 1/4 NE 1/4
4.0 acres in SW 1/4 NE 1/4
4.0 acres in NW 1/4 SE 1/4
10.0 acres in SW 1/4 SE 1/4
Section 7,
5.0 acres in NE 1/4 NE 1/4
Section 18,
T. 12 S., R. 26 E., W. M.

T. 12 S., R. 26 E., W. M.

55.5 ac.

1.18
1.87
0.39

19.7

18.9

5.0

Transfer = 8.46 ac.
Remain = 47.04 ac.

8.46 ac. = $\frac{1}{40}$ = 0.21 cfs
 $\frac{1}{80}$ = 0.11 cfs

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

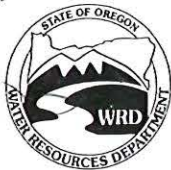
WITNESS the signature of the State Engineer, affixed

this 1st day of May, 19 59.

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17, page 24976



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

Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. TYPE OF TRANSFER APPLICATION

Please check one

☒ Permanent Transfer	☐ Instream Transfer
☐ Temporary Transfer	☐ Permanent
• total number of years: _____	☐ Time-Limited
(begin year: _____)	☐ Drought Transfer
(end year: _____)	☐ Other

2. APPLICANT INFORMATION

Name: U.S. Department of the Interior – John Day Fossil Beds National Monument

Address: 32651 Highway 19

Kimberly, Oregon 97848

Phone: 541-987-2333

Fax: 541-987-2336

E-Mail address: jim_hammett@nps.gov

3. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this transfer application.)

Name: James Hammett

Address: John Day Fossil Beds National Monument, 32651 Highway 19

Kimberly, Oregon 97845

Phone: 541-932-4860

Home

541-987-2333

Work

Fax: 541-987-2336

E-Mail address: jim_hammett@nps.gov

- If an agent is listed above, please check one of the following:

- ☐ Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; or
- ☒ Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

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WATER RESOURCES DEPT
SALEM, OREGON

FS

COPY

APPLICATION
MAP TO BE
AMENDED TO
INCLUDE ALL
8.46 acres
OKAY!
DONE ✓

10405

4. PROPOSED CHANGE(S) TO WATER RIGHT(S)

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: *(Attach additional pages as necessary.)*

	Application / Decree	Permit / Previous Transfer	Certificate
1.	John Day River Decree		24976
2.			
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (Description of Proposed Change(s) to a Water Right) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

☒ Place of Use

☐ Point of Diversion

☐ Additional Point of Diversion

☐ Character of Use

☐ Point of Appropriation

☐ Additional Point of Appropriation

☐ Instream Transfer

☐ Surface Water source to Ground Water source

- Reason(s) for change(s): The original application for a water right contained an error, thus approximately six acres in the middle of an historic agricultural field (part of the James Cant Ranch National Historic District) does not have water rights. The transferred water rights are on fields outside the National Historic District and are of less historical importance. They will be restored to native grasses.

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5. WATER DELIVERY SYSTEM

WATER RESOURCES DEPT
SALEM, OREGON

- Describe the **current** water delivery system **or** the system that **was in place** at some time **within the last 5 years**. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.

The delivery system consists of an in stream diversion on Rock Creek that has fish passage and an approved fish screen. This diversion was installed in 1999 with assistance from the Bureau of Reclamation and NRCS. From there it flows through a concrete lined ditch and 10" diameter plastic pipe to flood irrigate approximately 10 acres located approximately ½ mile from the point of diversion. The water is further piped to a pump sump approximately 1½ mile further down the ditch. It is then pumped with a 10-hp pump through 8-inch mainline to irrigate approximately 16 acres via rain bird sprinklers and 3-inch aluminum

I 10405

handline. The final 8 ½ acres is irrigated via a 2-inch plastic pressure pipe and rain-bird impact sprinklers and 3-inch handline.

System capacity: approximately four cubic feet per second (cfs) (considerably more than the water right).

If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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SALEM, OREGON**

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6. EVIDENCE OF BENEFICIAL WATER USE

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following: 
- ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
- ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
- ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
- ▶ If the right has not been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district? ☐ Yes ☒ No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer? ☐ Yes ☒ No
- Is 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? ☐ Yes ☒ No

If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:

- List the name and mailing address of all affected local governments (e.g., county, city, municipal corporation, and tribal governments within whose jurisdiction the rights are located).

GRANT COUNTY
201 S. HUMBOLT ST., STE. 180
CANYON CITY, OR. 97820

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8. LAND OWNERSHIP

- Does the applicant own the lands **FROM** which the right is being transferred? ☒ Yes ☐ No

If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners:

Names of Current Landowner(s):

Address

- Does the applicant own the lands **TO** which the right is being transferred?

☒ Yes

☐ No

☐ N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

If "No", provide the following information:

Names of Receiving Landowner(s):

Address:

- Check one of the following:

☐ The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.

☒ The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.

☐ N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

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9. ATTACHMENTS

Check each of the following attachments included with this application.
The application will be returned if all required attachments are not included.

Supplemental Form A –

Description of Proposed Change(s) to a Water Right

- ☒ A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

Supplemental Form B –

Evidence of Use Affidavit(s)

- ☒ At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
- ☒ The Evidence of Use Affidavit must be accompanied by supporting documentation.

Map

- ☒ *Water Right Transfer*
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.
- ☐ *Temporary Transfer or Historical POD Change*
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

Water Well Report(s)/Well Log(s):

- ☐ The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- ☐ Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- ☒ N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

Land Use Information Form:

- ☐ Enclosed; *or*
- ☒ Not Required if all of the following are met:
- ❶ In EFU zone or irrigation district,
 - ❷ Change in place of use only,
 - ❸ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ❹ Irrigation only.

Fees:

- ☒ Amount enclosed: \$ _____
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

- ☐ Complete this form to describe the desired nature and attributes for the proposed instream water right.

Temporary Transfers, also include:

Recorded Deed:

- ☐ The applicant must submit a copy of the current deed of record for the land from which the authorized place of use or point of diversion/appropriation is being moved.

Affidavit of Consent:

- ☐ If the applicant is **NOT** the owner of record for the land from which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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WATER RESOURCES DEPT
SALEM, OREGON

Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for **all** named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

10. SIGNATURES

- Check one of the following, as appropriate, and sign the application in the signature box below:

☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to **all** lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is **not** the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that 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. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is **NOT** required to provide the above described report of ownership and lien information.

☐ I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is **NOT** required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)

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

 applicant signature	<u>James F. Hammett</u> name (print)	<u>5/31/2007</u> date
_____ applicant signature	_____ name (print)	_____ date

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JUN 06 2007

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Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

- Certificate Number or other identifying number: 24976

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
☐ Change (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) ☐ Additional (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) ☐ Historic Point of Diversion or Appropriation Change (Unauthorized point of diversion or appropriation used for more than 10 years.) ☐ Surface Water to Ground Water (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.) ☐ Point of Diversion Change due to Government Action (The old point of diversion or appropriation can no longer be used due to government action.) ☐ Exchange (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	☐ All of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.) ☒ Only a portion of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.)	Proposed new use: ☒ Irrigation ✓ ☐ Municipal ☐ Quasi-municipal ☐ Commercial ☐ Industrial ☐ Instream (complete and attach <i>Supplemental Form C</i>) ☐ Domestic (indicate number of households) _____ ☐ Other _____ ☐ Substitution (A supplemental ground water right will be substituted for a primary surface water right.) ☐ Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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SALEM, OREGON

2. CURRENT WATER RIGHT INFORMATION

Water Right Subject to Transfer (check and complete one of the following):

☒ Certificated Right	<u>24976</u> Certificate Number	<u>John Day River D.</u> Permit Number or Decree Name
☐ Adjudicated, Non-certificated Right	 Name of Decree	 Page Number
☐ Permit for which Proof has been Approved	 Permit Number	 Date Claim of Beneficial Use Submitted
☐ Transferred Right for which Proof has been Filed	 Previous Transfer Number	 Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: James Cant
- County: Grant
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): 1899

If there are multiple Priority Dates identified on the water right, any information provided on pages 3 through 6 of this form must identify which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

- Source(s) of Water to be Affected by Transfer: Rock Creek

Tributary to: John Day River

If there are multiple Sources listed on the water right, any information provided on pages 3 through 6 of this form must identify which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.

For applications proposing a Change in Place of Use or Character of Use:

- Are there Other Water Rights, Permits or Ground Water Registrations associated with this land?

☐ Yes ☒ No ☐ N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? _____

Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).

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- Certificate Number or other identifying number: _____

The following information **must be provided** only for those points of diversion or appropriation that are involved in the transfer (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-)	Source and Priority Date	Township	Range	Mer	Sec	¼¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)

- Does the water right being transferred involve a ground water source(s)?

☐ Yes ☒ No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

- A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

- B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)

Wells in this listing must be **clearly tied** to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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								JUN 06 2007	
								WATER RESOURCES DEPT SALEM, OREGON	

- Certificate Number or other identifying number: _____

10405

Government lot and donation land claim numbers must be included in the tables below only if the information is reflected on the existing water right.

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

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3. PROPOSED CHANGES TO THE WATER RIGHT

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Point(s) of Diversion or Appropriation:

(i.e., the "TO" point(s) of diversion or appropriation)

☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed? ☐ Yes ☐ No ☒ N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are not available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

Construction of Proposed Point(s) of Appropriation or Well(s)

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

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- Certificate Number or other identifying number: _____

10405

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Rock Creek 1899	12S	26E	WM	7	SE SE		6.43
21 "	12S	26E	W.M.	6	SW NE		2.03

Remarks: _____

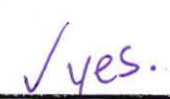
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**WATER RESOURCES DEPT
SALEM, OREGON**

T 10405

Certified Water Right Examiner
412
Carl Stout
May 16, 1995
STATE OF OREGON

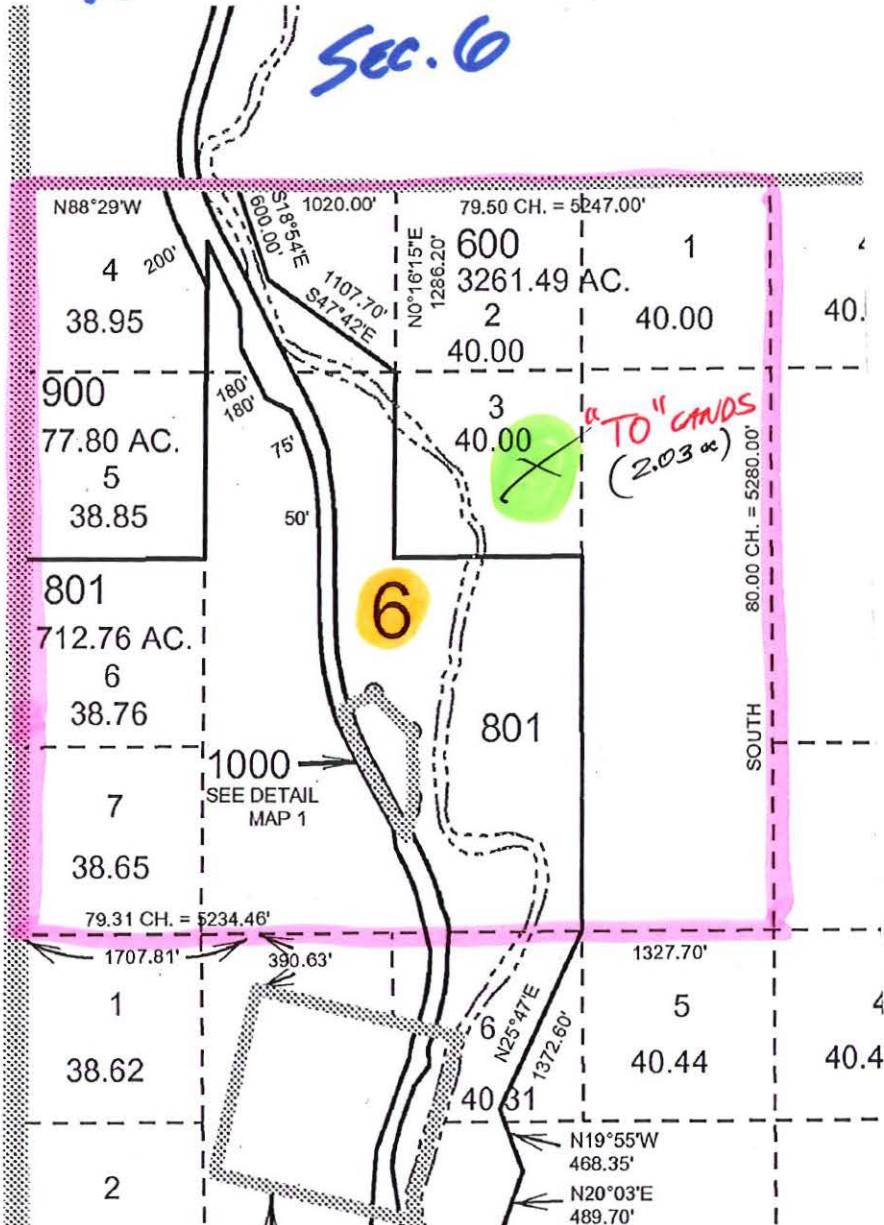


LEGEND

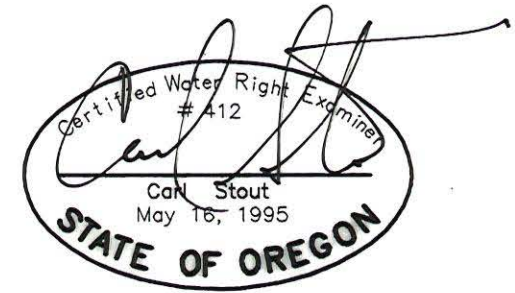
- NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.

T. 12 S., R. 26 E.

Sec. 6



Transfer of Rights
In the name of
The National Park Service



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Basis of Bearings

Solar Observation

at the Corner 1/6/7/12

SCALE 1 Inch = 1320 feet

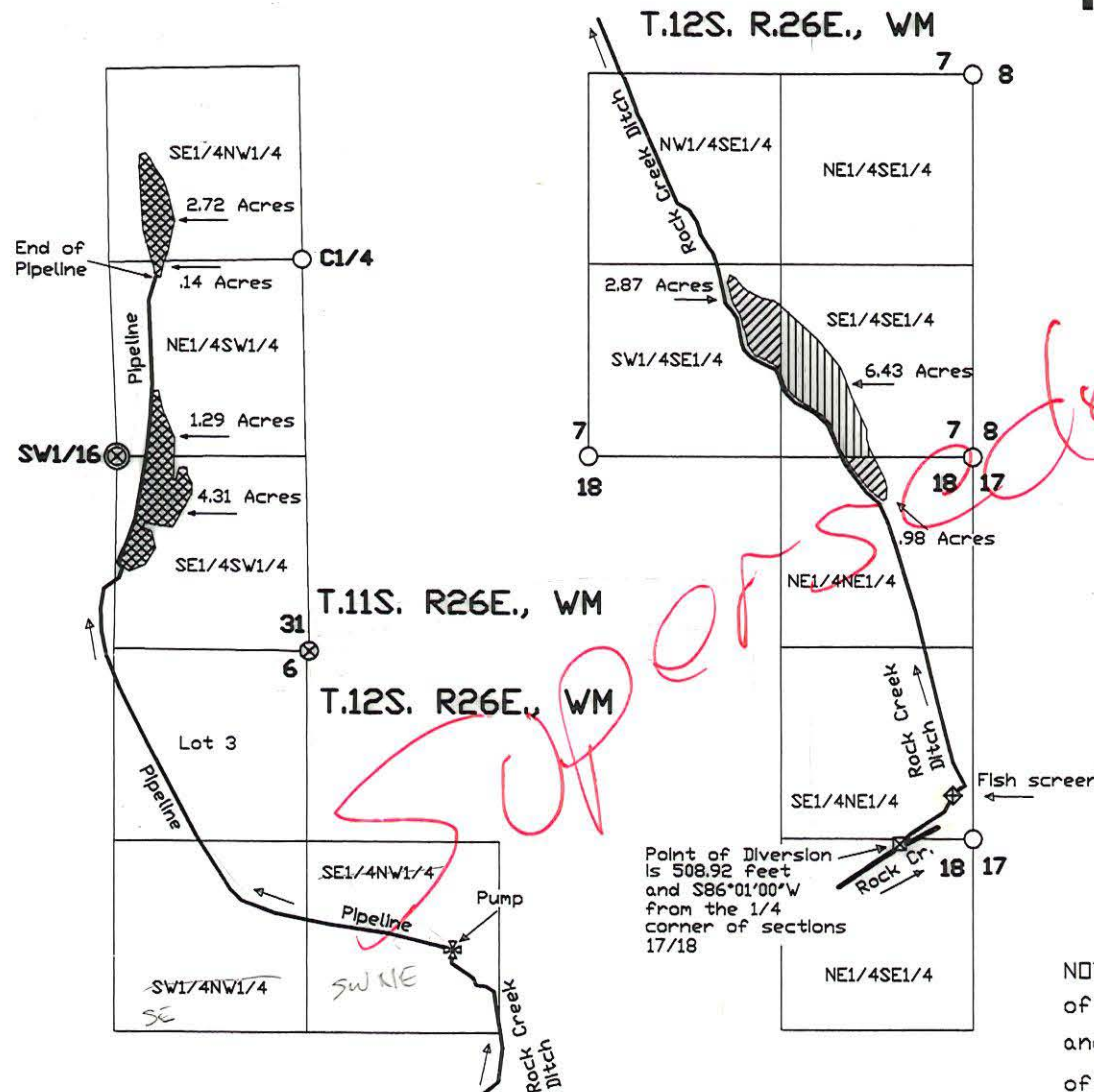
Surveyed March 2007

WATER RESOURCES DEPT
SALEM, OREGON

LEGEND

- Lands transferring rights; Certificate #24976
- Lands with existing rights; Certificate #24976
- Lands receiving transferred rights
- Projected section corner
- Corner established Grant Co. Survey #716
- GLO corner found Grant Co. Survey #716
- Point of Diversion
- Pump for sprinklers
- Fish screen and bypass

NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.





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

Watermaster Review Form: Water Right Transfer

Transfer Application: T-10405

Review Due Date: _____

Applicant Name: James Hamett / US Dept. of Interior, John Day Fossil Beds National Monument

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

Reviewer(s): Ewj

Date of Review: Sep. 24, 2007

1. Do you have information suggesting that the water rights may be subject to forfeiture?
☐ Yes ☐ No If "Yes", describe the information and indicate if you intend to file a cancellation affidavit or if you need additional time to determine if a cancellation affidavit should be filed: _____
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred: If any regulation of the Rock Creek system has occurred I do not have any records of that regulation available to me in the local files. Mountain Creek has been regulated annually for the past three to four years due to shortage. Mountain Creek is a tributary to Rock Creek many miles upstream of the confluence of Rock Creek and Mountain Creek.
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right? ☒ If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most: The irrigation of the place of use involved in this transfer would likely generate return flows which would likely benefit rights below the National Park Service lands on the John Day River. The following rights may benefit from this return flow: C-64410, 51728. The lands covered under C-64410 and C-51728 are below the lands involved in this transfer by slightly more than a 1/4 mile.
4. Are there upstream water rights that would be affected by the proposed change?
☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected: _____
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? ☐ If you check the box, describe and, if possible, estimate the losses: _____
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
☐ Yes ☒ No If "Yes", explain: _____
7. For POU changes, would the original place of use continue to receive water from the same source? ☐ Yes ☒ No ☐ N/A If "Yes", explain: _____

8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☒ No
If "Yes", explain: _____

9. Are there other issues not identified through the above questions? ☒ Yes ☐ No If "Yes", explain: The National Park Service is requesting to move more acres than they have room to move. They are aware of this and are fully aware that the balance of acres will be lost. If the applicant is willing I would suggest that they amend their transfer to reflect only the amount of land that they have room to move in this transfer to avoid the loss of acres. From my understanding of their delivery system and irrigation practices the FROM lands can easily be segregated and dried up from Rock Cr. water by simply choosing to not continue to pump water to these lands which are on the far northern end of their irrigated lands. *OKAY, APP. & KAP AMENDED*

10. What alternatives may be available for addressing any issues identified above: Applicant would amend their transfer.

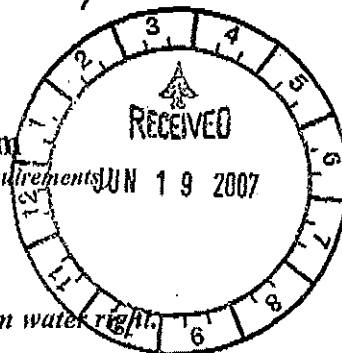
11. Have headgate notices been issued for the source that serves the right? ☐ Yes ☒ No

12. What water control and measurement conditions should be included in the transfer:

Measurement Devices	☐ Present and should be maintained.	☒ Should be required prior to diverting water.	☐ May be required in the future.
Headgates	☒ Present and should be maintained.	☐ Should be required prior to diverting water.	☐ May be required in the future.

Return by 7-12-07

Oregon Department of Fish and Wildlife
Water Right and Diversion Transfer Comment Form
(ODFW provides to WRD so that WRD can make findings according to statutory requirements)

Reference Transfer #: 10405

A. Please check box if you believe there is a potential for injury to an instream water right.

- ☐ The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on

_____, tributary to _____. Because,
 (Stream) _____

(Please attach any available supporting information.)

Note: This will prompt WRD to further evaluate and make a determination whether the transfer will injure an instream water right. (WRD is the agency that makes the determination of injury to a water right, while ODFW's role is to raise concerns and to evaluate proposed mitigation and net benefit to the resource if WRD requests concurrence with injury to an instream water right.)

B. Please check one of the following four boxes related to requiring a fish screen and/or by-pass device pursuant to ORS 540.525 or 540.532:

- ☒ 1. The new Point of Diversion (POD) requires a fish screening and/or by-pass device and is currently equipped with an appropriate fish screening and/or by-pass device.

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife 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 currently equipped with an appropriate fish screening and/or by-pass device.

Condition: The water user shall maintain and operate a fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with the Oregon Department of Fish and Wildlife's operational and maintenance standards.

- ☐ 2. The new Point of Diversion (POD) requires a fish screening and/or by-pass device prior to water being diverted. The diversion may be eligible for cost share assistance under ODFW's cost share program.

Option 2 should generally be selected if listed fish species are present at the point of diversion and/or the originating water right diversion is currently screened. If Option 2 is

Please return all 4 pages to: Transfers Section, Water Resources Department,
 725 Summer St. NE, Suite A, Salem, OR 97301-1271

The electronic version of this form is available at: <http://www1.wrd.state.or.us/msword/ODFWScreen.doc>.

selected, provide contact information on the "Fish Screening and Passage Information" sheet. The new diversion may be eligible for cost-share.

Note: This option will yield the following:

Finding of Fact: 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.

Condition: 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.

- ☐ 3. The new Point of Diversion (POD) requires a fish screening and/or by-pass device. However, the diversion may be used for up to two years pending a determination of whether cost share assistance under ODFW's cost share program is available.

If Option 3 is selected, provide contact information on the "Fish Screening and Passage Information" sheet. Except in extraordinary circumstances, Option 3 should NOT be checked if listed fish species are present at the point of diversion, the originating water right diversion is screened, cost-share funds are currently available, or the diversion is not eligible for ODFW's cost-share program. If extraordinary circumstances are present, please explain:

Note: This option will yield the following:

Finding of Fact: 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. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost share funding.

Condition: Within two years after the date of this order, 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. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. 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.

- ☐ 4. The new Point of Diversion (POD) does not currently require a fish screen and/or by-pass device, however, the permittee may be required in the future to install, maintain, and operate fish screening and/or by-pass devices.

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future 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.

Condition: Within one year after receiving written notification from the Oregon Department of Fish and Wildlife (ODFW) that a fish screening and/or by-pass device is required, the water user shall install a screening and/or by-pass device, as appropriate, at the new point of diversion. The fish screening and/or by-pass device must meet ODFW's design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria. Once installed the water user shall maintain and operate the fish screening and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

Tim Unterwieser
Signature

TIM UNTERWIESER
Printed Name

DISTRICT FISH BIOLOGIST
Title

(541) 575-1167
Phone

Oregon Department of Fish and Wildlife
Additional Fish Screening and Passage Information for the Applicant
(To be completed by ODFW for WRD to provide to the applicant.)

Transfer # 10405

The applicant should be aware that fish screening and passage may be required for certain changes in point of diversion if the boxes below are checked.

- ☐ Fish screening and/or fish by-pass devices are required as a condition of this transfer. The fish screen and/or by-pass device must meet ODFW's design, construction, operational and maintenance standards. Fish screening prevents fish from entering the diversion, while a by-pass device safely transports fish back to the body of water from which the fish were diverted.

Pursuant to ORS 498.306, cost share funds may be available to assist in the installation of fish screening and by-pass devices at diversions.

The applicant should contact the ODFW staff below to obtain additional information on the design, construction, operational, and maintenance standards for the required fish screening and/or by-pass device and to obtain information about ODFW's cost sharing program for screening and by-pass devices. **Prior to installation, the water user must obtain written approval from ODFW that the required screening and/or by-pass device meets ODFW's criteria.**

ODFW staff name: _____

Address: _____

City/State/Zip: _____

Phone: (____) _____

- ☐ This transfer may trigger requirements for fish passage under ORS 509.585 because a new point of diversion will be constructed, an existing point of diversion's capacity will be increased, or an existing point of diversion will be abandoned. The applicant should contact the ODFW staff below for a determination of whether native migratory fish are or were present at the applicable location, which will determine whether fish passage must be addressed.

ODFW staff name: _____

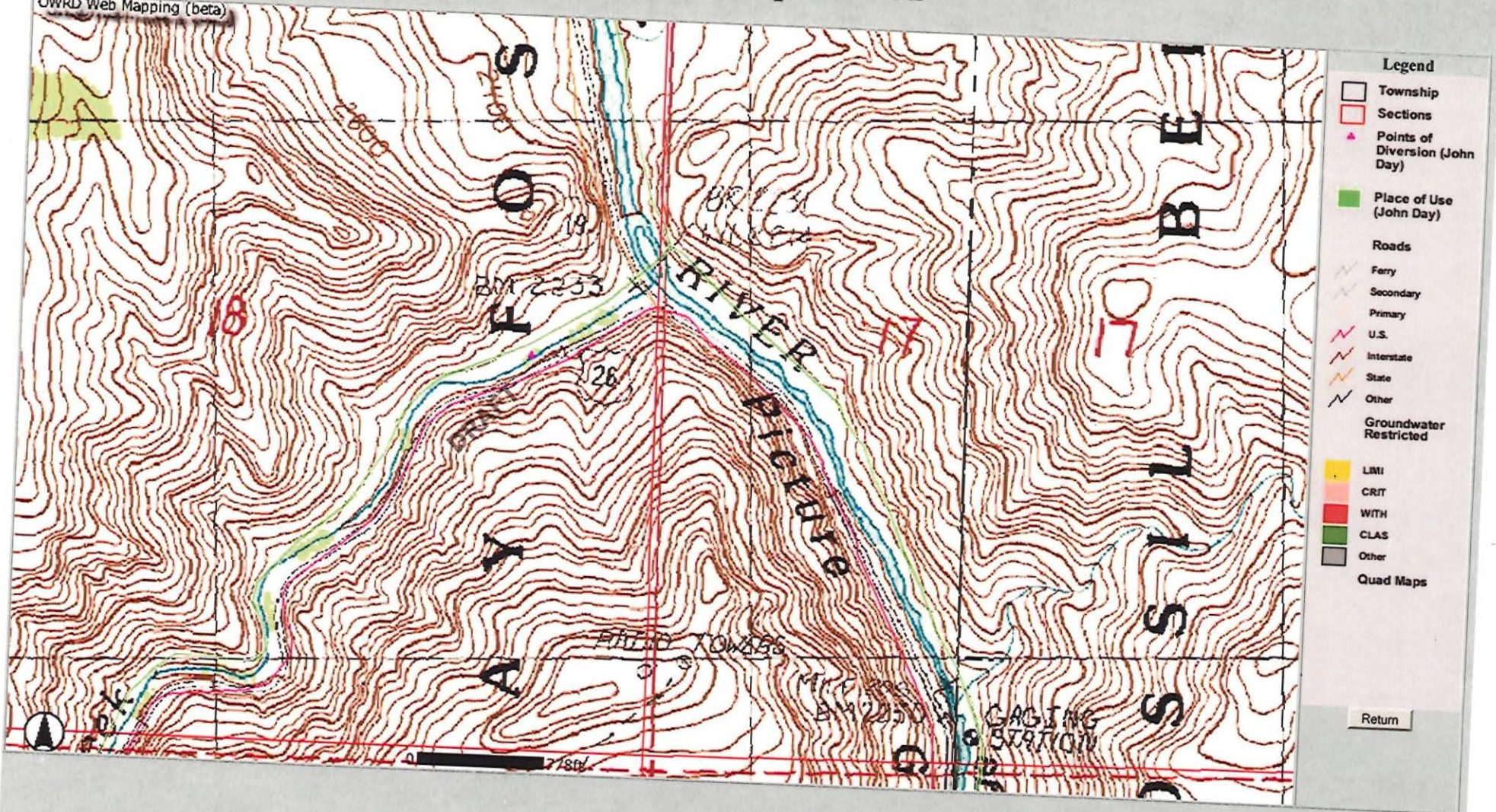
Address: _____

City/State/Zip: _____

Phone: (____) _____

T-10405 proposed POD

OWRD Web Mapping (beta)



STATE OF OREGON

COUNTY OF GRANT

CERTIFICATE OF WATER RIGHT

This Is to Certify, That JAMES CANT

of Dayville, State of Oregon, has a right to the use of

the waters of Rock Creek

for the purpose of Irrigation

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Grant County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 15, at page 461; that the priority of the right thereby confirmed dates from 1899

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1/40 cubic foot per second per acre irrigated to June 1 and 1/80 cubic foot per second per acre thereafter; further limited to one acre-foot per calendar month to June 1 and four acre-feet per acre during season April 1 to Sept. 30, measured at point of diversion.

A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purposes, the place where such water is put to beneficial use), is as follows:

T-10405 RR
 3.9 acres in SE 1/4 NW 1/4 - 2.72
 3.3 acres in NE 1/4 SW 1/4 - 1.43
 4.7 acres in SE 1/4 SW 1/4 - 4.31
 Section 31,
 T. 11 S., R. 26 E., W. M.

1.18
 1.87
 0.39

5.2 acres in SW 1/4 NE 1/4
 5.7 acres in SE 1/4 NW 1/4
 5.3 acres in NW 1/4 SE 1/4
 3.5 acres in SW 1/4 SE 1/4
 Section 6,
 0.9 acres in NW 1/4 NE 1/4
 4.0 acres in SW 1/4 NE 1/4
 4.0 acres in NW 1/4 SE 1/4
 10.0 acres in SW 1/4 SE 1/4
 Section 7,
 5.0 acres in NE 1/4 NE 1/4
 Section 18,
 T. 12 S., R. 26 E., W. M.

And said right shall be subject to all other conditions and limitations contained in said decree. The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the State Engineer, affixed

this 1st day of May, 19 59.

LEWIS A. STANLEY

State Engineer

Recorded in State Record of Water Right Certificates, Volume 17, page 24976

T-10405

VOR

Ken Dowden

From: Dorothy Pedersen
Sent: Wednesday, January 14, 2009 10:41 AM
To: Ken Dowden
Subject: RE: ROLI req'd for federal agency?

Ken,

I believe we usually do have federal agencies submit documentation on land ownership, just to prove that it is indeed not privately owned. I don't know of an exception for that case. However, we don't need a Land Use Information Form for POUs on federal land, since that is not under state land use planning jurisdiction.

Sorry for the delay in responding,
Dorothy

From: Ken Dowden
Sent: Tuesday, January 13, 2009 12:48 PM
To: Dorothy Pedersen; Doug Parrow
Subject: RE: ROLI req'd for federal agency?

ANY ANSWER ON THIS YET?

I have already sent this dPD out asking that they submit the ROLI, but now have heard that they may not have to.....? What do you know?

From: Ken Dowden
Sent: Friday, January 09, 2009 3:20 PM
To: Dorothy Pedersen; Doug Parrow
Subject: ROLI req'd for federal agency?

Hello, hate to bother you with this, but I cannot find an exemption in rule or in statute (ORS 540.510) where the Department of the Interior/Nat'l Park Service-JD Fossil Beds (T-10405) is not required to submit a land ownership and lien information report required under OAR 690-380-(13) (c), and do not see on the Page 6 of the transfer application the applicable exemption under the "12. SIGNATURES" where they would fit in either.

Do they somehow fit into a sub-category of the "municipality definition?

Excerpt from transfer application follows:

Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

12. SIGNATURES

Check one of the following, as appropriate, and sign the application in the signature box below:

In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- If the landowner identified in the report of ownership and lien information is not the applicant, a **notarized statement consenting to the transfer (attached)** signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

I (we) affirm that interest in the water right has been conveyed to someone other than the landowner, and documents, including a water right conveyance agreement, report of ownership and lien information, and any required lienholder notification are enclosed, demonstrating that I am (we are) authorized to pursue the transfer. I (we) understand that we may be required to provide additional information upon receipt of the draft Preliminary Determination.

I (we) affirm that 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. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is **NOT** required to provide the above described report of ownership and lien information.

I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is **NOT** required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.

I (we) affirm that this is a temporary transfer and a copy of the deed for the "from" land (and affidavits of consent from any other landowners, if applicable) is enclosed.

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

applicant signature

name and title if applicable (print)

date

applicant signature

name and title if applicable (print)

date

Ken Dowden

N.C. Region Transfer Specialist

Oregon Water Resources Department

116 S.E. Dorion Ave.

Pendleton, Oregon 97801

ph# (541) 278-5456



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Central Region
116 S.E. Dorian Avenue
Pendleton, OR 97801
Phone (541) 278-5456
FAX (541) 278-0287

August 28, 2008

U.S. DEPARTMENT OF THE INTERIOR/
JOHN DAY FOSSIL BEDS NAT'L MONUMENT

attn: James Hammett
32651 HIGHWAY 19
KIMBERLY, OR 97848

SUBJECT: Transfer Application T-10405

Hello Mr. Hammett, as discussed in our telephone conversation, enclosed are the original transfer application and map in which to amend. Please refer to my stickie notes the pages in the application that must be amended to include the 2.03 acres at the proposed place of use, corresponding with your new amended map.

Please don't hesitate to call me or Eric Julsrud should have any questions regarding the information requested above. I can be reached at (541) 278-5456.

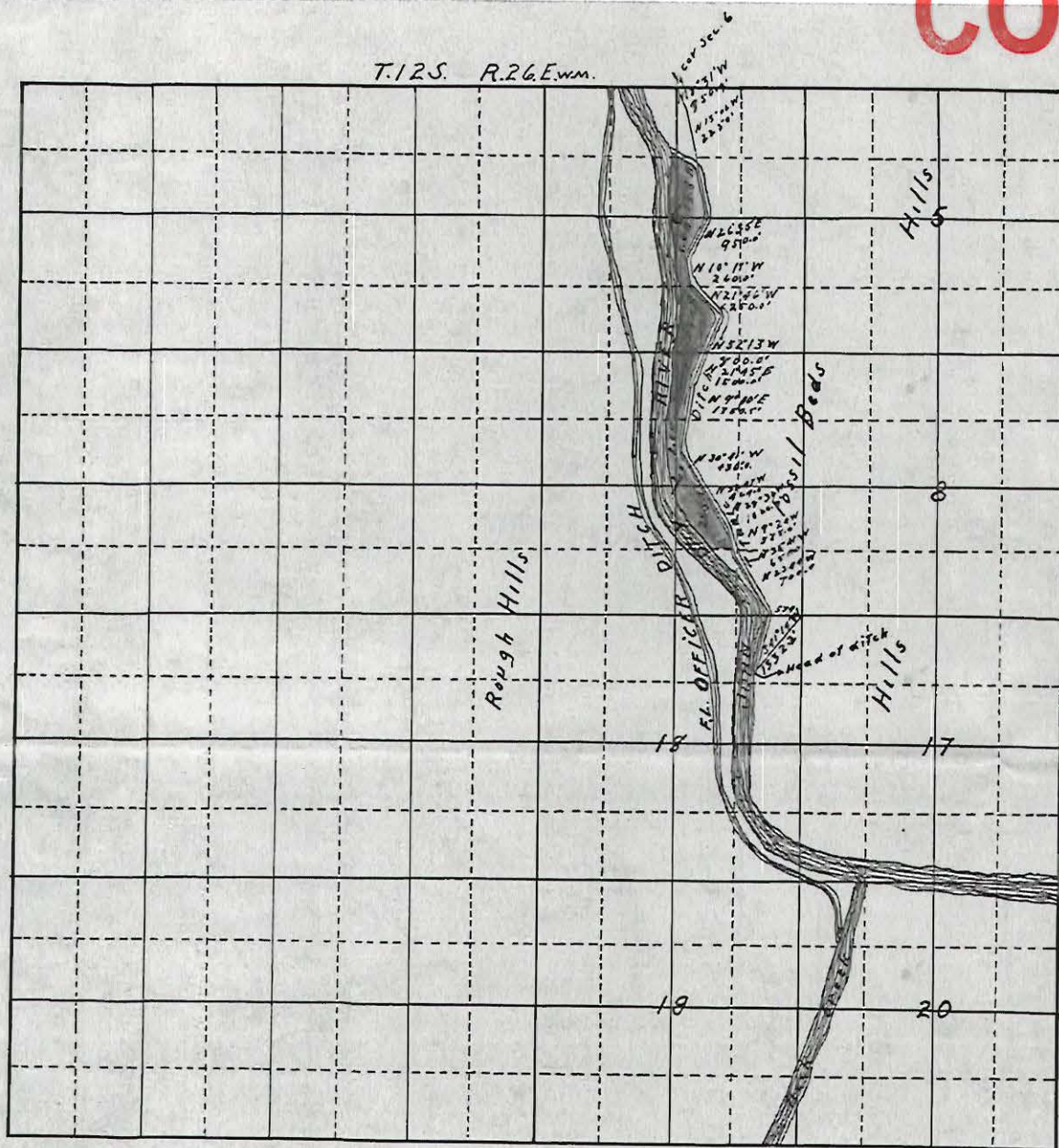
Sincerely,

Ken Dowden
Field Services Division

cc: Eric Julsrud, District 4 Watermaster

→ file copy

COPY



I, Vernon L. Glaze of Dayville, Oregon, do hereby certify that this map was made from notes taken during an actual survey made by me on May, 26, -27, 1912. And that it correctly represents the works described in the accompanying application, together with the location of streams, and other ditches in the immediate vicinity, and has written thereon the area in each smallest legal subdivision it is proposed to irrigate.

Verum L. Glaze.

Application No. 2584
Permit No. 1386

MAP

SHOWING LOCATION OF PROPOSED
TITANIC DITCH

Scale

$$2'' = 1 \text{ Mi.}$$

Water Rights Platcard Report

"TO" LANDS

Meridian: WILLAMETTE Township: 12 South Range: 26 East Section: 7 Records per Page: 8 Search

Water Right	Changing Xfers	Priority	Use	Use Status	PLC	Gov't Lot	QQ(40) Q(100)	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Cert:1955 OR CN Additional Info: JAMES CANT App: S2584 Permit: S1386 Cert: 1955		9/30/1912	IRRIGATION	CN				7	3						2						25.5			
Select Cert:24976 OR * Additional Info: JAMES CANT Decree: JOHN DAY RIVER (F) Cert: 24976	T10405	12/31/1899	IRRIGATION					0.9	4												4	10		
Select Cert:75793 CF CN Additional Info: U.S. NATIONAL PARK SERVICE; USDI App: S2584 Permit: S1386 Cert: 75793	T8683	9/30/1912	IRRIGATION	CN				7	10.2											1.2	15.1		0.2	
Select Cert:75794 CF * Additional Info: U.S. NATIONAL PARK SERVICE; USDI App: S30530 Permit: S24073 Cert: 75794		1/12/1956	IRRIGATION						3.4											1.2	15.1		0.2	
Select Cert:81943 RR * Additional Info: U.S. NATIONAL PARK SERVICE; JOHN DAY FOSSIL BEDS NATIONAL MONUMENT App: S2584 Permit: S1386 Cert: 81943		9/30/1912	IRRIGATION					7	10.2											1.2	15.1		0.2	
Select Cert:75792 OR CN Additional Info: U.S. NATIONAL PARK SERVICE; JOHN DAY FOSSIL BEDS NATIONAL MONUMENT App: S66014 Permit: S49554 Cert: 75792	T8683	9/13/1983	SUPPLEMENTAL IRRIGATION (Suppl'mtl)	CN				7	6.8															
Select Cert:81942 RR * Additional Info: U.S. NATIONAL PARK SERVICE; JOHN DAY FOSSIL BEDS NATIONAL MONUMENT App: S66014 Permit: S49554 Cert: 81942		9/13/1983	SUPPLEMENTAL IRRIGATION (Suppl'mtl)					7	6.8															

Acreage Legend: 12.25 Regular acreage 12.25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (Inchoate) [12.25] Acreage has been suspended * Acreage is not specified

NCR

Water Rights Platcard Report

"FROM" LANDS

Meridian: WILLAMETTE Township: 11 South Range: 26 East Section: 31 Records per Page: 6 Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Cert:24976 OR *	T10405	12/31/1899	IRRIGATION												3.9	3.3			4.7					
Additional Info: JAMES CANT Decree: JOHN DAY RIVER (F) Cert: 24976							SUBJECT RIGHT																	
Select Cert:25360 OR CN		12/31/1891	IRRIGATION	CN								5												
Additional Info: RHYS HUMPHREYS Decree: JOHN DAY RIVER (F) Cert: 25360																								
Select Cert:51728 RR *		12/31/1891	IRRIGATION									2.2												
Additional Info: RHYS HUMPHREYS Decree: JOHN DAY RIVER (F) Cert: 51728																								
Select Cert:64410 OR *		9/22/1983	SUPPLEMENTAL IRRIGATION (Suppl'mtl)									2.2												
Additional Info: RHYS HUMPHREYS App: S66667 Permit: S48103 Cert: 64410																								

Acreage Legend: 12.25 Regular acreage ~~12.25~~ Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate) [12.25] Acreage has been suspended * Acreage is not specified

NCR

Ken Dowden

From: Ken Dowden
Sent: Thursday, August 07, 2008 2:56 PM
To: 'jim_hammett@nps.gov'
Cc: Eric Julsrud
Subject: RE: T-10405

Hi Jim, as discussed, I called and left a message with Laura Snedaker in Salem. She has not returned my call as of yet. As soon as I can go over this issue with her, and get better direction on what steps to take next, I'll let you know.

As pointed out, Eric Julsrud and I believe this might be a win win situation with the amendment to your transfer application to include a character of use change to convert the (remaining) additional 2.03 acres instream.

In addition to amending the application, the map of course would need to be fixed as well. The additional change would also require a \$350 add'l fee, but I will get some guidance on how to get that reduced 50%. As also discussed, needed will be to publish this notice within a local newspaper because of the change in character of use. We will prepare that Public Notice and send out with the Preliminary Determination. The Department would also re-notice the add'l filing in our weekly public notice. I will send back the original application and map when we get there.

The application must be amended to describe the entire 8.46 acres being transferred to:

- (▲ place of use = 6.43 acres)
- (▲ character of use = 2.03 acres / converted instream)

I hope to get back to you soon. If you have additional questions or need help with the above described information, don't hesitate to call either Eric or myself.

I can be reached here in Pendleton at (541) 278-5456.

Water Right Transfer Supplemental Form B

AFFIDAVIT ATTESTING TO THE USE OF WATER

State of Oregon)
) ss
 County of Grant)

I, James Frank Hammett, in my capacity as Superintendent, John Day Fossil Beds National Monument, mailing address 32651 Highway 19, Kimberly, Oregon 97848,

telephone number (541) 987-2333, being first duly sworn depose and say:

1. I attest that:

- ☒ Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; **or**
- ☐ The water right was leased instream at some time within the last five years. The instream lease number is as follows: _____; **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.

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

- ☒ Personal observation ☐ Professional expertise

3. My knowledge is specific to the use of water at the following locations:

Township		Range		Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
11	S	26	E	WM	31	SE SW		4.31
11	S	26	E	WM	31	NE SW		1.43
11	S	26	E	WM	31	SE NW		2.72

RECEIVED

JUN 06 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):
 (continues on reverse side)

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

To irrigate wheat and annual grasses used for forage (hay).

5. The water delivery system used to apply water as authorized by the right is described below:

The delivery system consists of an in stream diversion on Rock Creek that has fish passage and an approved fish screen. This diversion was installed in 1999 with assistance from the Bureau of Reclamation and NRCS. From there it flows through a concrete lined ditch and 10" diameter plastic pipe to flood irrigate approximately 10 acres located approximately 1/2 mile from the point of diversion. The water is further piped to a pump sump approximately 1 1/2 mile further down the ditch. It is then pumped with a 10-hp pump through 8-inch mainline to irrigate approximately 16 acres via rain bird sprinklers and 3-inch aluminum handline. The final 8 1/2 acres is irrigated via a 2-inch plastic pressure pipe and rain-bird impact sprinklers and 3-inch handline

6. One or more of the following documentation supporting the above statements is attached:

- ☐ Copy of a water right certificate that was issued within the last five years (not a remaining right certificate),
- ☐ Copies of receipts from sales of irrigated crops or for expenditures relating to the use of water,
- ☐ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers,
- ☒ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph,
- ☐ Dedicated power usage records or receipts,
- ☐ Instream lease number _____,
- ☐ Other: _____

James F. Hummelt
Signature of Affiant

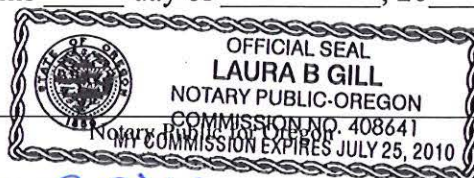
5/31/2007
Date

Signed and sworn to (or affirmed) before me this _____ day of _____, 20____.

RECEIVED

JUN 06 2007

WATER RESOURCES DEPT
SALEM, OREGON



Laura B. Gill
My Commission Expires: _____

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



RECEIVED

JUN 06 2007

WATER RESOURCES DEPT.
SALEM, OREGON

04/23/2007

I 10405



05/01/2007

JUN 06 2007

WATER RESOURCES DEPT
SALEM OREGON



05/16/2007



05/16/2007



RECEIVED

JUN 06 2007

WATER RESOURCES DEPT
SALEM, OREGON

05/22/2007

T 10405



05/23/2007

RECEIVED



JUN 06 2007

WATER RESOURCES DEPT
SALEM, OREGON

05/24/2007



RECEIVED

JUN 06 2007

WATER RESOURCES DEPT
SALEM, OREGON

I 10405

Dear Sir or Madam,

Enclosed is a check for \$350 for a water rights transfer number 10405. This check was inadvertently left out of our application sent in last week.

James F. Hammett



RECEIVED

JUN 11 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

T-10405

ORIGINALS

Transfer Application and Map

Amendments/Revisions to Appl & Map

Receipt

Deed or Lot Book Report

Notarized Consent

Evidence of Use Affidavit

Land Use Information Form

Lien Holder Notification *(if applicable)*

Report of Ownership and Lien Info *(if applicable)*

&

Other Supporting Documentation



United States Department of the Interior

NATIONAL PARK SERVICE
John Day Fossil Beds National Monument
32651 Hwy 19
Kimberly, Oregon 97848



IN REPLY REFER TO:

January 27, 2009

Oregon Water Resources Department
North Central Region
116 S.E. Dorian Avenue
Pendleton, Oregon 97801

Attn: Ken Dowden

RE: Application T-10405

Dear Mr. Dowden:

I have received your draft Preliminary Determination regarding transfer application T-10405 that we submitted last year. I have reviewed the draft and find it consistent with my intent to transfer water rights within the boundaries of John Day Fossil Beds National Monument.

Enclosed you will find ownership and encumbrance reports for the subject parcels.

If you have any further questions, please contact me at 541-987-2333.

Sincerely,

James F. Hammett
Superintendent

LAND TITLE CO. OF GRANT COUNTY, INC.

103 West Main Street
John Day, OR 97845-1092

Phone: (541) 575-1830 or 575-1529
Fax: (541) 575-0149
E-Mail: stevelandco@centurytel.net

REC'D JAN 29 2009

Date: January 23, 2009

Fee: \$75.00

OWNERSHIP AND ENCUMBRANCE REPORT

The Company has searched its title plant record, and the Company reports as follows:

According to the Company's title plant records for Grant County as to land described below, the Company finds the following matters as of 8:00 a.m. on 1/8/2009.

A. The land which is the subject of this search is described as follows:

FOR LEGAL DESCRIPTION SEE ATTACHED EXHIBIT A

B. Title to the property described is vested in:

UNITED STATES OF AMERICA

C. The land is subject to the following apparent monetary encumbrances:

1. Taxes, including the current fiscal year, not assessed due to ownership by a governmental entity. If the exempt status is terminated, an additional tax may be levied.
Account No. : 16 12-26 801; Ref. 38480

Assessor's Real Market Land Value:	\$421,700.00
Assessor's Real Market Improvements Value:	\$331,990.00
Assessor's Real Market Total Value:	\$753,690.00

THIS SEARCH DOES NOT INCLUDE ANY EASEMENTS, COVENANTS, RESTRICTIONS, OR OTHER SUCH MATTERS.

THIS IS NOT A TITLE REPORT, since a complete examination has not been made of the entire title to the above described property. Our search for the current fee owner and unpaid monetary encumbrances was limited to our Tract Indices, and therefore, above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Report and will not be responsible for errors or omissions therein.

LAND TITLE COMPANY OF GRANT COUNTY, INC.

BY: Bonnie J. Wiegand
Bonnie J. Wiegand, Title Officer

EXHIBIT "A"

In Township 12 South, Range 26 East of the Willamette Meridian, Grant County, Oregon:

Section 6: Lots 3, 6 and 7; SE1/4NW1/4, E1/2SW1/4; W1/2SE1/4; SAVE & EXCEPT the following:

(a) Beginning at a point on the Easterly right of way line of the old John Day Highway; which point is 30 feet distant from (when measured at right angles to) the center line of said highway at Engineers Station 955+95.6; said point being 1560.1 feet North and 381.4 feet West of the South quarter corner of said Section 6;

thence N. 61°37' E. 203.2 feet;

thence S. 46°46' E. 389.0 feet;

thence S. 1°42' E. 465.4 feet;

thence S. 3°00' W. 80.6 feet;

thence S. 10°40 1/2' W. 118.9 feet, more or less, to the Easterly right of way line of the John Day Highway;

thence N. 28°23' W. along said Easterly right of way line, 946.1 feet to the place of beginning.

(b) Beginning at the North quarter corner of said Section 6;

thence N. 88°29'00" W., along the Section line, 1020.0 feet;

thence S. 18°54'00" E. 600.0 feet;

thence S. 47°41'45" E. 1107.7 feet to the Southeast corner of the NE1/4NW1/4 of said Section 6;

thence N. 0°16'15" E., along the center line of said Section 6, 1286.2 feet to the place of beginning.

(c) That portion of Lot 3 and SE1/4NW1/4 conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated June 16, 1962, recorded July 20, 1962, in Book 87, page 192, Deed Records of Grant County, Oregon, for the relocated highway right of way.

(d) That portion of the E1/2SW1/4, SW1/4SE1/4 conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated February 4, 1963, recorded February 14, 1963, in Book 88, page 260, Deed Records of Grant County, Oregon, for the relocated highway right of way.

(e) That portion of the E1/2NW1/4 conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated December 22, 1965, recorded December 29, 1965, in Book 94, page 106, Deed Records of Grant County, Oregon, for the relocated highway right of way.

TOGETHER WITH that portion conveyed to the United States of America by deed dated May 28, 2003, recorded August 15, 2003, in the Records of Grant County, Oregon, as Instrument No. 20032470.

Section 7: Lots 1, 2, 3 and 4; E1/2W1/2; E1/2; SAVE & EXCEPT the following:

(a) Beginning at a point 135.0 feet North and 1245.0 feet West of the Southeast corner of said Section 7;

thence S. 46°45' W. 200.0 feet;

thence N. 43°15' W. 100.0 feet;

thence N. 46°45' E. 200.0 feet;

thence S. 43°15' E. 100.0 feet to the place of beginning.

(b) Beginning at the Southeast corner of said Section 7;

thence N. 21°24'00" W. 618.0 feet;

thence N. 60°17'30" W. 511.25 feet;

thence N. 5°53'00" W. 321.8 feet;

thence N. 63°38'00" W. 389.1 feet;

Ownership and Encumbrance Report (continued)

thence N. 45°49'30" W. 230.0 feet;
thence N. 6°04'30" W. 636.4 feet;
thence N. 38°30'00" W. 920.0 feet;
thence N. 11°46'00" W. 335.0 feet;
thence N. 20°03'00" E. 489.7 feet;
thence N. 19°54'30" W. 468.35 feet;
thence N. 25°47'00" E. 1372.6 feet to the Northwest corner of the NE1/4NE1/4 of said Section 7;
thence N. 89°26'00" E., along the North section line, 1327.7 feet to the Northeast corner of said Section 7;

thence S. 0°05'15" W., along the East section line of said Section 7, 5318.4 feet to the point of beginning.

(c) Beginning at a point which is 390.63 feet South and 1707.81 feet East of the Northwest corner of said Section 7;

thence S. 13°10'00" W. 1330.00 feet;

thence S. 76°50'00" E. 1471.18 feet to the center of the John Day River;

thence along the center line of said river, downstream, as follows:

N. 8°13'00" W. 195.22 feet;

N. 21°17'00" E. 153.00 feet;

N. 15°43'00" E. 997.74 feet;

thence, leaving the center line of said river, N. 76°50'00" W. 1466.00 feet to the point of beginning.

(d) That portion conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated February 4, 1963, recorded February 14, 1963, in Book 88, page 260, Deed Records of Grant County, Oregon, for the relocated highway right of way.

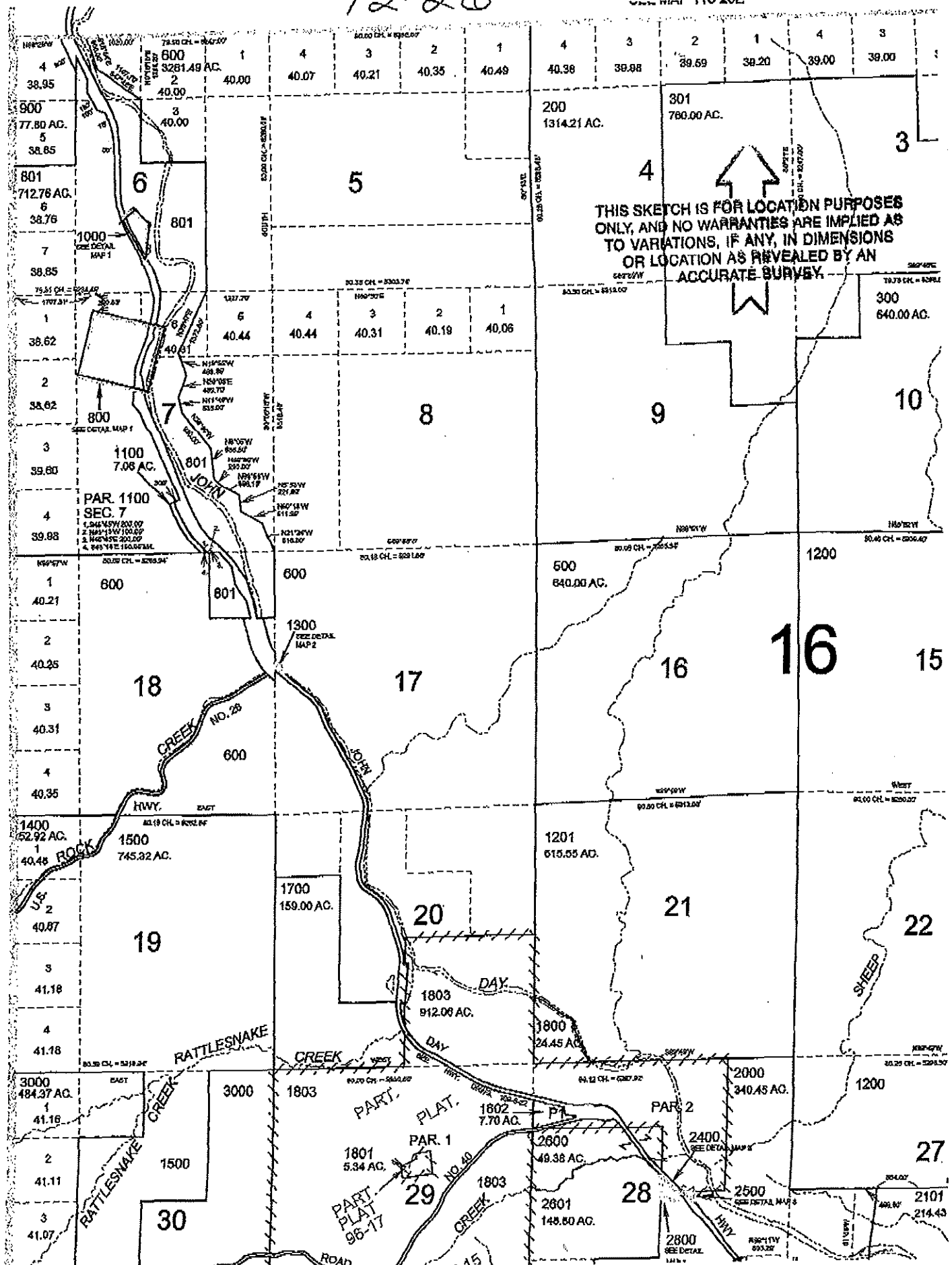
Section 18: NE1/4NE1/4; SAVE & EXCEPT the following:

(a) That portion conveyed to the State of Oregon by deed dated _____, 1931, recorded February 19, 1931, in Book 39, page 49, Deed Records of Grant County, Oregon, for highway right of way.

(b) That portion conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated February 4, 1963, recorded February 14, 1963, in Book 88, page 260, Deed Records of Grant County, Oregon, for the relocated highway right of way.

(Tax Acct. 16 12-26 801; Ref. 38480)

12-26



REC'D JAN 29 2009

LAND TITLE CO. OF GRANT COUNTY, INC.

103 West Main Street
John Day, OR 97845-1092

Phone: (541) 575-1830 or 575-1529
Fax: (541) 575-0149
E-Mail: stevelandco@centurytel.net

Date: January 23, 2009

Fee: \$75.00

OWNERSHIP AND ENCUMBRANCE REPORT

The Company has searched its title plant record, and the Company reports as follows:

According to the Company's title plant records for Grant County as to land described below, the Company finds the following matters as of 8:00 a.m. on 1/8/2009.

A. The land which is the subject of this search is described as follows:

FOR LEGAL DESCRIPTION SEE ATTACHED EXHIBIT A

B. Title to the property described is vested in:

UNITED STATES OF AMERICA

C. The land is subject to the following apparent monetary encumbrances:

1. Taxes, including the current fiscal year, not assessed due to ownership by a governmental entity. If the exempt status is terminated, an additional tax may be levied.
Account No. : 16 12-26 600; Ref. 38479

Assessor's Real Market Land Value:	\$688,230.00
Assessor's Real Market Improvements Value:	\$0.00
Assessor's Real Market Total Value:	\$688,230.00

THIS SEARCH DOES NOT INCLUDE ANY EASEMENTS, COVENANTS, RESTRICTIONS, OR OTHER SUCH MATTERS.

THIS IS NOT A TITLE REPORT, since a complete examination has not been made of the entire title to the above described property. Our search for the current fee owner and unpaid monetary encumbrances was limited to our Tract Indices, and therefore, above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Report and will not be responsible for errors or omissions therein.

LAND TITLE COMPANY OF GRANT COUNTY, INC.

BY: Bonnie J. Winggar
Bonnie J. Winggar, Title Officer

EXHIBIT "A"

In Township 12 South, Range 26 East of the Willamette Meridian, Grant County, Oregon:

Section 5: Lots 1, 2, 3 and 4; S1/2N1/2; S1/2.

Section 6: Lots 1 and 2; S1/2NE1/4; E1/2SE1/4; Together with a parcel of land lying in the NE1/4NW1/4, described as follows:

Beginning at the quarter corner between Sections 31 and 6, Townships 11 and 12 South, Range 26 East;

thence N. 88°29' W. along said Section line a distance of 1020.0 feet;

thence S. 18°54' E. a distance of 600.0 feet;

thence S. 47°41'45" E. a distance of 1107.7 feet to the Southeast corner of the NE1/4NW1/4;

thence N. 0°16'15" E. along the Section center line a distance of 1286.2 feet to the point of beginning.

Section 7: A parcel of land lying in the E1/2 as follows:

Beginning at the Southeast corner of said Section 7;

thence N. 21°24' W. a distance of 618.0 feet;

thence N. 60°17'30" W. a distance of 511.25 feet;

thence N. 5°53' W. a distance of 321.8 feet;

thence N. 63°38' W. a distance of 389.1 feet;

thence N. 45°49'30" W. a distance of 230.0 feet;

thence N. 6°04'30" W. a distance of 636.4 feet;

thence N. 38°30' W. a distance of 920.0 feet;

thence N. 11°46' W. a distance of 335.0 feet;

thence N. 20°03' E. a distance of 489.7 feet;

thence N. 19°54'30" W. a distance of 468.35 feet;

thence N. 25°47' E. a distance of 1372.6 feet to the Northwest corner of the NE1/4NE1/4;

thence N. 89°26' E. along the North Section line a distance of 1327.7 feet to the Section corner 5-6-7-8;

thence S. 0°05'15" W. along the East boundary of Section 7 a distance of 5318.4 feet to the point of beginning.

Section 8: Lots 1, 2, 3 and 4; S1/2N1/2; S1/2

Section 17: All; SAVE & EXCEPT a parcel of land lying in the SW1/4NW1/4, described as follows:

Beginning at a point which is 340.3 feet North and 24.8 feet West of the quarter corner between Sections 17 and 18, said point also being 40 feet at right angles to the John Day Highway at the South end of the Rock Creek Bridge;

thence Southeasterly along the Easterly right of way line a distance of 236.0 feet;

thence N. 32°36' E. a distance of 60.0 feet;

thence following the approximate center of the John Day River N. 47°24' W. a distance of 214.0 feet;

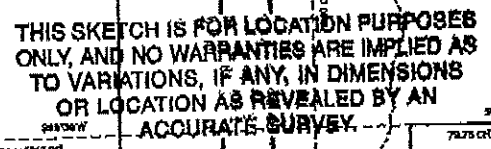
thence S. 52°36' W. a distance of 60.0 feet to the point of beginning.

ALSO EXCEPTING a strip of land 200 feet in width being 100 feet on each side of the center of the John Day Highway as constructed.

Section 18: Lots 1, 2, 3 and 4; E1/2W1/2; W1/2E1/2; E1/2SE1/4; SE1/4NE1/4.

Section 20: NW1/4NW1/4; E1/2NW1/4; NE1/4; NE1/4SW1/4.

(Tax Acct. 16 12-26 600; Ref. 38479)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

LAND TITLE CO. OF GRANT COUNTY, INC.

103 West Main Street
John Day, OR 97845-1092

Phone: (541) 575-1830 or 575-1529
Fax: (541) 575-0149
E-Mail: stevelandco@centurytel.net

Date: January 23, 2009

Fee: \$75.00

OWNERSHIP AND ENCUMBRANCE REPORT

The Company has searched its title plant record, and the Company reports as follows:

According to the Company's title plant records for Grant County as to land described below, the Company finds the following matters as of 8:00 a.m. on 1/8/2009.

A. The land which is the subject of this search is described as follows:

FOR LEGAL DESCRIPTION SEE ATTACHED EXHIBIT A

B. Title to the property described is vested in:

UNITED STATES OF AMERICA

C. The land is subject to the following apparent monetary encumbrances:

1. Taxes, including the current fiscal year, not assessed due to ownership by a governmental entity. If the exempt status is terminated, an additional tax may be levied.
Account No. : 16 11-26 4700; Ref. 38473

Assessor's Real Market Land Value:	\$96,700.00
Assessor's Real Market Improvements Value:	\$0.00
Assessor's Real Market Total Value:	\$96,700.00

THIS SEARCH DOES NOT INCLUDE ANY EASEMENTS, COVENANTS, RESTRICTIONS, OR OTHER SUCH MATTERS.

THIS IS NOT A TITLE REPORT, since a complete examination has not been made of the entire title to the above described property. Our search for the current fee owner and unpaid monetary encumbrances was limited to our Tract Indices, and therefore, above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Report and will not be responsible for errors or omissions therein.

LAND TITLE COMPANY OF GRANT COUNTY, INC.

BY: Bonnie J. Winger
Bonnie J. Winger, Title Officer

EXHIBIT "A"

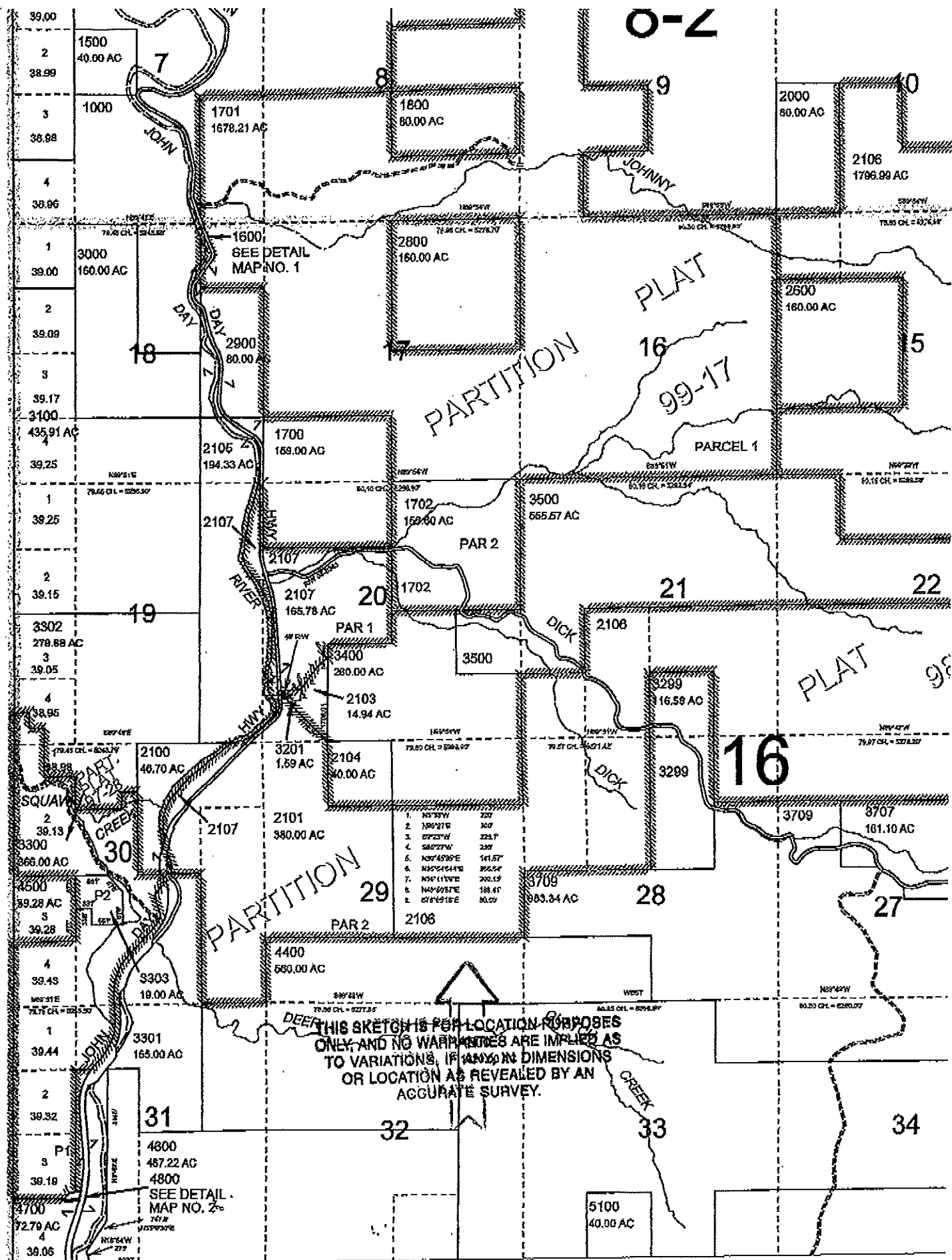
In Township 11 South, Range 26 East of the Willamette Meridian, Grant County, Oregon:
Section 31: Lot 4; SE1/4NW1/4; E1/2SW1/4; SAVE & EXCEPT the following:

- (a) Beginning at the South quarter corner of said Sec. 31;
 - thence N. 88°29'00" W., along the Section line, 1020.0 feet;
 - thence N. 18°54'00" W. 275.0 feet;
 - thence N. 33°00'30" E. 747.8 feet;
 - thence N. 0°49'00" E. 3046.0 feet to the North line of the SE1/4NW1/4 of said Section 31;
 - thence East 657.9 feet to the Northeast corner of the SE1/4NW1/4 of said Section 31;
 - thence South along the center line of said Section 31, to the place of beginning.
 - (b) That portion conveyed to the State of Oregon, by and through its State Highway Commission, by deed dated June 16, 1962, recorded July 20, 1962, in Book 87, page 192, Deed Records of Grant County, Oregon, for the relocated highway right of way.
 - (c) Beginning at a point where the South line of the NW1/4SW1/4 of said Section 31 intersects the Westerly right of way line of the John Day Highway; said point being N.39°41' W. 1580.5 feet from the Southwest corner of said Section 31;
 - thence N. 3°13' E., along said right of way line 134.2 feet;
 - thence N. 89°09' W. 300.0 feet;
 - thence S. 23°21' W. 145.1 feet to the South line of said NW1/4SW1/4;
 - thence S. 89°09' E. along said South line, 350.0 feet to the place of beginning.
 - (d) The South 134.2 feet of the NE1/4SW1/4 and the North 17 feet of the SE1/4SW1/4, both lying Westerly of State Highway No. 19; and also the North 17 feet of the East 221 feet of Government Lot 4, in Section 31, Township 11 South, Range 26 East, W.M.
- (Tax Acct. 16 11-26 4700; Ref. 38473)

WHEELER COUNTY

WHEELER COUNTY

O-Z



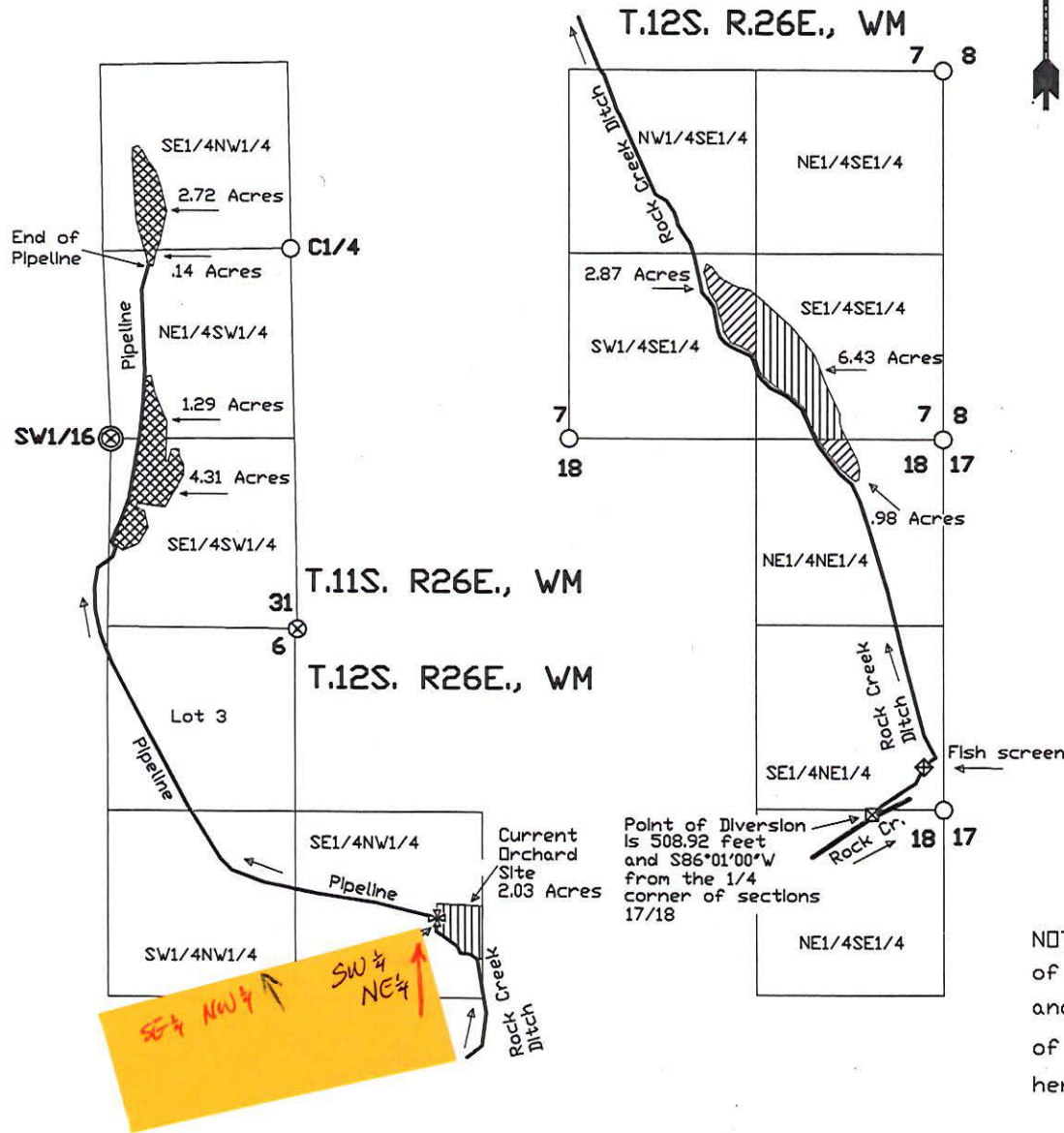
11-26

SEE MAP 12S 28E

Transfer of Rights
In the name of
The National Park Service



REC'D JAN 08 2008



Basis of Bearings
Solar Observation
at the Corner 1/6/7/12
SCALE: 1 Inch = 1320 feet
Surveyed March 2007
Amended December, 2008

LEGEND

- Lands transferring rights; Certificate #24976
- Lands with existing rights; Certificate #24976
- Lands receiving transferred rights
- Projected section corner
- Corner established Grant Co. Survey #716
- GLO corner found Grant Co. Survey #716
- Point of Diversion
- Pump for sprinklers
- Fish screen and bypass

NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and was not intended to provide dimension or location of property ownership lines. Location information shown hereon was furnished by the applicant.

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **88071**

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

INVOICE # _____

RECEIVED FROM: U.S. Department of the Interior National Park Service
BY: _____

APPLICATION	
PERMIT	
TRANSFER	<u>T-10405</u>

CASH: ☐ CHECK: # 200045 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D \$ 350.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$ <u>350.00</u>		

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: **88071**

DATE: 6-11-07

BY: S. P. Powell



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

Application for Water Right Transfer

Please type or print legibly in dark ink. If your application is incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "N/A" to indicate "Not Applicable." As you complete this form, please refer to notes and guidance included on the application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. TYPE OF TRANSFER APPLICATION

Please check one

- | | |
|--|--|
| ☒ Permanent Transfer | ☐ Instream Transfer |
| ☐ Temporary Transfer | ☐ Permanent |
| • total number of years: _____ | ☐ Time-Limited |
| (begin year: _____) | ☐ Drought Transfer |
| (end year: _____) | ☐ Other |

2. APPLICANT INFORMATION

Name: U.S. Department of the Interior – John Day Fossil Beds National Monument

Address: 32651 Highway 19

Kimberly, Oregon 97848

Phone: 541-987-2333

Fax: 541-987-2336 E-Mail address: jim_hammett@nps.gov

3. AGENT INFORMATION

(The agent listed is authorized to represent the applicant in all matters relating to this transfer application.)

Name: James Hammett

Address: John Day Fossil Beds National Monument, 32651 Highway 19

Kimberly, Oregon 97845

Phone: 541-932-4860 541-987-2333
Home Work

Fax: 541-987-2336 E-Mail address: jim_hammett@nps.gov

- If an agent is listed above, please check one of the following:

- ☐ Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; or
- ☒ Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

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SALEM, OREGON

4. PROPOSED CHANGE(S) TO WATER RIGHT(S)

- List **all** water rights to be affected by this transfer. Indicate the certificate, permit, decree or other identifying number(s) in the table below: (*Attach additional pages as necessary.*)

	Application / Decree	Permit / Previous Transfer	Certificate
1.	John Day River Decree		24976
2.			
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.

- Check **all** proposed change(s) included in this transfer application:

☒ Place of Use ☐ Point of Diversion ☐ Additional Point of Diversion
☐ Character of Use ☐ Point of Appropriation ☐ Additional Point of Appropriation
☐ Instream Transfer ☐ Surface Water source to Ground Water source

- Reason(s) for change(s): The original application for a water right contained an error, thus approximately six acres in the middle of an historic agricultural field (part of the James Cant Ranch National Historic District) does not have water rights. The transferred water rights are on fields outside the National Historic District and are of less historical importance. They will be restored to native grasses.

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- 5. WATER DELIVERY SYSTEM

WATER RESOURCES DEPT
SALEM, OREGON

- Describe the **current** water delivery system or the system that **was in place** at some time within the last 5 years. Include information on the pumps, canals, pipelines and sprinklers used to divert, convey and apply the water at the authorized place of use. If the transfer involves multiple rights that have independent systems, describe each system separately.

The description must be sufficient to demonstrate that the full quantity of water to be transferred can be conveyed from the authorized source and applied at the authorized location and that the applicant is ready, willing, and able to exercise the right.

The delivery system consists of an in stream diversion on Rock Creek that has fish passage and an approved fish screen. This diversion was installed in 1999 with assistance from the Bureau of Reclamation and NRCS. From there it flows through a concrete lined ditch and 10" diameter plastic pipe to flood irrigate approximately 10 acres located approximately 1/2 mile from the point of diversion. The water is further piped to a pump sump approximately 1 1/2 mile further down the ditch. It is then pumped with a 10-hp pump through 8-inch mainline to irrigate approximately 16 acres via rain bird sprinklers and 3-inch aluminum

T 10405

handline. The final 8 ½ acres is irrigated via a 2-inch plastic pressure pipe and rain-bird impact sprinklers and 3-inch handline.

System capacity: approximately four cubic feet per second (cfs) (considerably more than the water right).

If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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6. EVIDENCE OF BENEFICIAL WATER USE

- Attach one or more **Evidence of Use Affidavits** (Supplemental Form B) demonstrating that each of the right(s) involved in the transfer have been exercised in the last five years in accordance with the terms and conditions of the right or that a presumption of forfeiture for non-use could be rebutted. The Evidence of Use Affidavit(s) **must include supporting documentation** such as the following:
 - ▶ Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;
 - ▶ Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers;
 - ▶ Dated aerial photographs of the lands or other photographs containing sufficient detail to establish location and date of the photograph; *or*
 - ▶ If the right has not been used during the past five years, documentation that the presumption of forfeiture would be rebutted under ORS 540.610(2).

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district? ☐ Yes ☒ No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer? ☐ Yes ☒ No
- Is 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? ☐ Yes ☒ No

If "Yes", for any of the above, list the name and mailing address of the district, agency and/or entity:

- List the name and mailing address of all affected local governments (e.g., county, city, municipal corporation, and tribal governments within whose jurisdiction the rights are located).

GRANT COUNTY
201 S. HUMBOLT ST., Ste. 180
CANYON CITY, OR. 97820

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8. LAND OWNERSHIP

- Does the applicant own the lands **FROM** which the right is being transferred? ☒ Yes ☐ No

If "No", provide the following information. For Temporary Transfers, also include a notarized statement granting consent to the transfer from each of the landowners:

Names of Current Landowner(s):

Address

- Does the applicant own the lands **TO** which the right is being transferred?

☒ Yes

☐ No

☐ N/A - NOT APPLICABLE TO INSTREAM TRANSFERS

If "No", provide the following information:

Names of Receiving Landowner(s):

Address:

- Check one of the following:

- ☐ The receiving landowner will be responsible for completion of the proposed changes after the final order is issued. All notices and correspondence should be sent to this landowner.
- ☒ The applicant will remain responsible for completion of changes. Notices and correspondence should continue to be sent to the applicant and applicant's agent.
- ☐ N/A. (Not applicable. Application is for an Instream Water Right Transfer.)

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9. ATTACHMENTS

Check each of the following attachments included with this application.
The application will be returned if all required attachments are not included.

Supplemental Form A –

Description of Proposed Change(s) to a Water Right

- ☒ A separate Supplemental Form A is enclosed for each water right to be affected by this transfer.

Supplemental Form B –

Evidence of Use Affidavit(s)

- ☒ At least one Evidence of Use Affidavit documenting that the right has been used during the last five years or that the right is not subject to forfeiture under ORS 540.610 is attached. The affidavit provided must be the original (not a copy), and
- ☒ The Evidence of Use Affidavit must be accompanied by supporting documentation.

Map

- ☒ *Water Right Transfer*
The map must be prepared by a Certified Water Right Examiner and meet the requirements of OAR 690-380-3100 unless a waiver has been granted. The map provided must be the original, not a copy.
- ☐ *Temporary Transfer or Historical POD Change*
A map meeting the requirements of OAR 690-380-3100 must be included but need not be prepared by a Certified Water Right Examiner.

Water Well Report(s)/Well Log(s):

- ☐ The application is for a change in point of appropriation or change from surface water to ground water and copies of all water well reports are attached.
- ☐ Water well reports are not available and a description of construction details including well depth, static water level, and information necessary to establish the ground water body developed or proposed to be developed is attached.
- ☒ N/A. The application does not involve a change in point of appropriation or a change from surface water to ground water, so water well reports are not required.)

Land Use Information Form:

- ☐ Enclosed; *or*
- ☒ Not Required if all of the following are met:
- ❶ In EFU zone or irrigation district,
 - ❷ Change in place of use only,
 - ❸ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ❹ Irrigation only.

Fees:

- ☒ Amount enclosed: \$ _____
See the Department's Fee Schedule at www.wrd.state.or.us or call (503) 986-0900.

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

- ☐ Complete this form to describe the desired nature and attributes for the proposed instream water right.

Temporary Transfers, also include:

Recorded Deed:

- ☐ The applicant must submit a copy of the current deed of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved.

Affidavit of Consent:

- ☐ If the applicant is **NOT** the owner of record for the land **from** which the authorized place of use or point of diversion/appropriation is being moved, a notarized statement from the actual owner of record consenting to the proposed transfer must be submitted.

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Before submitting your application to the Department, be sure you have:

- Answered each question completely.
- Included all the required attachments.
- Provided original signatures for all named deed holders, or other parties, with an interest in the water right.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount.

10. SIGNATURES

- Check one of the following, as appropriate, and sign the application in the signature box below:

☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership information and evidence demonstrating that I (we) are authorized to pursue the transfer:

- (a) A report of ownership and lien information that has been prepared by a title company *within the last three months*;
- (b) A copy of written notification of the proposed transfer provided by the applicant to all lien holders on the subject lands unless the report of ownership and lien information shows that a water right conveyance agreement has been recorded for the subject lands. *If a water right conveyance agreement has been recorded for the subject lands, a copy of the agreement and identification of the owner of the lands at the time the agreement was recorded must be submitted; and*
- (c) If the landowner identified in the report of ownership and lien information is not the applicant, a notarized statement consenting to the transfer (*attached*) signed by the landowner identified in the report or an authorized representative of the entity to whom the interest in the water right has been conveyed as identified in a water right conveyance agreement or other documentation demonstrating that the applicant is authorized to pursue the transfer in the absence of the consent of the landowner.

☐ I (we) affirm that 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. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

☐ I (we) affirm that the applicant is an entity with the authority to condemn property and is acquiring the property to which the water right proposed for transfer is appurtenant by condemnation. Documentation is provided with this application supporting this statement. Therefore, pursuant to OAR 690-380-3000(13)(c), the applicant is NOT required to provide the above described report of ownership and lien information. (NOTE: Such an entity may only apply for a transfer under this subsection if it has filed a condemnation action to acquire the property.)

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

 applicant signature	James F. Hammett name (print)	5/31/2007 date
_____ applicant signature	_____ name (print)	_____ date

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Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

List only one water right per page. A separate Supplemental Form A must be completed for each certificate, permit, decree, or other right involved in the proposed transfer.

Attach additional copies of Supplemental Form A as needed to describe other certificates, permits, decrees or other rights involved in this transfer.

- Certificate Number or other identifying number: 24976

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

Point of Diversion or Appropriation	Place of Use	Character of Use
☐ Change (The old point of diversion or appropriation will <u>not</u> be used for the portion of the water right affected by the transfer.) ☐ Additional (Both the old <u>and</u> new points of diversion or appropriation will be used for the portion of the water right affected by the transfer.) ☐ Historic Point of Diversion or Appropriation Change (Unauthorized point of diversion or appropriation used for more than 10 years.) ☐ Surface Water to Ground Water (A new point of appropriation will be used <u>instead of</u> the old point of diversion. The old point of diversion will <u>not</u> be used.) ☐ Point of Diversion Change due to Government Action (The old point of diversion or appropriation can no longer be used due to government action.) ☐ Exchange (Water from another source will be used in exchange for supplying an equal amount of replacement water to that source.)	☒ All of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.) ☐ Only a <u>portion</u> of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.)	Proposed new use: ☒ Irrigation ☐ Municipal ☐ Quasi-municipal ☐ Commercial ☐ Industrial ☐ Instream (complete and attach <i>Supplemental Form C</i>) ☐ Domestic (indicate number of households) _____ ☐ Other _____ ☐ Substitution (A supplemental ground water right will be substituted for a primary surface water right.) ☐ Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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2. CURRENT WATER RIGHT INFORMATION

Water Right Subject to Transfer (check and complete one of the following):

☒ Certificated Right	24976	<u>John Day River D.</u>
	Certificate Number	Permit Number or Decree Name
☐ Adjudicated, Non-certificated Right	Name of Decree	Page Number
☐ Permit for which Proof has been Approved	Permit Number	Date Claim of Beneficial Use Submitted
☐ Transferred Right for which Proof has been Filed	Previous Transfer Number	Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: James Cant
- County: Grant
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): 1899

*If there are **multiple Priority Dates** identified on the water right, any information provided on pages 3 through 6 of this form **must identify** which priority date is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

- Source(s) of Water to be Affected by Transfer: Rock Creek

Tributary to: John Day River

*If there are **multiple Sources** listed on the water right, any information provided on pages 3 through 6 of this form **must identify** which source is associated with each of the authorized and proposed points of diversion or appropriation and places of use.*

For applications proposing a Change in Place of Use or Character of Use:

- Are there **Other Water Rights**, Permits or Ground Water Registrations associated with this land?

☐ Yes ☒ No ☐ N/A – No Change in Place of Use or Character of Use

If "Yes", what are the Permit, Registration or Certificate Numbers? _____

Pursuant to ORS 540.510, any "layered" water use or a right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled, except as provided in OAR 690-380-2240(5).

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- Certificate Number or other identifying number: _____

The following information **must be provided** only for those points of diversion or appropriation that **are involved in the transfer** (i.e., list only the portion of the water right you propose to transfer.) Attach additional pages as necessary.

Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.

Location of Existing Authorized Point(s) of Diversion or Appropriation to be Changed:

(i.e., the allowed point(s) of diversion or appropriation listed on the water right that will be affected by the proposed transfer, the "FROM" point(s) of diversion or appropriation)

If Ground Water, OWRD Well Log ID No. (or Well ID Tag No. L-____)	Source and Priority Date	Township	Range	Mer	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)

- Does the water right being transferred involve a ground water source(s)?

☐ Yes ☒ No (Surface water source only.)

If "Yes", for each authorized point of appropriation (well) involved, you must either:

- A. Supply a copy of the well log(s) for each point of appropriation that is **clearly labeled** and associated with the corresponding well in the table above and on the accompanying application map. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

or

- B. If a well log is **not** available, you must describe the construction of the authorized point of appropriation by completing the table below. Attach additional copies as necessary.

Construction of Existing Authorized Point(s) of Appropriation – (Only needed if no well log is available.)

Wells in this listing must be **clearly tied** to corresponding well location(s) described in the table above and shown on the accompanying application map.

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

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SALEM, OREGON

- Certificate Number or other identifying number: _____

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*Government lot and donation land claim numbers must be included in the tables below **only** if the information is reflected on the existing water right.*

(i.e., the allowed lands listed on the water right that will be affected by the proposed transfer, the "FROM" lands)

[illegible]

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SALEM, OREGON

3. PROPOSED CHANGES TO THE WATER RIGHT

Describe proposed changes to the water right involving point(s) of diversion and/or appropriation. Survey coordinates described below should accurately correspond to the points shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Point(s) of Diversion or Appropriation:

(i.e., the "TO" point(s) of diversion or appropriation)

☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table **only** if a Change in Point of Diversion or Appropriation is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Survey Coordinates (coordinates from a recognized survey corner)

- If there are proposed point(s) of appropriation (wells) listed in the table above, are the well(s) already constructed? ☐ Yes ☐ No ☒ N/A - No proposed well(s) listed above.

If "Yes", attach and clearly label the corresponding well log(s) for each proposed well, or if well log(s) are **not** available, describe the construction of the well(s) using the table below. (NOTE: You may search for well logs on the Department's web page at: <http://www.wrd.state.or.us>)

If "No", describe the anticipated construction for the proposed well(s) in the following table:

Construction of Proposed Point(s) of Appropriation or Well(s)

Well numbers in this listing must be clearly tied to corresponding well location(s) described in the table above and shown on the accompanying application map.

Well already built? (Yes/No)	If an existing well, OWRD Well Log ID No. (or Well ID Tag No. L-)	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth

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WATER RESOURCES DEPT
SALEM, OREGON

- Certificate Number or other identifying number: _____

T 10405

Describe proposed changes to the water right involving place of use. Information described below should accurately correspond to the proposed place of use shown on the accompanying application map. Attach additional pages as necessary.

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer

(NOTE: Complete this table only if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Rock Creek 1899	12S	26E	WM	7	SE SE		6.43
Rock Creek ¹⁸⁹⁹	12S	26E	WM	6	SE NW		2.03

SHOULD BE
SW ¼ if
NE ¼

Remarks: _____

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WATER RESOURCES DEPT
SALEM, OREGON

T 10405



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

June 12, 2007

US DEPT. OF THE INTERIOR
JOHN DAY FOSSIL BEDS NATIONAL MONUMENT
ATTN: JAMES HAMMETT
32651 HWY 19
KIMBERLY OR 97848

Reference: Transfer 10405

On June 6, 2007 we received your water right transfer application. The application was accompanied by \$350.00. Our receipt 88071 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 change.

Your application will be examined to determine if additional information is needed. You will be contacted following this examination.

Except as provided under ORS 540.510(3) for municipalities, you may not use water for the new use, in the new place of use or from the new point of diversion until the transfer application has been approved. 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 transfer is approved, the buyer's consent to the transfer will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

We will notify you if additional information or corrections to the application or map are required.

If you have any questions, please call the Transfer Section, (503)986-0883.

cc: Watermaster #4
Carl Stout, CWRE
Tim Unterwegner, ODFW

enclosure



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

Notice of Application for Water Right Transfer, Temporary Transfer, or Permit Amendment 06/12/07

The Department seeks comment on the recently-filed application listed below. Any person may comment on the application. Comments must be received by the Department within 30 days of the date of this notice. The Director may presume that the transfer would be allowed by, and compatible with comprehensive plans unless an affected local government informs the Director otherwise within 30 days of this notice.

County: Grant
Transfer: T -10405
Water Right: Cert:24976 OR *
Priority Date: 1899
Name: JAMES E. HAMMETT
Address: 32651 HWY 19; KIMBERLY OR 97848
Change: POU
Source: ROCK CREEK > JOHN DAY RIVER
Authorized POU: T11S R26E 31
Proposed POU: T12S R26E 7

The holder of a water right may apply to permanently change an existing water use subject to transfer. A transfer application may involve any of the following changes: Point of diversion or appropriation (POD; POA); Additional point of diversion or appropriation (APOD; APOA); Historic POD (HIST); Place of use (POU); Character of use (USE); Instream (ISWR); Substitution (SUB); or Exchange (EXCH).

The holder of a water right subject to transfer may request to temporarily change the place of use of the water for up to 5 years and, if necessary to convey the water, to temporarily change the point of diversion or appropriation.

The holder of a water right permit may apply to change a point of diversion (POD) or appropriation (POA) or to change the place of use (POU).

Any person who provides comments within the comment period will receive a copy of the Department's preliminary determination of whether the application should be approved or rejected after the Department has completed a review of the application and will be provided an opportunity to protest the application and preliminary determination at that time. Comments should be sent to the Transfers Section at the Department's Salem office.