

T-10455

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T-10455

T-10455

Name Terra-Magic, Inc
an Oregon Corporation
 Address PO Box 3093, 1621 North Spruce St
LaGrande, OR 97850
541 963-2443

DESCRIPTION OF WATER RIGHT(S)

Name of Stream WellTrib. of Slide CreekUse IRCounty Union

Quantity of water (CFS)

No. of Acres

Name of ditch

App # 6 2946 Per # 6 2739 Cert # 34399 PR Date 1964

App # Per # Cert # PR Date

App # Per # Cert # PR Date

App # Per # Cert # PR Date

App # Per # Cert # PR Date

Change in APOADate Filed 9-5-2007

Initial notice date

DPD issued date

PD issued date

PD notice date

Date of FO 5-18-09 Vol 77 Page 769correcting 6-15-09 v. 78 p. 118

C-Date

COBU due date

COBU Received date 10/6/14

Certificate issued

Proposed Cert Mailed 12-22-17

FEES PAID		
Date	Amount	Receipt #
9/5/07	402.00	89506

FEES REFUNDED		
Date	Amount	Receipt#

Assignments:

Irrigation District N/AAgent Peter Mohr One SW Columbia St, Suite 1110 Portland OR 97258503 221-5222CWRE Gregory Blackmun # 021CC's list Union County☐ - Oversized map - Location

Counsel for other
side in the litigation
has asked for abandonment
of well #1 if well #2+3^{#3}
are built + upon abandoning
the right will be limited to
only basalt, so only 2.3 cfs.
Peter Mohr to submit proposed
language of offer + call
to discuss

receive 11/17 from Peter reg. to
withdraw.

2
Withdrawal order for PD
notice withdrawal

3
New PD - (Sent to parties
before issuance)
New PD notice

PD Noticed

9-9-08
FO due 10/9

Also held 10-15-08
for new
well construction
conditions per
Gme
PK

Mailing List for Transfer Certificate

Transfer Application: T-10455

Certificate: 93651 (C-34399)

Certificate/Transfer Holder: (include copy of map)

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

Copies Mailed	
by:	<u>KW</u> (STAFF)
on:	<u>MAR 16 2018</u> (DATE)

Copies of Final Certificate to be sent to:

- ☒ Watermaster District #: 6
- ☒ File

Other persons to receive copies: (include map):

- ☒ 1. ROBERT LONG, CWRE
CWMH20

Record Marking(s):

- ☒ 1. Original Application# G-2946
- 2. Old Certificate# G-2739



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

Date Mailed: MARCH 16, 2018

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 UNION

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

confirms the right to the use of water perfected under the terms of Permit G-2739. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the wells. The specific limits and conditions of the use are listed below.

SOURCE OF WATER: WELL NO. 3 AND EMERGENCY USE ONLY FROM WELL NO. 1, TRIBUTARIES OF SLIDE CREEK (GRANDE RONDE RIVER)

PURPOSE OR USE: IRRIGATION OF 400.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 54.9 ACRES

MAXIMUM RATE: 5.6 CUBIC FEET PER SECOND (CFS), FURTHER LIMITED TO NO MORE THAN 2.8 CFS FROM WELL NO. 3 AND 5.6 CFS FROM WELL NO. 1 as described below:

The quantity of water diverted from the additional point of appropriation (Well No. 3) is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.

DATE OF PRIORITY: AUGUST 12, 1964

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	38 E	WM	3	SW SE	WELL NO. 1 (ORIGINAL) - 10 FEET NORTH AND 2460 FEET WEST FROM SE CORNER, SECTION 3
2 S	38 E	WM	3	SW SE	WELL NO. 3 (ADDITIONAL) - 40 FEET NORTH AND 2460 FEET WEST FROM SE CORNER, SECTION 3

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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.

A description of the place of use is as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0

The additional point of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The well shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.

Prior to any groundwater withdrawal from Well No. 1, the water user shall notify the local Watermaster in writing.

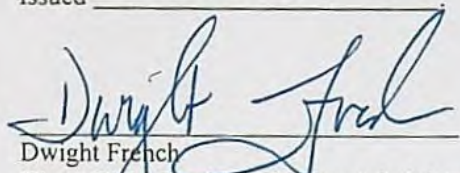
Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.

The water user shall maintain an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.

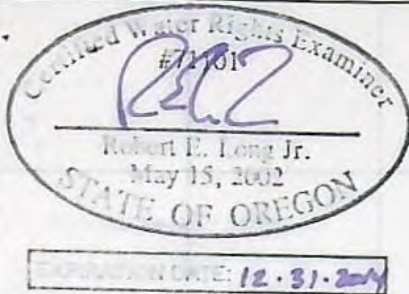
The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 34399 and any related decree.

This certificate is issued to confirm AN ADDITIONAL POINT OF APPROPRIATION approved by an order of the Water Resources Director entered June 15, 2009, at Special Order Volume 78, Page 118, approving Transfer Application T-10455, and supercedes Certificate 34399, State record of Water Right Certificates.

Issued MAR 16 2018

A handwritten signature in blue ink, appearing to read "Dwight French", is written over a horizontal line.

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department



T 2 S R 38 E

HUNTER ROAD

02S 38E TAXLOT # 1000

02S 38E 04 TAXLOT # 2600

02S 38E 09 TAXLOT # 0100

STANDLEY LANE

LEGEND

- AUTHORIZED AND ACTUAL IRRIGATION AREA- PRIMARY (400.1 ACRES)
- AUTHORIZED AND ACTUAL IRRIGATION AREA - SUPPLEMENTAL (54.9 ACRES)
- TAXLOT BOUNDARY
- PLSS QUARTER-QUARTER SECTIONS
- 10 INCH PVC MAIN-LINE
- 8 INCH ALUMINUM MAIN-LINE
- 5 INCH ALUMINUM MAIN-LINE
- ROAD
- 10" MAIN-LINE ELBOW CONNECTION
- CENTER PIVOT PAD
- WELL

NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

UNION COUNTY TAX LOTS NOTED ON FIGURE.

AREA EAST OF HUNTER ROAD IS IRRIGATED WITH 2 CENTER PIVOTS AND HANDLINES

AREA WEST OF HUNTER ROAD IS IRRIGATED WITH HANDLINES ONLY

LOCATIONS OF POINTS OF DIVERSION:

WELL 1: 10 FEET NORTH AND 2460 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3
WELL 2: 79 FEET NORTH AND 2548 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3
WELL 3: 40 FEET NORTH AND 2460 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3

LOCATION OF THE REQUIRED TOTALIZING IN-LINE FLOW METER:

10 FEET SOUTH OF WELL 3, IN LINE WITH THE 10 INCH PUMP OUTLET MAIN-LINE.



1 inch = 1,320 feet

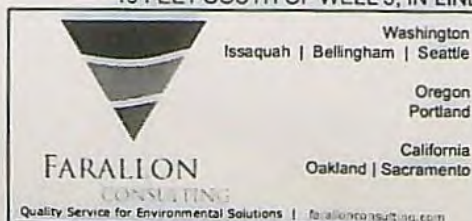


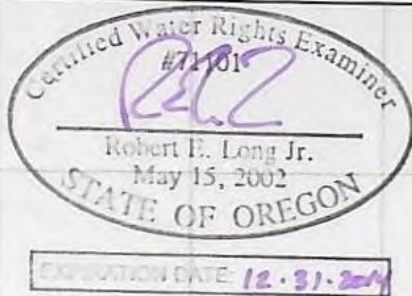
EXHIBIT A
CLAIM OF BENEFICIAL USE MAP
TERRA MAGIC INC. PROPERTY
TRANSFER: T-10455
UNION COUNTY, OREGON

Farallon PN: 1343001

Drawn By: PFG Checked By: REL

Date: 10/1/14

Disc Reference: 1343001

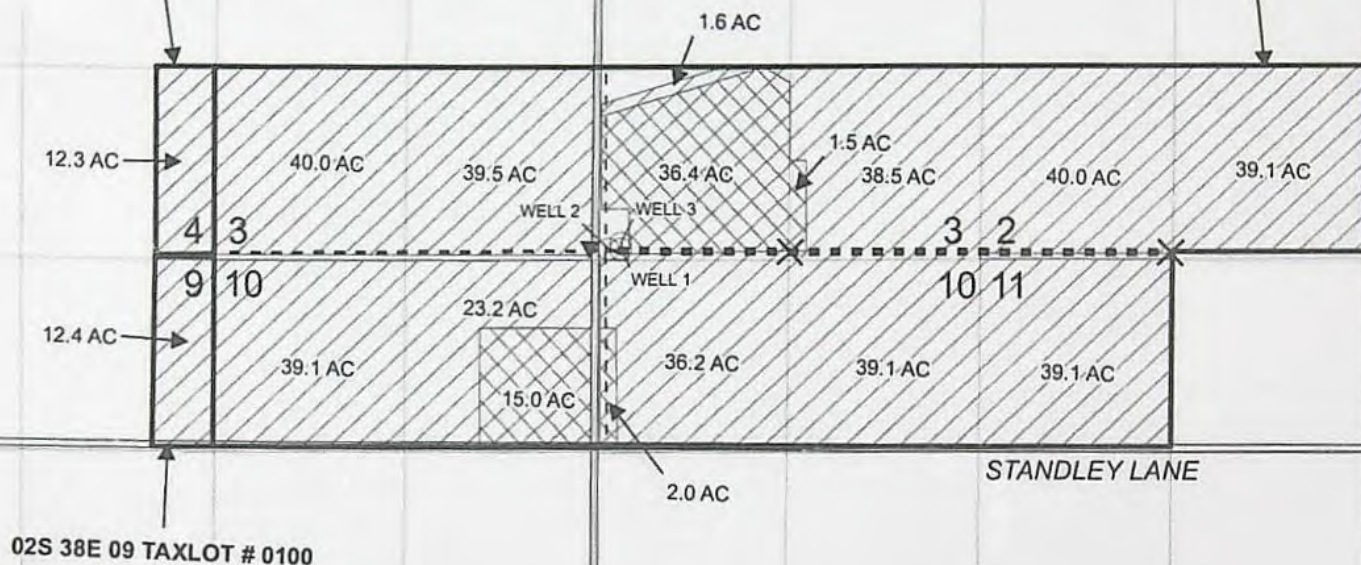


T2S R38 E

HUNTER ROAD

02S 38E TAXLOT # 1000

02S 38E 04 TAXLOT # 2600



LEGEND

- AUTHORIZED AND ACTUAL IRRIGATION AREA- PRIMARY (400.1 ACRES)
- AUTHORIZED AND ACTUAL IRRIGATION AREA - SUPPLEMENTAL (54.9 ACRES)

TAXLOT BOUNDARY

PLSS QUARTER-QUARTER SECTIONS

10 INCH PVC MAIN-LINE

8 INCH ALUMINUM MAIN-LINE

5 INCH ALUMINUM MAIN-LINE

ROAD

10" MAIN-LINE ELBOW CONNECTION

CENTER PIVOT PAD

WELL

NOTES:

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10 FEET SOUTH OF WELL 3, IN LINE WITH THE 10 INCH PUMP OUTLET MAIN-LINE.



1 inch = 1,320 feet



EXHIBIT A
CLAIM OF BENEFICIAL USE MAP
TERRA MAGIC INC. PROPERTY
TRANSFER: T-10455
UNION COUNTY, OREGON

Farallon PN: 1343001

Drawn By: PFG

Checked By: REL

Date: 10/1/14

Disc Reference: 1343001

Mailing List for Proposed Transfer Certificate

Transfer Application: T-10455

Certificate: ***** (C-34399)

Certificate/Transfer Holder: (include copy of map)

TERRA MAGIC INC. ✓
PO BOX 3093
LA GRANDE OR 97850

Copies Mailed

by: MJB
(STAFF)
on: DEC 22 2017
(DATE)

Copies of Final Certificate to be sent to:

1. Watermaster District #: 6 ✓
2. File ✓

Other persons to receive copies: (include map):

1. ROBERT LONG, CWRE ✓
CWMH20

Record Marking(s):

1. Original Application# G-2946
2. Old Certificate# G-2739



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

DATE MAILED: DEC 22 2017

NOTICE

Reference: Transfer Application T-10455

Enclosed is a proposed certificate of water right and map. The proposed certificate represents the extent water was used within the terms of an order approving the transfer based upon a Claim of Beneficial Use, prepared by a Certified Water Right Examiner, that either you or a previous transfer holder submitted.

The certificate is the final step in the water right process. The Department encourages you to review this proposal. If you do not agree with the proposed certificate, Oregon Administrative Rule 690-330-010 (2) allows the transferee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificate.

If you do not agree with the proposed certificate, Oregon Administrative Rule 690-380-6040 allows the transferee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificate.

If your name is not listed on the proposed certificate, and you are the current landowner, and would like to have the final certificate issued in your name, you may apply through the Department to have the transfer assigned to you. If you have any questions about the assignment process, please contact Jerry Sauter at 503-986-0817.

If you agree with the proposed certificate and map no response to this notice is required. Sometime after the 60 day period, a recommendation will be made to the Director to issue a certificate, and if the Director signs the certificate, the recorded certificate of water right will be mailed to you.

If you have any questions please contact Mary Bjork at 503-986-0804.

Sincerely,

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director

STATE OF OREGON
COUNTY OF UNION
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

confirms the right to the use of water perfected under the terms of Permit G-2739. The amount of water used to which this right is entitled is limited to the amount used beneficially, and shall not exceed the amount specified, or its equivalent in the case of rotation, measured at the wells. The specific limits and conditions of the use are listed below.

SOURCE OF WATER: WELL NO. 3 AND EMERGENCY USE ONLY FROM WELL NO. 1, TRIBUTARIES OF SLIDE CREEK (GRANDE RONDE RIVER)

PURPOSE OR USE: IRRIGATION OF 400.1 ACRES AND SUPPLEMENTAL IRRIGATION OF 54.9 ACRES

MAXIMUM RATE: 5.6 CUBIC FEET PER SECOND (CFS), FURTHER LIMITED TO NO MORE THAN 2.8 CFS FROM WELL NO. 3 AND 5.6 CFS FROM WELL NO. 1 as described below:

The quantity of water diverted from the additional point of appropriation (Well No. 3) is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.

DATE OF PRIORITY: AUGUST 12, 1964

The wells are located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
2 S	38 E	WM	3	SW SE	WELL NO. 1 (ORIGINAL) - 10 FEET NORTH AND 2460 FEET WEST FROM SE CORNER, SECTION 3
2 S	38 E	WM	3	SW SE	WELL NO. 3 (ADDITIONAL) - 40 FEET NORTH AND 2460 FEET WEST FROM SE CORNER, SECTION 3

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated, and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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A description of the place of use is as follows:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0

The additional point of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The well shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.

Prior to any groundwater withdrawal from Well No. 1, the water user shall notify the local Watermaster in writing.

Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.

The water user shall maintain an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.

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 34399 and any related decree.

PROPOSED

This certificate is issued to confirm AN ADDITIONAL POINT OF APPROPRIATION approved by an order of the Water Resources Director entered June 15, 2009, at Special Order Volume 78, Page 118, approving Transfer Application T-10455, and supercedes Certificate 34399, State record of Water Right Certificates.

Issued

PROPOSED

Dwight French
Water Right Services Division Administrator, for
Thomas M. Byler, Director
Oregon Water Resources Department

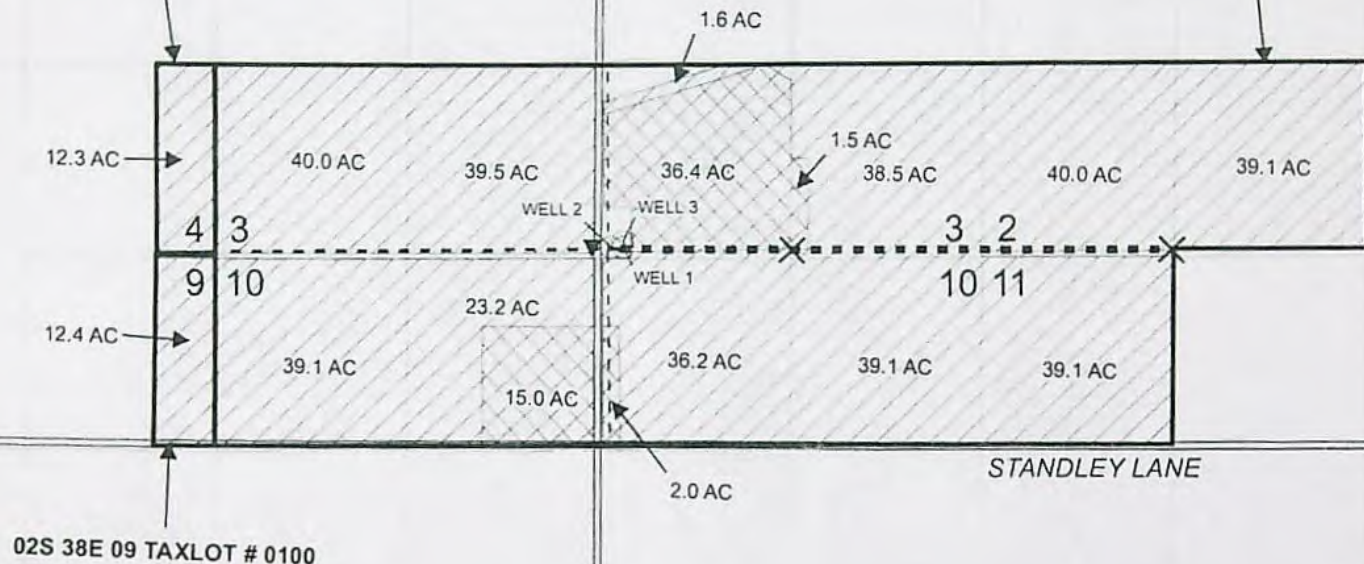


T 2 S R 38 E

HUNTER ROAD

02S 38E 04 TAXLOT # 2600

02S 38E TAXLOT # 1000



LEGEND

- AUTHORIZED AND ACTUAL IRRIGATION AREA- PRIMARY (400.1 ACRES)
- AUTHORIZED AND ACTUAL IRRIGATION AREA - SUPPLEMENTAL (54.9 ACRES)
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- WELL

NOTES:
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LEGAL DIMENSIONS OR LOCATIONS OF
PROPERTY OWNERSHIP LINES.

UNION COUNTY TAX LOTS
NOTED ON FIGURE.

AREA EAST OF HUNTER ROAD IS IRRIGATED
WITH 2 CENTER PIVOTS AND HANDLINES

AREA WEST OF HUNTER ROAD IS
IRRIGATED WITH HANDLINES ONLY

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10 FEET SOUTH OF WELL 3, IN LINE WITH THE 10 INCH PUMP OUTLET MAIN-LINE.



1 inch = 1,320 feet

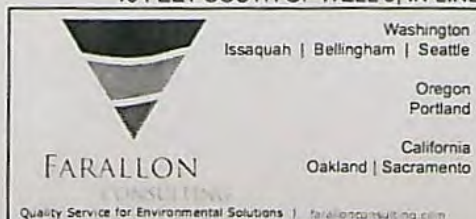


EXHIBIT A
CLAIM OF BENEFICIAL USE MAP
TERRA MAGIC INC. PROPERTY
TRANSFER: T-10455
UNION COUNTY, OREGON

Farallon PN: 1343001

Drawn By: PFG Checked By: REL

Date: 10/1/14

Disc Reference: 1343001

1/4

ROAD

1.6 Ac.

02S 38 04 T.L. #2600 12.3 Ac.

40.0 Ac.

39.5 Ac.

02S 38 T.L. #1000 38.5 Ac. (1.5 Ac.)

40.0 Ac.

39.1 Ac.

6" Alum.

8" Alum.

Well #2

Well #1

6" Alum.

12.4 Ac.

02S 38 09 T.L. #100

39.1 Ac.

23.2 Ac.

02S 38 T.L. #1000 36.2 Ac. 39.1 Ac.

39.1 Ac.

STANDLEY (15.0 Ac.) (2.0 Ac.) LANE

HUNTER

Well#2 Additional Point of Appropriation is located 79 feet North and 2548 feet West of the Southeast corner of Section 3.



Certified Water Right Examiner
021
Gregory T. Blackman
Nov. 19, 1987
STATE OF OREGON

Permit Number T- 10455

Completion Checklist for Claims of Beneficial Use

Application # _____
Date Received 10/6/2014
CWRE Name Robert Lang, Jr.
File Marked ✓
Oversized Map # _____
Reviewer C.W.

Transfer # T-1045-5
Claim Logged ✓

Map Review:

- ☒ Map on polyester film (OAR 690-014-0170(1) & 310-0050(1)(b))
- ☒ Application & permit #; or transfer # (OAR 690-014-0100(1))
- ☒ 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 690-014-0170(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)
- ☐ Description of conveyances system (from POD to POU) (OAR 690-014-0100)
- ☐ Source(s) of water (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 or transfer holder (OAR 690-014-0100)

DEF = deficient

N/A = Not Applicable

S:\groups\wr\certs\Resource Center\Forms_Checklists_Mailing Instructions\COBU Checklist 11-20-2012.rtf

Certificate Issuance Processing Checklist

____ Map and COBU reviewed
____ Conflict check Any Conflicts? _____
____ Check for ownership

Check Area of Interest ☐ YES ☐ NO

Identified Party _____

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**



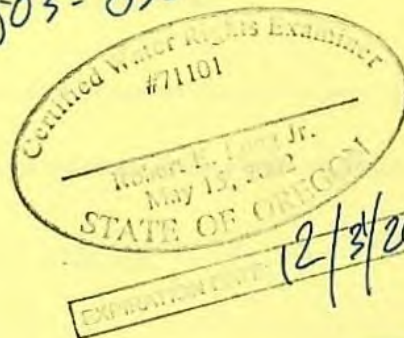
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

A fee of \$175 must accompany this form for permits
with priority dates after July 8, 1987.

A fee of \$175 must accompany this form
including a water right with a priority d

Example – A transfer involves 5 ri
has a priority date of July 9, 1987, o

MOD Peter
503-830-1412



A separate form shall be completed for each permit.

In cases where a permit has been amended through the permit amendment process, a separate form 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 at
http://www.oregon.gov/owrd/pages/wr/cwre_info.aspx

The completion of this form is required by OAR 690-014-0100(1) and 690-014-0100(2).

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.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

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.oregon.gov/owrd/pages/mgmt_reimbursement_authority.aspx

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SALEM, OR

**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 \$175 must accompany this form for permits
with priority dates after July 8, 1987.**

**A fee of \$175 must accompany this form for any Transfer final orders
including a water right with a priority date of July 9, 1987, or later.**

**Example – A transfer involves 5 rights and one of the rights
has a priority date of July 9, 1987, or later, the fee is required.**

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.oregon.gov/owrd/pages/wr/cwre_info.aspx

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.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

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.oregon.gov/owrd/pages/mgmt_reimbursement_authority.aspx

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SALEM, OR

SECTION 1
GENERAL INFORMATION

1. File Information

APPLICATION # (G, R, S or T) T-10455	PERMIT # (IF APPLICABLE) G-2739	PERMIT AMENDMENT # (IF APPLICABLE)
--	---	------------------------------------

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Terra Magic, Inc.		PHONE NO. (541) 786-4533	ADDITIONAL CONTACT NO.
ADDRESS P.O. Box 3093			
CITY La Grande	STATE OR	ZIP 97850	E-MAIL

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. *Each permit or transfer holder of record must sign this form.*

3. Permit or transfer holder of record (this may, or may not, be the current property owner)

PERMIT OR TRANSFER HOLDER OF RECORD Terra Magic, Inc.			
ADDRESS P.O. Box 3093			
CITY La Grande	STATE OR	ZIP 97850	

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ADDITIONAL PERMIT OR TRANSFER HOLDER OF RECORD			OCT 06 2014
ADDRESS			SALEM, OR
CITY	STATE	ZIP	

4. Date of Site Inspection: **9/20/2014**

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

NAME	DATE	ASSOCIATION WITH THE PROJECT
Colton Rasmussen	9/20/2014	Farm Manager

6. County: **Union**

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)):

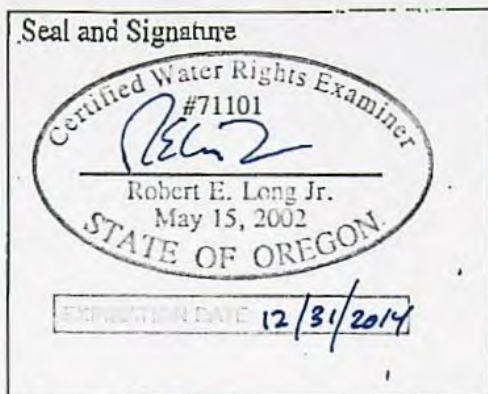
OWNER OF RECORD		
ADDRESS		
CITY	STATE	ZIP

Add additional tables for owners of record as needed

SECTION 2
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 Robert E. Long Jr.		PHONE NO: 503-280-4628	ADDITIONAL CONTACT NO. 503-799-0304
ADDRESS 4380 Southwest Macadam Avenue Suite 500			
CITY Portland	STATE OR	ZIP 97239	E-MAIL blong@farallonconsulting.com

Permit or Transfer Holder's of Record Signature or Acknowledgement

Each permit or transfer holder of record must sign this form in the space provided below.

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.

[illegible]

SECTION 3 CLAIM DESCRIPTION

OCT 06 2014

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)
Well No. 3	UNIO 52060	L-85259

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
Well No. 3	Powder River volcanic and volcaniclastic aquifer	NA (well is completed into a confined aquifer)

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	ACTUAL RATE OR VOLUME USED (CFS, GPM, OR AF)
Well No. 3	Irrigation	Peas/wheat	March 1 through October 31	Actual rate not measured. Water meter is not operational. Calculated rate is 3.78 CFS
Total Quantity of Water Used				

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:

As further depicted on the COBU Map attached as Exhibit A, Well No. 3 is located approximately 160 feet east of Hunter Road and is fitted with a 250 hp vertical turbine motor and 5-stage pump. Upon withdrawal, water is first pumped through a 10-inch steel mainline to a buried T-junction located outside and immediately south of the pump house. From the T-junction the water is conveyed *via* 10-inch PVC mainlines to the eastern and western portions of the Site.

Eastern Portion of the Site. As further depicted on the COBU Map attached as Exhibit A, water is applied to beneficial use *via* the operation of two center pivots and hand lines. Water is conveyed from Well No. 3 to (a) the center pivots *via* a 3,800 foot long 10-inch diameter buried PVC mainline, and to (b) the hand lines (used to irrigate corners not irrigated by the center pivot) *via* two separate, above-ground, 2,500 feet-long aluminum 5-inch diameter mainlines. Each center pivot operates with 59 sprinkler heads each. The hand line system consists of approximately 12,200 feet of 3-inch diameter hand line with 7/32"

sprinklers installed at 40 ft spacing.

Western Portion of Site. As further depicted on the COBU Map attached as Exhibit A, water is applied to beneficial use *via* the operation of hand lines. Water is conveyed from Well 3 to the hand lines *via* an above-ground, 2,640 foot long aluminum 8-inch diameter mainline. The hand line system consists of approximately 11,000 feet of 3-inch diameter hand line with 7/32" sprinklers installed at 40 ft spacing.

Reminder: The map associated with this claim must identify the location of the point(s) of diversion, Donation Land Claims (DLC), Government Lots (GLot), and Quarter-Quarters (QQ).

5. Variations:

Was the use developed differently from what was authorized by the permit, permit amendment final order, or extension final order? If yes, describe below. **YES**

(e.g. "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.")

The Final Order approving the transfer authorized the completion of two additional points of appropriation which are identified in the order as Wells Nos. 2 and 3. Only Well No. 3 has both been fully completed and been used to withdraw and apply water to beneficial use to the full extent authorized under the Final Order. Due to financial constraints, Well No. 2 has not yet been deepened into the confined aquifer.

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
Well No. 3	2.8 cfs	Center pivot sprinklers: 3.78 cfs Handline sprinklers: 13 cfs	3.78 CFS *Please see comment below.	Irrigation	455	455

Comment: Well No. 3 is an artesian well with a measured shut-in pressure of approximately 29 PSI. The wellhead did not have access for a water level indicator or air line for measurement of the drawdown within the well during pumping, therefore water level measurements during pumping were not completed. The installed flow meter was not operational. The estimated drawdown used for the *Amount of Water Measured* above is based on the calculated flow from the two pivot irrigation system's sprinkler configuration run at the observed 50 PSI operating pressure.

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SALEM, OR

SECTION 4

SYSTEM DESCRIPTION

Are there multiple PODs or POAs?

YES

There is the original POA consisting of Well No. 1 and the additional POA identified as Well No. 3 in the Final Order and further confirmed under this COBU. A third POA does exist and is identified as Well No. 2, however, that well will be the subject of an additional transfer application at such time that the applicant can afford the further deepening of such well into the same aquifer as Well No. 3 is currently completed.

A. Place of Use

1. Is the right for municipal use?

NO

If "YES" the table below may be deleted.

TWP	RNG	MER	SEC	QQ	GLOT	DLC	USE	IF IRRIGATION, # PRIMARY ACRES	IF IRRIGATION, # SUPPLEMENTAL ACRES
2 S	38 E	WM	2	SW SW			Irrigation	40.0	
2 S	38 E	WM	2	SE SW			Irrigation	39.1	
2 S	38 E	WM	3	SW SW			Irrigation	40.0	
2 S	38 E	WM	3	SE SW			Irrigation	39.5	
2 S	38 E	WM	3	SW SE			Irrigation	1.6	
2 S	38 E	WM	3	SE SE			Irrigation	38.5	
2 S	38 E	WM	4	SE SE			Irrigation	12.3	
2 S	38 E	WM	9	NE NE			Irrigation	12.4	
2 S	38 E	WM	10	NE NE			Irrigation	39.1	
2 S	38 E	WM	10	NW NE			Irrigation	36.2	
2 S	38 E	WM	10	NE NW			Irrigation	23.2	
2 S	38 E	WM	10	NW NW			Irrigation	39.1	
2 S	38 E	WM	11	NW NW			Irrigation	39.1	
2 S	38 E	WM	3	SW SE			Irrigation		36.4
2 S	38 E	WM	3	SE SE			Irrigation		1.5
2 S	38 E	WM	10	NW NE			Irrigation		2.0
2 S	38 E	WM	10	NE NW			Irrigation		15.0
Total Acres Irrigated								400.1	54.9

Reminder: The map associated with this claim must identify Donation Land Claims (DLC), Government Lots (GLOT), Quarter Quarters (QQ), and if for irrigation, the number of acres irrigated within each projected DLC, GLOT, and QQ.

B. 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?

YES

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

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SALEM, OR

2. Pump Information

MANUFACTURER	MODEL	SERIAL NUMBER	TYPE (CENTRIFUGAL, TURBINE OR SUBMERSIBLE)	INTAKE SIZE	DISCHARGE SIZE
Goulds Pump	14 RHHC		5-stage turbine		10", 12"

3. Motor Information

MANUFACTURER	HORSEPOWER
U.S. Electrical Motors	250

4. Theoretical Pump Capacity

HORSEPOWER	OPERATING PSI	LIFT FROM SOURCE TO PUMP *If a well, the water level during pumping	LIFT FROM PUMP TO PLACE OF USE	TOTAL PUMP OUTPUT (IN CFS)
250	50	Estimate provided by drillers: 275 ft	N/A	4

5. Provide pump calculations:

Observed operating pressure = 50 psi, so pressure head = $50/4.3 = 116$ ft

Estimate of drawdown during pumping = lift head = 275 ft

Total head = $275 + 116 = 391$ ft

$Q = (250 \text{ hp} * 7.04) / 391 = 4 \text{ cfs} = 1,800 \text{ gpm}$

6. Measured Pump Capacity (using meter if meter was present and system was operating)

INITIAL METER READING	ENDING METER READING	DURATION OF TIME OBSERVED	TOTAL PUMP OUTPUT (IN CFS)
Meter broken			

Reminder: For pump calculations use the reference information at the end of this document.

7. Is the distribution system piped?

YES

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

8. Mainline Information

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
10"	3,800'	PVC	Buried
8"	2,640'	Aluminum	Above Ground
5"	5,000'	Aluminum	Above Ground

9. Lateral or Handline Information

LATERAL OR HANDLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
3"	23,200'	Aluminum	Above Ground

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10. Sprinkler Information

SIZE	OPERATING PSI	SPRINKLER OUTPUT (GPM)	TOTAL NUMBER OF SPRINKLERS	MAXIMUM NUMBER USED	TOTAL SPRINKLER OUTPUT (CFS)
7/32"	50	9.9 per sprinkler	570 (estimated from reported sprinkler spacing)	132	2.91

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)
McCook Manufacturing	1393.5 ft.	50	849.6	1.89
McCook Manufacturing	1395.5 ft.	50	849.6	1.89

12. Additional notes or comments related to the system:

The pivot systems have a maximum output at 65 PSI of 900 gpm per the manufacturer. The pivot systems are run at the same time and were observed in operation at 50 PSI. In the future the Applicant will seek an additional POA at Well #2 for an identical rate and amount of water, in order to permanently abandon Well #1. The majority of the authorized acreage east of Hunter Road is irrigated via the two center-pivot systems, with the remainder of such acreage not reached by the center-pivot system irrigated via 5" mainlines and 3" handlines.

C. Groundwater Source Information (Well and Sump) RECEIVED BY OWRD

1. Is the appropriation from ground water (well or sump)?

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YES

If "NO", items 2 through 8 relating to this section may be deleted.

2. Describe the access port (type and location) or other means to measure the water level in the well:

SALEM, OR

No access available at the time of Site visit. This is an artesian well with as shut in pressure of approximately 29 PSI and has been reported as high as 39 PSI before the May 2009 pump test, attached as Exhibit B.

3. If well logs are not available, provide as much of the following information as possible:

WELL	CASING DIAMETER	CASING DEPTH	TOTAL DEPTH (FT BELOW GROUND SURFACE)	COMPLETION DATE OF ORIGINAL WELL	COMPLETION DATES OF ALTERATIONS	WHO THE WELL WAS DRILLED FOR	WELL DRILLED BY
Well No. 3	18", 10"	2-796, 758-998	1200	12/10/2008		Terra Magic Inc	Riverside Inc.

4. In addition to the information requested in item "3" above, provide any other information which may help the Department locate any well logs associated with this appropriation.

5. Is the appropriation from a dug well (sump)?

NO

If "NO", items 6 through 8 relating to this section may be deleted.

D. Storage

1. Does the distribution system include in-system storage (e.g. storage tank, bulge in system / reservoir)

NO

If "NO", item 2 and 3 relating to this section may be deleted.

E. 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?

NO

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

F. 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?

NO

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

G. Reservoir

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

NO

Reminder: Complete this section 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.

If "NO", items 2 through 9 relating to this section may be deleted.

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SECTION 5 CONDITIONS

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 was to be completed. 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	June 15, 2009		
BEGIN CONSTRUCTION (A)	N/A	April 2009	
COMPLETE CONSTRUCTION (B)	N/A	May 2009	Completed construction of the well with accompanying well test
COMPLETE APPLICATION OF WATER (C)	October 1, 2013	September 30, 2009	Applied groundwater to beneficial use to the full extent as provided under the terms of the Final Order

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

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

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

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

If "NO", items 6b through 6e relating to this section may be deleted.

7. Measurement Conditions:

a. 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.

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?

YES

c. Meter Information

POD/POA NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
Well No. 3	Seametrics	07083556	Currently not working*	Not Available	May 2009

** The original water meter was installed by the vendor (Pendleton Grain Growers, Inc.) at the time the well was completed in 2009. While it appeared the meter operated correctly for some time, it wasn't until 2013 that Terra-Magic began noticing that its operation may have been very much intermittent at worst or inaccurate at best. The vendor inspected the meter and determined that the battery was faulty. After the battery was replaced, problems again arose, and in 2014, it was determined that the problems may have stemmed from a poor seal on the battery housing which failed and allowed water into the electronics. Because of Terra-Magic's inability to confirm when the meter actually failed to function properly, no measurements are currently available. Terra-Magic has recently taken delivery of a new meter and is in the process of installing it.*

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

8. Recording and reporting conditions

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

NO

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

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9. Fish Screening

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

NO

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

SALEM, OR

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.

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

a. Were there special well construction standards?

YES

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?

YES

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

Per Superseding Final Order; Special order Volume 78, pages 118-123:

1. "The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer." *Action Taken: Well No. 3 was constructed in accordance with this requirement.*
2. "...any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water." *Action Taken: Well No. 1 has not been placed in use.*
3. "prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing." *Action Taken: Well No. 1 has not been placed in use.*
4. "emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs." *Action Taken: Well No. 1 has not been placed in use.*
5. "Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated." *Action Taken: The water user has installed a totalizing flow meter as described in Conditions Section 7c above.*

SECTION 6 ATTACHMENTS

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
May 2009 Pump Test	Pump test of Well No. 3 performed on 5/5/2009, Exhibit B

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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 compiled using geographic Information Systems and satellite imagery sourced from the ArcGIS
Map Service: http://services.arcgisonline.com/arcgis/services/World_Imagery
Image date: 8/7/2010

Map Checklist

Please be sure that the map you submit includes ALL the items listed below.
(Reminder: Incomplete maps and/or claims may be returned.)

- ☐ Map on polyester film
- ☐ Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- ☐ Township, Range, Section, Donation Land Claims, and Government Lots
- ☐ If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- ☐ Locations of fish screens and/or fish by-pass devices in relationship to point of diversion
- ☐ Locations of meters and/or measuring devices in relationship to point of diversion or appropriation
- ☐ Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- ☐ Point(s) of diversion or appropriation (illustrated and coordinates)
- ☐ Tax lot boundaries and numbers
- ☐ Source illustrated if surface water
- ☐ Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- ☐ Application and permit number or transfer number
- ☐ North arrow
- ☐ Legend
- ☐ CWRE stamp and signature

att. Peter Mohr

Exhibit B

Page 1 of 2

Riverside, Inc.

P.O. BOX 720
111 S. Roswell Blvd.
Parma, ID 83660
(208) 722-6731 * FAX (208) 722-6736

Well TestSander
tube

Air Line Setting

400'

Pump Suction Setting

420'

Static Water Level

38 PSI

Date:

5-5-09

Customer:

Jenna Magee

Well Location: Hunter Lane N of Elstond city

Well Dia:	Inches	Depth	to	Depth	Cased
	18"	13	to	796'	
	10"	758'	to	1198'	

Time	Water Level	GPM	RPM	Water Condition	Temp F	Motor Amps	Total GPM Pumped	Calculated GPM
Shallow Well, has been idle for more than 116 hrs								
5:00 AM	38 PSI							
5:20	38 PSI			Electric water level				
5:40	38 PSI			measured was used				
6:00	38 PSI			A calibrated crane was				
6:02	start up			used for gallenage				
6:04	Adjust to 1500 GPM							
6:06	0	1500						
6:08	38'	1510						
6:10	76'	1500						
6:12	114'	1490		Adjusting Throttle to keep				
6:14	142'	1500		at 1500 RPM				
6:20	208'	1500						
6:25	232'	1500						
6:30	241'	1500		Close with some material from mud				
6:35	249'	1500		drilling				
6:40	254'	1500						
6:45	260'	1500						
7:00	266'	1500		Close with some material from mud				
7:15	269'	1500		drilling				
7:30	272'	1500						
7:45	277'	1500						
8:00	277' 2"	1500						
8:15	277' 1"	1500		Close with some material from mud				
				drilling				

Page _____ of _____

Continued on Reverse Side

RECEIVED BY OWRD

OCT 06 2014

SALEM, OR

[illegible]

Tested By:

~~RECEIVED BY OWRD~~

Certified By: _____

OCT 06 2014

SALEM, OR

MEMO –Proof to Satisfaction (March 17, 2014)

Application #	Permit # <u>G-2739</u>	Transfer # <u>T-10455</u>
WRD Reviewer <u>Mary BjorE</u>	Date <u>11-22-17</u>	
WRD Peer Reviewer <u>Cod. Holmes</u>	Date <u>12-5-17</u>	

Research

- ☒ Organize file in chronological order
- ☒ Pull CBU Report & Map(s), Application Map, relevant Permit, Certificate, or Transfer Order, most recent Assignments, Extension Orders, SWL Measurements, Fish Screen Certification Documents, Water Use Reports & Pump Tests
- ☒ Search for Water Right Location using Interactive Mapper. Identify Tax Lots & check for Area of Interest (AOI)
- ☒ Water Organization identified using AOI? ☒ No ___ Yes
If "Yes" cc: _____ & Add to Mailing List
- ☒ Print Tax Lot Map from ormap.net for the original Place of Use, and confirm Current Ownership & Address with County Assessor TLS 100, 1000, 2600 — same
If there is a new owner, Add to Mailing List, including the owner(s) name & tax lot number
- ☒ Print Platcard & check for Place of Use Conflict? ☒ No ___ Yes
If "Yes", provide copy of certificate & relevant map
- ☒ Print BLM Cadastral Survey
- ☒ Does Claim Map identify correct DLC, Gov't Lots, QQ's? ___ No ☒ Yes
If "No", either _____ WRD amend map OR _____ prepare Order of Certification

Reviewing Claim

Have conditions on relevant permit, certificate, or transfer order been complied with? Yes, No, OR N/A

- N/A Fish Conditions
- YES Meter/measuring device shall TEM — installed May 2009 (@ time of inspection in process of installing a new meter). Intent of condition understood to be NE APOAS (per discuss.) w/ GR
- N/A Water Use Reporting
- Pump Test (post December 19, 1988)
- YES Other Conditions specific GW cond.
- SWL
- YES C-Date 10-1-13 accomplished 9-30-09
- ☒ Run Capacity Calculator and Print Findings (for pump, sprinklers, pipes, ditches, as appropriate)

NOTES:

APOA for C-34399 — Autho. Well I Add'l Wells 2 & 3
(= 480) → limited to 2.8 CFS
@ 5.6 cfs for 1R 400.1 AC & 1S 54.9 AC
via SPORV 78 P 118 (superseding previous) signed 6-15-09.
Developed one of two APOAs, system capable of autho.
CWRF — Robert Long

Determination

___ I've determined that the permit/transfer was fully developed as authorized and that a **FINAL** Certificate should be issued.

☒ I've determined that the permit/transfer was not fully developed as authorized and that a **PROPOSED** Certificate should be issued. A proposed Certificate should be issued for the following reason(s):

Claimed less POAS

___ I've determined that beneficial use was NOT made within the terms and conditions and that a **Proposed Order of Certification** (denial) should be issued. A proposed Order of Certification should be issued for the following reason(s):

Processing

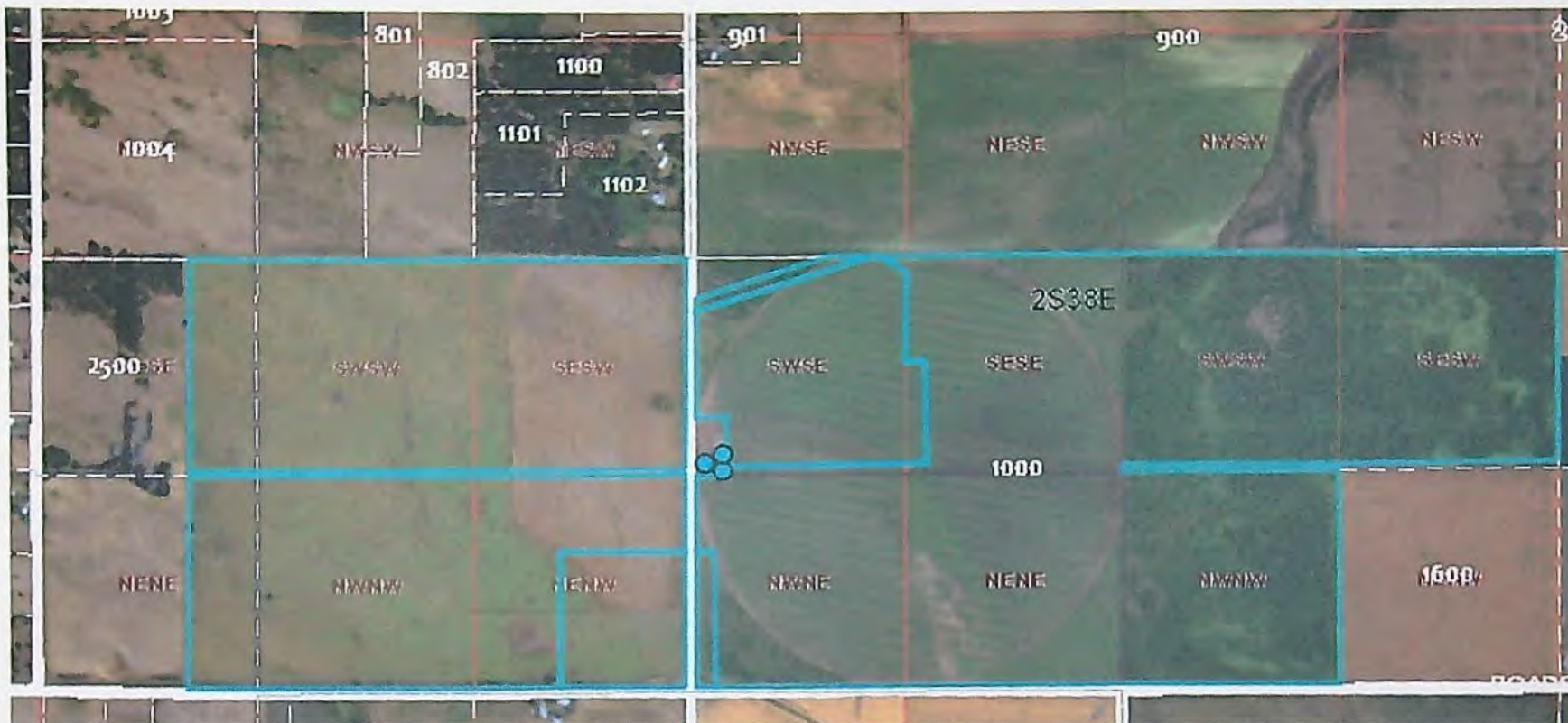
___ Stamp PROPOSED or Assign CERT# _____ or ORDER OF CERTIFICATION (circle one)

___ Draft Certificates or Proposed Order of Certifications are available in the Application directory.

___ Prepare Mailing List. Include Applicant(s); Receiving Landowner(s); Current Owner(s); Water Organizations; CWRE. Indicate records to be marked.

___ Record marking:	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____
	App _____	Permit _____	Cert _____

NOTES:



County: Union
 Taxlot: 02S38E01000
 Owner1: TERRA MAGIC INC
 Owner2:
 Owner Address: P O BOX 3093, LA GRANDE OR 97850-7093
 Site Address: 0, , OR
 Acres: 431.9
 TRSQQ: WM2.00S38.00E0XXXX
 Effective Date: January 1, 2017

County: Union
 Taxlot: 02S38E0900100
 Owner1: TERRA MAGIC INC
 Owner2:
 Owner Address: P O BOX 3093, LA GRANDE OR 97850-7093
 Site Address: 0, , OR
 Acres: 12.7
 TRSQQ: WM2.00S38.00E9XXXX
 Effective Date: January 1, 2017

County: Union
 Taxlot: 02S38E0402600
 Owner1: TERRA MAGIC INC
 Owner2:
 Owner Address: P O BOX 3093, LA GRANDE OR 97850-7093
 Site Address: 0, , OR
 Acres: 0
 TRSQQ: WM2.00S38.00E4XXXX
 Effective Date: January 1, 2017

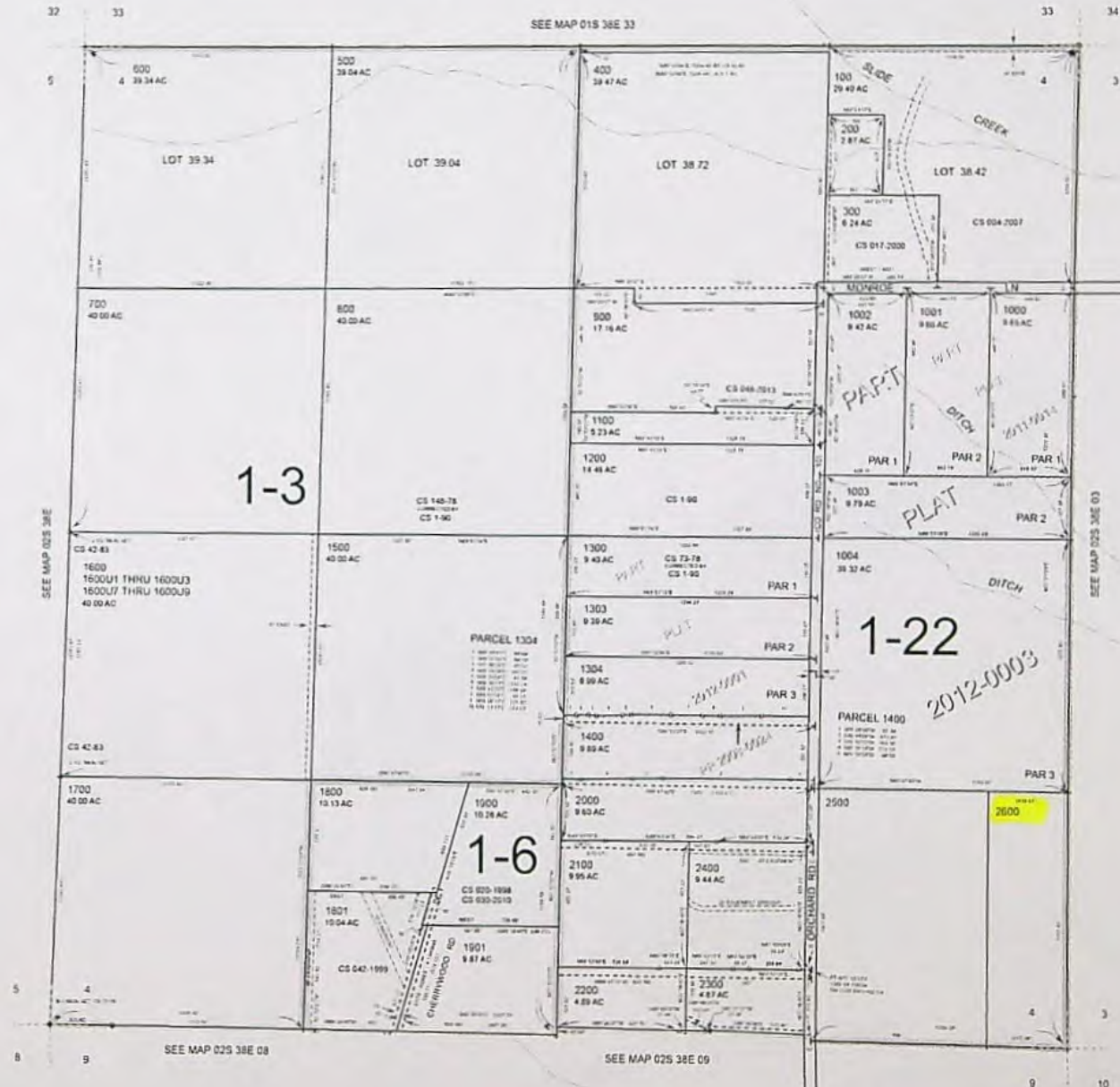
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 200 400 600 800 Feet

SECTION 4 T.2S. R.38E. W.M.
UNION COUNTY
1" = 400'

02S38E04

Cancelled
600M1
1301
1302
1600U4
1600U5
1600U6



Revised: SH
03/03/2014

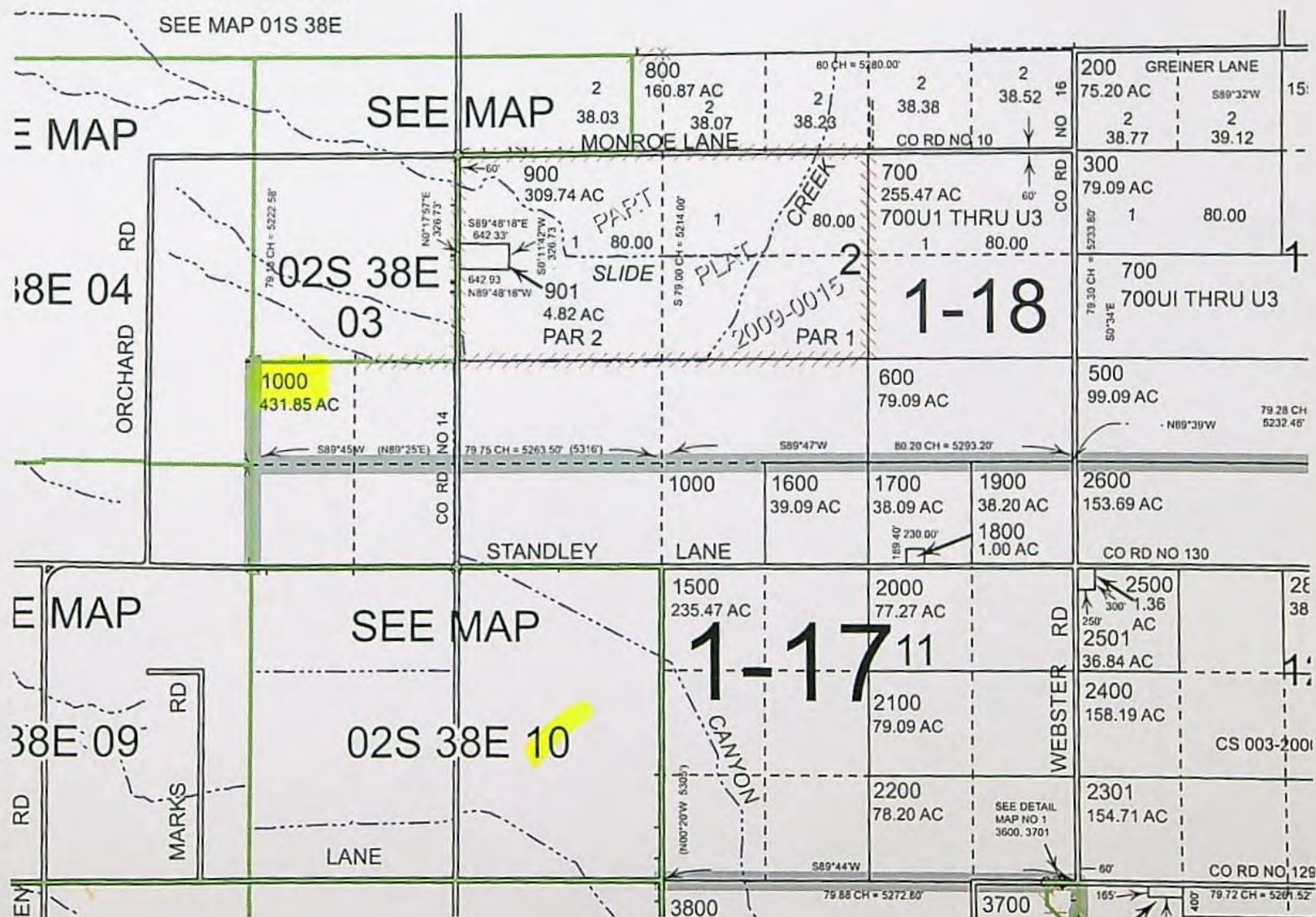
02S38E04

1" = 400'

Cancelled
2000
801
901
902
1001



02S38E09

$$1'' = 2000'$$


$T^* = 400$

CANCELLED
2100
2100
8100M1
8102
0000
1001
1200



02S38E03

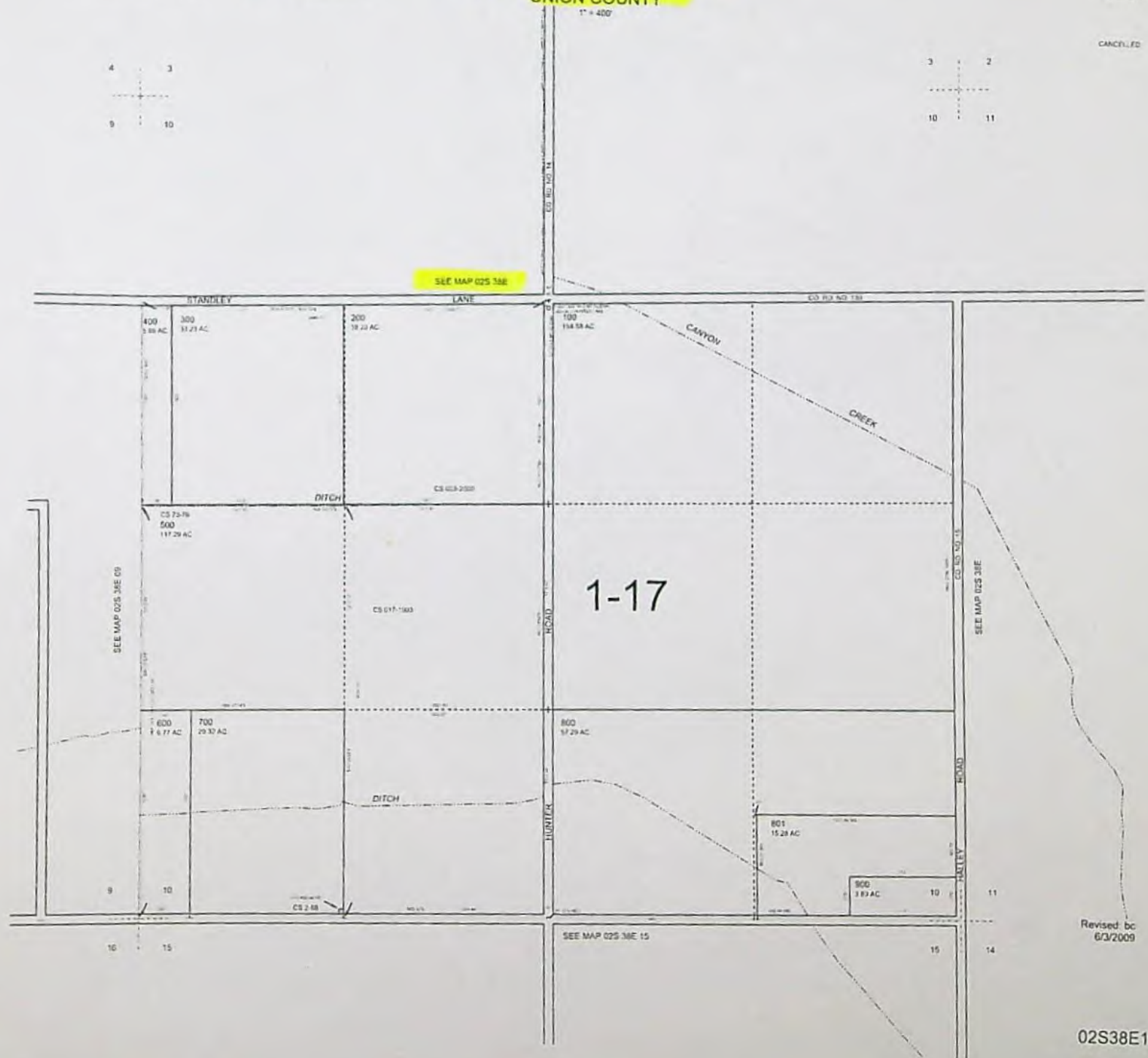
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

0 200 400 600 Feet
1" = 400'

SECTION 10 T.2S. R.38E. W.M.
UNION COUNTY

02S38E10

CANCELLED



02S38E10

[Print Page](#)**2017 Union County Property Information**Property Reference Number: 7461 [New Search](#)

Property Type: REAL PROPERTY

Site Address:

OWNER INFORMATION

Property Owner: TERRA MAGIC INC

Contract Buyer:

ETAL(s):

Mailing Address: P O BOX 3093 LA GRANDE OR ,97850-7093

PROPERTY INFORMATION

Map Number: 02S3804

Tax Lot Number: 2600

A Number: 0

Code: 122

Property Class/Desc: 550 FARM USE/EFU/VACANT

ZONE UC-A1

NOTES

*EFU FARM USE-POTENTIAL ADD TAX

PROPERTY VALUES

	Real Market Value		Assessed(Taxable) Value
Land:	\$22,100		
Structures:	\$0		
Subtotal:	\$22,100		\$3,525
Total:	\$22,100		\$3,525

PROPERTY TAX INFORMATIONDo not pay this amount! For current balance owing, contact the [Assessor/Tax Collector](#).

Base Tax: \$41.58

Total Tax: \$41.58

LAND DESCRIPTIONS

Line#	Acres	Land Code	Description	Dimensions	Market Value
1	13.00	4HD	AA3 CLASS 4H DRY MV	-	\$22,100
Total	13.00				

NEW SEARCH

Website last updated 11/20/2017

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Although reasonable attempts are made to maintain this information as accurate as possible, these documents are being provided as an informational convenience ONLY.

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[Print Page](#)**2017 Union County Property Information**Property Reference Number: 5391 [New Search](#)

Property Type: REAL PROPERTY

Site Address:

OWNER INFORMATION**Property Owner:** TERRA MAGIC INC**Contract Buyer:****ETAL(s):****Mailing Address:** P O BOX 3093 LA GRANDE OR ,97850-7093**PROPERTY INFORMATION****Map Number:** 02S3809**Tax Lot Number:** 100**A Number:** 0**Code:** 106**Property Class/Desc:** 550 FARM USE/EFU/VACANT**ZONE** UC-A1**NOTES**

*EFU FARM USE-POTENTIAL ADD TAX

PROPERTY VALUES

	Real Market Value	Assessed(Taxable) Value
Land:	\$21,610	
Structures:	\$0	
Subtotal:	\$21,610	\$3,433
Total:	\$21,610	\$3,433

PROPERTY TAX INFORMATIONDo not pay this amount! For current balance owing, contact the [Assessor/Tax Collector](#).**Base Tax:** \$40.63**Total Tax:** \$40.63**LAND DESCRIPTIONS**

Line#	Acres	Land Code	Description	Dimensions	Market Value
1	12.71	4HD	AA3 CLASS 4H DRY MV	-	\$21,610
Total	12.71				

NEW SEARCH

Website last updated 11/20/2017

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[Print Page](#)**2017 Union County Property Information**Property Reference Number: 7240 [New Search](#)

Property Type: REAL PROPERTY

Site Address:

OWNER INFORMATION

Property Owner: TERRA MAGIC INC

Contract Buyer:

ETAL(s):

Mailing Address: P O BOX 3093 LA GRANDE OR ,97850-7093

PROPERTY INFORMATION

Map Number: 02S38

Tax Lot Number: 1000

A Number: 0

Code: 117

Property Class/Desc: 550 FARM USE/EFU/VACANT

ZONE UC-A1

NOTES

*EFU FARM USE-POTENTIAL ADD TAX

NOTES

BALANCE IN CODE 0118

PROPERTY VALUES

	Real Market Value	Assessed(Taxable) Value
Land:	\$495,470	
Structures:	\$0	
Subtotal:	\$495,470	\$130,186
Total:	\$495,470	\$130,186

PROPERTY TAX INFORMATIONDo not pay this amount! For current balance owing, contact the [Assessor/Tax Collector](#).

Base Tax: \$1,548.53

Total Tax: \$1,548.53

LAND DESCRIPTIONS

Line#	Acres	Land Code	Description	Dimensions	Market Value
-------	-------	-----------	-------------	------------	--------------

1	8.50	2D	AA3 CLASS 2 DRY MV	-	\$17,850
2	35.00	2I	AA3 CLASS 2 IRR MV	-	\$115,500
3	51.67	3D	AA3 CLASS 3 DRY MV	-	\$98,170
4	34.50	3HD	AA3 CLASS 3H DRY MV	-	\$65,550
5	64.00	3I	AA3 CLASS 3 IRR MV	-	\$198,400
Total 193.67					
NEW SEARCH					

Website last updated 11/20/2017

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[Print Page](#)**2017 Union County Property Information**Property Reference Number: 7365 [New Search](#)

Property Type: REAL PROPERTY

Site Address:

OWNER INFORMATION

Property Owner: TERRA MAGIC INC

Contract Buyer:

ETAL(s):

Mailing Address: P O BOX 3093 LA GRANDE OR ,97850-7093

PROPERTY INFORMATION

Map Number: 02S38

Tax Lot Number: 1000

A Number: 0

Code: 118

Property Class/Desc: 550 FARM USE/EFU/VACANT

ZONE UC-A1

NOTES

*EFU FARM USE-POTENTIAL ADD TAX

NOTES

BALANCE IN CODE 0117

PROPERTY VALUES

	Real Market Value	Assessed(Taxable) Value
Land:	\$633,100	
Structures:	\$0	
Subtotal:	\$633,100	\$169,347
Total:	\$633,100	\$169,347

PROPERTY TAX INFORMATIONDo not pay this amount! For current balance owing, contact the [Assessor/Tax Collector](#).

Base Tax: \$2,008.33

Total Tax: \$2,008.33

LAND DESCRIPTIONS

Line#	Acres	Land Code	Description	Dimensions	Market Value
-------	-------	-----------	-------------	------------	--------------

1	11.00	2D	AA3 CLASS 2 DRY MV	-	\$23,100
2	64.00	2I	AA3 CLASS 2 IRR MV	-	\$211,200
3	59.56	3D	AA3 CLASS 3 DRY MV	-	\$113,160
4	28.88	3HD	AA3 CLASS 3H DRY MV	-	\$54,870
5	73.65	3I	AA3 CLASS 3 IRR MV	-	\$228,320
6	0.24	4D	AA3 CLASS 4 DRY MV	-	\$410
7	0.85	4I	AA3 CLASS 4 IRR MV	-	\$2,040
Total					238.18
NEW SEARCH					

Website last updated 11/20/2017

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SEC 2

Search Criteria

Meridian: Willamette Township: 2 South 38 East 2 Section: 2 Records per Page: 100 Search

Platcards Maps!
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Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown
Q(160):	NE	NE	NE	NE	NW	NW	NW	NW	SW	SW	SW	SW	SW	SW	SW	SE	SE	SE	SE	SE	SE	SE	SE	QQ
Select	Inchoate: T 10455 CF (REG) *	8/12/1964	IRRIGATION																(40)	(39.1)				
Additional Info: <i>R.o.f.R.</i> TERRA MAGIC INC. App: G2946 Permit: G2739																								
Select	Cert:34399 OR CN	T10455	8/12/1964	IRRIGATION	CN														-40-	-39.1-				
Additional Info: SYLVAN B RASMUSSEN App: G2946 Permit: G2739 Cert: 34399																								

Acreage Legend: 12.25 Regular
acres

-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



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SEC 3

Search Criteria

Meridian: Township: Range: Section: Records per Page:

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Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): NE NW SW SE NE NW SW SE NE NW SW SE NE NW SW SE	Q(160): NE NE NE NE NE NW NW NW NW SW SW SW SW SW SE SE SE SE SE	Unknown QQ														
Select Inchoate: T 10455 CF (REG) *		8/12/1964	IRRIGATION														(40)	(39.5)			(1.6)	(38.5)	
Additional Info: TERRA MAGIC INC. App: G2946 Permit: G2739																							
Select Inchoate: T 10455 CF (REG) *		8/12/1964	SUPPLEMENTAL IRRIGATION (Suppl'mtl)																		(36.4)	(1.5)	
Additional Info: TERRA MAGIC INC. App: G2946 Permit: G2739																							
Select Cert:6499 OR CN		12/31/1872	IRRIGATION	CN			-10-			-10-													
Additional Info: ORODELL DITCH ASSOCIATION Decree: GRANDE RONDE RIVER, CONSOLIDATED Cert: 6499																							
Select Cert:6148 OR *		12/31/1883	IRRIGATION																		36.4	1.5	
Additional Info: PETER ALLEN Decree: GRANDE RONDE RIVER, CONSOLIDATED Cert: 6148																							
Select Cert:58432 OR *		10/3/1977	SUPPLEMENTAL IRRIGATION (Suppl'mtl)							9.7	20.2		1.1										
Additional Info: JOHN SCOTT HARVEY App: S56703 Permit: S42713 Cert: 58432																							
Select Cert:58431 OR *		10/3/1977	STORAGE																				
Additional Info: JOHN SCOTT HARVEY App: R56704 Permit: R6773 Cert: 58431																							
Select Cert:58409 OR *		5/10/1976	IRRIGATION							9.7	20.2		14.1										
Additional Info: JOHN SCOTT HARVEY App: S53890																							

http://apps.wrd.state.or.us/apps/wr/wrinfo/wr_platcard.aspx?ddl_meridian=0&tb_township=2&ddl_township_char=0&tb_range=38&... 11/21/2017



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SEC 4

Search Criteria

Meridian: Willamette Township: 2 South Range: 38 East Section: 4 Records per Page: 100 [Search](#)

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Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	Q(40): Q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown QQ
Select Permit: S 36935 CN Additional Info: GLENN D MCINTOSH App: S49283 Permit: S36935		5/25/1972	DOMESTIC INCLUDING LAWN AND GARDEN	CN																				
Select Inchoate: T 10455 CF (REG) * Additional Info: TERRA MAGIC INC. App: G2946 Permit: G2739		8/12/1964	IRRIGATION																					(12.3)
Select Cert:85987 OR * Additional Info: GLENN MC INTOSH App: S59938 Permit: S45469 Cert: 85987		4/4/1980	IRRIGATION																					0.8
Select Cert:85986 OR * Additional Info: ANITA MC INTOSH App: R59937 Permit: R8227 Cert: 85986		4/4/1980	STORAGE																					.
Select Cert:69336 OR * Additional Info: PAUL SHORB App: R74906 Cert: 69336		1/1/1993	LIVESTOCK																					.
Select Cert:69336 OR * Additional Info: PAUL SHORB		1/1/1993	WILDLIFE																					.

App: R74906 Cert: 69336																				
Select Cert:36347 OR * Additional Info: DOROTHY SUMMERS App: S38838 Permit: S28995 Cert: 36347	6/17/1963	DOMESTIC	*	*	*															
Select Cert:36248 OR * Additional Info: JOHN VANDERBILT M.D. App: S37021 Permit: S27646 Cert: 36248	12/26/1961	IRRIGATION			5															
Select Cert:36248 OR * Additional Info: JOHN VANDERBILT M.D. App: S37021 Permit: S27646 Cert: 36248	12/26/1961	LIVESTOCK			*															
Select Cert:34399 OR CN Additional Info: SYLVAN B RASMUSSEN App: G2946 Permit: G2739 Cert: 34399	T10455 8/12/1964	IRRIGATION CN																-12.3-		
Select Cert:1959 OR CN Additional Info: GRANDE RONDE VALLEY FRUIT CO. App: S2594 Permit: S1473 Cert: 1959	9/30/1912	IRRIGATION CN	-20-			-40-												-33-		
Select App: P 78170 * Additional Info: JOEL D CLARK App: P78170	12/29/1994	LIVESTOCK																		*

Acreage Legend: 12.25 Regular
acres

-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



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N/C
SEC 9

Search Criteria

Meridian: **Willamette**Township: **2** **South**Range: **38** **East**Section: **9**Records per Page: **100****Search**

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Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	qq(40): q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown QQ
Select Permit: S 40648 CN Additional Info: RICKIE L JOHNSON App: S54282 Permit: S40648		5/18/1976	IRRIGATION	CN																				4.32-
Select Inchoate: T 10455 CF (REG) * Additional Info: TERRA MAGIC INC. App: G2946 Permit: G2739		8/12/1964	IRRIGATION				(12.4)																	
Select Cert:79608 OR * Additional Info: LORENCE SAVAGE App: G13044 Permit: G11716 Cert: 79608		7/27/1992	IRRIGATION					8.2																
Select Cert:70293 OR * Additional Info: PATRICK OROURKE App: R76339 Cert: 70293		1/1/1993	FIRE PROTECTION					.								.								
Select Cert:70293 OR * Additional Info: PATRICK OROURKE App: R76339 Cert: 70293		1/1/1993	LIVESTOCK					.								.								
Select Cert:70293 OR * Additional Info: PATRICK OROURKE App: R76339 Cert: 70293		1/1/1993	WLDLIFE					.								.								
Select Cert:70260 OR * Additional Info: JAMES BAREMORE		1/1/1993	LIVESTOCK														.							

[illegible]

[illegible]

Select Cert:19900 OR *

12/27/1949 DOMESTIC

Additional Info:
WILEY M NEBEKER
App: S24024
Permit: S19191
Cert: 19900

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
-----------------	--------------------------	---	---	---------------------------------------	-------------------------------

Page 1 of 3

N/C

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SEC 10

Meridian: Willamette

Township:

Range: 38 East ✓

Section: 10 v

Records per Page: 100

Search

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exp.

[illegible]

[illegible]

Acres 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



Oregon Water Resources Department Water Rights Platcard Report

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N/C

SEC 11

Search Criteria

Meridian: Willamette Township: 2 South Range: 38 East Section: 11 Records per Page: 100 Search

Platcards Maps!
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Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	Q(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 Permit: G 16228 *		9/12/2005	IRRIGATION					38.2	38.1			39.1		38.2	39.1	40	39.1	39.1	40					
Additional Info: KIRK END App: G16533 Permit: G16228																								
Select Inchoate: T 10455 CF (REG) *		8/12/1964	IRRIGATION										(39.1)											
Additional Info: TERRA MAGIC INC. <i>R.O.F.R.</i> App: G2946 Permit: G2739																								
Select Cert:34399 OR CN	T10455	8/12/1964	IRRIGATION CN										-39.1-											
Additional Info: SYLVAN B RASMUSSEN App: G2946 Permit: G2739 Cert: 34399																								

Acreage Legend: 12.25 Regular acreage

-12.25- Acreage is on a canceled right

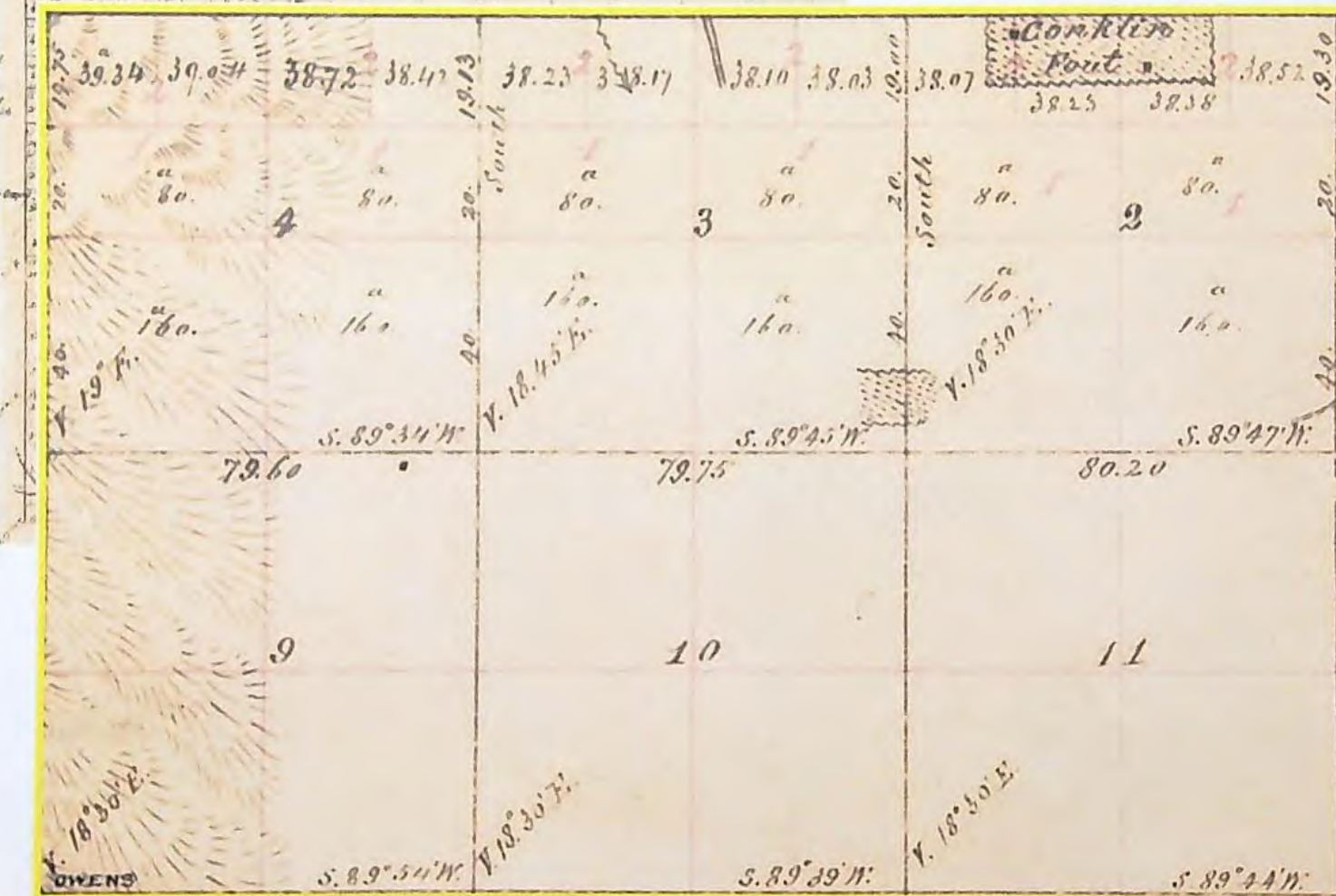
(12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate)

[12.25] Acreage has been suspended

* Acreage is not specified

Township N° 2 South Range N° 38 East Willamette Meridian.

FOREST



Pump Capacity Calculator

using Department designed formula:

$(\text{hp})(\text{efficiency}) / (\text{lift} + \text{psi head}) = \text{capacity in cfs}$

Efficiency:

Centrifugal = 6.61

Turbine = 7.04

Data Entry (fill in underlined blanks)

HP =	<u>250</u>
Efficiency =	<u>7.04</u>
Lift =	<u>275</u>
PSI =	<u>50</u>

Results Calculated

(hp)(efficiency) =	1760
Head based on psi =	127.0
Total dynamic head =	402.0
(head + lift)	

Pump Capacity = 4.378 cubic feet per second

Sprinkler Capacity Calculator

Data Entry (fill in underlined blanks)

Sprinkler group 1 Nozzle size = 7/32 inch (type an apostrophe before the size)
 Pressure = 50 PSI
 Number of heads = 132

Sprinkler group 2 Nozzle size = _____ inch (type an apostrophe before the size)
(if applicable) Pressure = _____ PSI
 Number of heads = _____

Sprinkler group 3 Nozzle size = _____ inch (type an apostrophe before the size)
(if applicable) Pressure = _____ PSI
 Number of heads = _____

Results calculated

Sprinkler group 1 capacity =	1306.8 gpm, or	2.912 cfs
Sprinkler group 2 capacity =	0 gpm, or	0.000 cfs
Sprinkler group 3 capacity =	0 gpm, or	0.000 cfs
Total sprinkler capacity =	1306.8 gpm, or	2.912 cfs

Note: If entered values return a result of 0 gpm or "#N/A", then the sprinkler capacity chart does not contain a rate for that nozzle size and PSI.

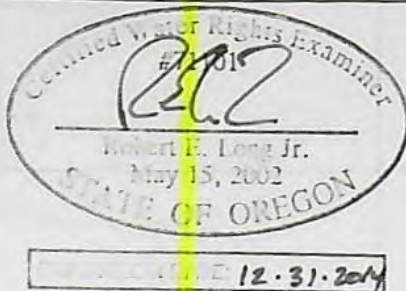
A rough alternate calculation can be made using this formula:

$28.93 \times (\text{orifice size in decimal, squared}) \times (\text{square root of pressure})$

(Source: rainbird.com)

Rainbird Nozzle Size Reference

<u>Nozzle #</u>	<u>Size (in)</u>
4	1/16
5	5/64
6	3/32
7	7/64
8	1/8
9	9/64
10	5/32
11	11/64
12	3/16
13	13/64
14	7/32
15	15/64
16	1/4
17	17/64
18	9/32
20	5/16
22	11/32
24	3/8
26	13/32
28	7/16
30	15/32
32	1/2
34	17/32
36	9/16
40	5/8
44	11/16



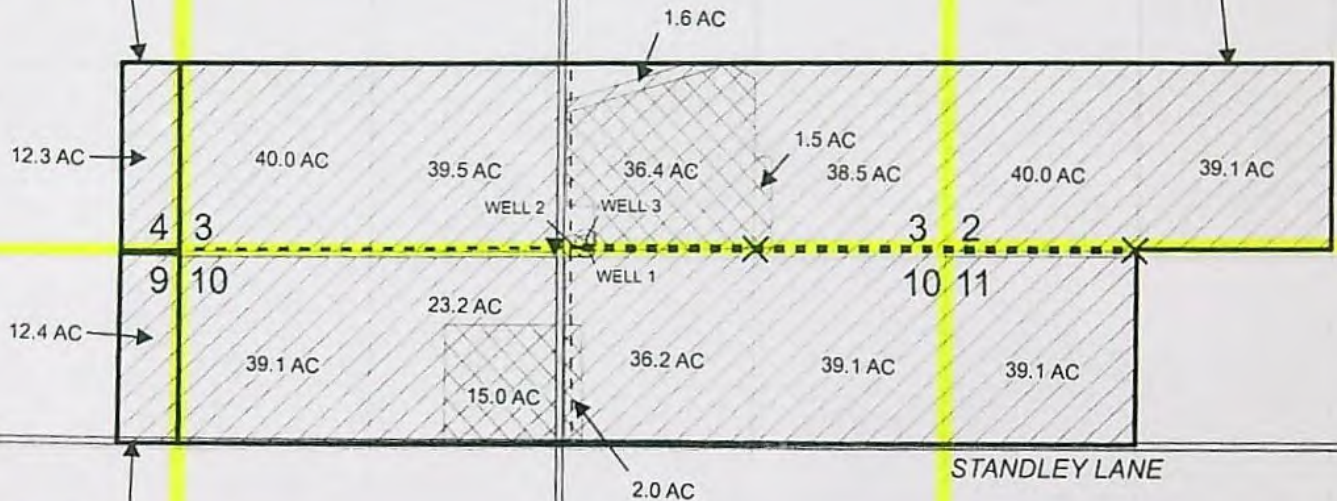
T 2 S R 38 E

HUNTER ROAD

02S 38E 04 TAXLOT # 2600

02S 38E TAXLOT # 1000

02S 38E 09 TAXLOT # 0100



LEGEND

- AUTHORIZED AND ACTUAL IRRIGATION AREA- PRIMARY (400.1 ACRES)
- AUTHORIZED AND ACTUAL IRRIGATION AREA - SUPPLEMENTAL (54.9 ACRES)

TAXLOT BOUNDARY

PLSS QUARTER-QUARTER SECTIONS

- 10 INCH PVC MAIN-LINE
- 8 INCH ALUMINUM MAIN-LINE
- 5 INCH ALUMINUM MAIN-LINE

ROAD

10" MAIN-LINE ELBOW CONNECTION

CENTER PIVOT PAD

WELL

NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

UNION COUNTY TAX LOTS NOTED ON FIGURE.

AREA EAST OF HUNTER ROAD IS IRRIGATED WITH 2 CENTER PIVOTS AND HANDLINES

AREA WEST OF HUNTER ROAD IS IRRIGATED WITH HANDLINES ONLY

LOCATIONS OF POINTS OF DIVERSION:

WELL 1: 10 FEET NORTH AND 2460 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3
WELL 2: 79 FEET NORTH AND 2548 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3
WELL 3: 40 FEET NORTH AND 2460 FEET WEST FROM THE SOUTHEAST CORNER OF SECTION 3

LOCATION OF THE REQUIRED TOTALIZING IN-LINE FLOW METER:

10 FEET SOUTH OF WELL 3, IN LINE WITH THE 10 INCH PUMP OUTLET MAIN-LINE.



1 inch = 1,320 feet

FARALLON CONSULTING
Quality Service for Environmental Solutions | farallonconsulting.com

Washington
Issaquah | Bellingham | Seattle

Oregon
Portland

California
Oakland | Sacramento

EXHIBIT A
CLAIM OF BENEFICIAL USE MAP
TERRA MAGIC INC. PROPERTY
TRANSFER: T-10455
UNION COUNTY, OREGON

Farallon PN: 1343001

Drawn By: PFG

Checked By: REL

Date: 10/1/14

Disc Reference: 1343001

[illegible]

Well#2 Additional Point of Appropriation is located 79 feet North and 2548 feet West of the Southeast corner of Section 3.



Certified Water Right Examiner
021
Gregory T. Blackman
Gregory T. Blackman
Nov. 19, 1987
STATE OF OREGON

BY

APR 01 2008

WATER RESOURCE DEPT.
MAN EASTERN REGION

Permit Number T- 10455

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	SUPERSEDING FINAL ORDER
T-10455, Union County	)	APPROVING ADDITIONAL POINTS
	)	OF APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008, the application map was amended.
5. On April 1, 2008, a second amendment to the application map was made.

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

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)

Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres

Priority Date: August 12, 1964

Rate: 5.6 cubic feet per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2. The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 (UNIO 51475) - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
11. On June 24, 2008, the applicant's agent 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.
12. On September 4, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10455 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 September 18, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

15. On January 21, 2009, the Department e-mailed the applicant's agent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-10455. The applicant's agent requested the Department to proceed with issuance of the revised Preliminary Determination.
16. On April 10, 2009, the Department issued a preliminary determination proposing to approve Transfer T-10455 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 April 14, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
17. On May 18, 2009, the Department issued a final order approving Transfer T-10455, recorded at Special Order Volume 77, Pages 769 to 774. The order contains an error in Finding of fact No. 21. Finding of Fact No. 21 erroneously contains a reference to Finding of Fact No. 17; the correct reference should be to Finding of Fact No. 19.
18. This superseding order is issued with the correct reference within Finding of Fact No. 23.

Transfer Review Criteria (OAR 690-380-4010)

19. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
20. A 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 Transfer Application T-10455.
21. According to the well constructor, the proposed Well No. 3 is cased to a depth of 998 feet below land surface (bls). The casing is therefore set throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
22. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
23. The Department finds that the well construction described in Finding No. 21 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.

24. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
25. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.
26. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
27. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
28. On May 15, 2008, the applicant requested a condition regarding the use of the authorized Well No. 1. The condition requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
29. The proposed changes, as conditioned, would not result in injury to other water rights.
30. The applicant requested that the completion deadline be extended until 2013.

Conclusions of Law

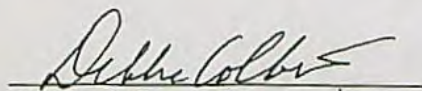
The additional points of appropriation proposed in Transfer Application T-10455 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-10455 are approved.
2. Water right certificate 34399 is cancelled.
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 34399 and any related decree.

- ✓ 4. The proposed additional points of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.
- ✓ 5. The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.
- ✓ 6. Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.
- ✓ 7. Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.
- ✓ 8. Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.
9. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.
10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15th day of June 2009.


Phillip C. Ward, Director *tn*

Mailing Date: JUN 22 2009

STATE OF OREGON
COUNTY OF UNION
CERTIFICATE OF WATER RIGHT

This Is To Certify, That SYLVAN B. and MARTHA JOY RASMUSSEN
of Route 1, Box 338, La Grande, State of Oregon, has made proof
to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of
Well No. 1
a tributary of Slide Creek (Grande Ronde River) for the purpose of
irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
under Permit No. G-2739 of the State Engineer, and that said right to the use of said waters
has been perfected in accordance with the laws of Oregon; that the priority of the right hereby
confirmed dates from August 12, 1964;
that the amount of water to which such right is entitled and hereby confirmed, for the purposes
aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed
5.6G cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream.
The point of diversion is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, T. 2 S., R. 38 E., W. M.
Well located 10 feet North and 2460 feet West from the SE Corner, Section 3.

The amount of water used for irrigation, together with the amount secured under any other
right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second
per acre, or its equivalent for each acre irrigated and shall be further limited
to a diversion of not to exceed 3 acre feet per acre for each acre irrigated
during the irrigation season of each year;

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

A description of the place of use under the right hereby confirmed, and to which such right is
appurtenant, is as follows:

Supplemental	Primary	
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.1 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
		Section 2
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.5 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
36.4 acres	1.6 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$
1.5 acres	38.5 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 3
	12.3 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 4
	12.4 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
		Section 9
	39.1 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
2.0 acres	36.2 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$
15.0 acres	23.2 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 10
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 11
		T. 2 S., R. 38 E., W. M.

C-34399

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 24 day of October , 1967.

CHRIS L. WHEELER

State Engineer

Recorded in State Record of Water Right Certificates, Volume 26 , page 34399

Superseded

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-10455, Union County)
) FINAL ORDER
) APPROVING ADDITIONAL POINTS
) OF APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
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This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)
Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
Priority Date: August 12, 1964
Rate: 5.6 cubic feet per second (cfs)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
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2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
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2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2. The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 (UNIO 51475) - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
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13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

15. On January 21, 2009, the Department e-mailed the applicant's agent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-10455. The applicant's agent requested the Department to proceed with issuance of the revised Preliminary Determination.
16. On April 10, 2009, the Department issued a preliminary determination proposing to approve Transfer T-10455 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 April 14, 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)

17. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
18. A 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 Transfer Application T-10455.
19. According to the well constructor, the proposed Well No. 3 is cased to a depth of 998 feet below land surface (bls). The casing is therefore set throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
20. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
21. The Department finds that the well construction described in Finding No. 17 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.
22. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
23. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.

24. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
25. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
26. On May 15, 2008, the applicant requested a condition regarding the use of the authorized Well No. 1. The condition requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
27. The proposed changes, as conditioned, would not result in injury to other water rights.
28. The applicant requested that the completion deadline be extended until 2013.

Conclusions of Law

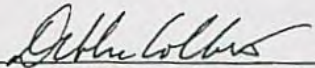
The additional points of appropriation proposed in Transfer Application T-10455 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-10455 are approved.
2. Water right certificate 34399 is cancelled.
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 34399 and any related decree.
4. The proposed additional points of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.
5. The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.

6. Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.
7. Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.
8. Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.
9. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.
10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 18th day of May 2009.


Phillip C. Ward, Director *per*

Mailing Date: MAY 20 2009

per discussion w/ Peter, he requests that we "proceed accordingly per the draft". mjb 2-22-18

BJORK Mary F * WRD

From: Peter Mohr <peter.mohr@jordanramis.com>
Sent: Tuesday, February 20, 2018 6:18 PM
To: BJORK Mary F * WRD
Subject: T-10455 re Draft Certificate [IWOV-Worksite.FID1619047]

Hi Mary. Just briefly following up our conversation of earlier today to provide a background summary of this application and why Terra Magic now wishes to ultimately scrub Well No. 1 from any certificate as may issue. And if that can't be achieved now, that is fine as well as we can deal with it easily enough post issuance.

As we discussed, the fundamental purpose of the COBU submittal was to confirm Well No. 3 as an **Alternate POA** for solely that 2.8 cfs portion of the water right subject to transfer that is appropriated from the **confined** aquifer consisting of the Powder River Volcanics. Well No. 3 necessarily had to be identified as an Alternate POA since OWRD determined that Well No. 1 as built appropriates water from **both** the confined Powder River Volcanics and the alluvial aquifer.

Well No. 1 was of course included as part of the transfer application and subsequent COBU because Terra-Magic (1) initially wanted to retain Well No. 1 as an emergency water supply well in case problems occurred with Well No. 3 during/following its completion and (2) wanted to legally maintain its 2.8 cfs interest from the alluvial aquifer. However, with its successful completion and subsequent operation of Well No. 3, Terra-Magic has since decided it no longer needs Well No. 1 as an emergency well. Thus the intention now to legally scrub Well No. 1 from the Cert. But as I give this more thought, I am guessing we cannot do that in this process because then we would be summarily changing the legal character of Well No. 3 from that of an Alternate POA. Another option may exist to get there which we can discuss, but again, I think that option too will still only be available post-issuance of the new Certificate. And I have no problem with that.

Thanks and look forward to discussing next steps with you (although I'm pretty confident we just **proceed accordingly per the draft** and then I'll take the steps necessary to deal with the not to be orphaned alluvial water interest).

P

PETER D. MOHR | Shareholder
Jordan Ramis PC | Attorneys at Law
Direct: 503-598-5529 Main: 503-598-7070

Portland OR | Vancouver WA | Bend OR
www.jordanramis.com

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Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

October 14, 2014

Terra Magic, Inc.
P.O. Box 3093
La Grande, OR 97850

On October 6, 2014 the Water Resources Department received the Claim of Beneficial Use (COBU) for the following file(s):

T-10455

The COBU included a report and map. The Department hopes to review your submittal within approximately 2 - 4 years. At that time we will review these items and provide a final certificate, proposed certificate, or a request for additional information.

If you are interested in having your COBU reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at:
http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml

For all other questions please call our Customer Service phone: (503) 986-0811.

If you sell the property, please contact the Department, or have the new owners contact the Department about the need to file an assignment.

Cc: file

CLARK Gerry E

From: Paul Garvin <pgarvin@farallonconsulting.com>
Sent: Thursday, October 02, 2014 10:51 AM
To: CLARK Gerry E
Cc: Peter Mohr; Bob Long
Subject: RE: T-10455 Claim of Beneficial Use

Hi Gerry,
I will edit the map per your comments, upon your approval we will have it printed on polyester film.
Thanks,

Paul Garvin, Project Hydrogeologist
Farallon Consulting, L.L.C.

From: CLARK Gerry E [<mailto:gerald.e.clark@state.or.us>]
Sent: Thursday, October 02, 2014 10:06 AM
To: Bob Long
Cc: Peter Mohr; Paul Garvin
Subject: RE: T-10455 Claim of Beneficial Use

Bob,

Thanks for the Claim. I have printed it out and will place it in the file and will be looking for the original copies in the mail.

I have map a cursory review of the Claim and Map and a have a few comments on the map:

1. The map needs to be updated to indicate the location of the totalizing flow meter.
2. For the purposes of the Claim of Beneficial Use map, gps coordinates are not acceptable. The map needs to be updated to indicate the location of the wells to a recognized public land survey corner. The locations must be identified by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).

Please be aware that there is not a fee required to submit the Claim of beneficial Use for this transfer because the right involved has a priority date prior to July 9, 1987.

Gerry

Gerry Clark
Water Right Services Division
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301

Phone: 503-986-0811

From: Bob Long [<mailto:blong@farallonconsulting.com>]
Sent: Wednesday, October 01, 2014 10:33 PM
To: Gerry Clark (gerald.e.clark@state.or.us)
Cc: Peter Mohr; Paul Garvin
Subject: T-10455 Claim of Beneficial Use

Gerry-

Please find the attached file for the Claim of Beneficial Use Report on Transfer T-10455. We will follow up with a hardcopy and appropriate fee by mail this week. The map and pump test are attached as Exhibits A and B.

Best Regards- Bob Long, CWRE #71101

Bob Long, RG, LHG, CWRE/ Principal Consultant/Office Manager

Farallon Consulting, L.L.C. | 4380 SW Macadam, Suite 500 | Portland, Oregon 97239

blong@farallonconsulting.com | Direct: (503) 280-4628



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Celebrating 15 Years of Quality Service and Announcing New Web Site

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Gerry

Gerry Clark
Water Right Services Division
Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301

Phone: 503-986-0811

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Sent: Wednesday, October 01, 2014 10:33 PM
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Subject: T-10455 Claim of Beneficial Use

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Bob Long, RG, LHG, CWRE/ Principal Consultant/Office Manager
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blong@farallonconsulting.com | Direct: (503) 280-4628



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Cc: Peter Mohr; Paul Garvin
Subject: T-10455 Claim of Beneficial Use
Attachments: SKMBT_C224e14100122150.pdf

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**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 \$175 must accompany this form for permits
with priority dates after July 8, 1987.**

**A fee of \$175 must accompany this form for any Transfer final orders
including a water right with a priority date of July 9, 1987, or later.**

**Example – A transfer involves 5 rights and one of the rights
has a priority date of July 9, 1987, or later, the fee is required.**

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.oregon.gov/owrd/pages/wr/cwre_info.aspx

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.

"Section 8" of this form is intended to aid in the completion of this form and should not be submitted.

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.oregon.gov/owrd/pages/mgmt_reimbursement_authority.aspx

SECTION 1
GENERAL INFORMATION

1. File Information

APPLICATION # (G, R, S or T) T-10455	PERMIT # (IF APPLICABLE) G-2739	PERMIT AMENDMENT # (IF APPLICABLE)
---	------------------------------------	------------------------------------

2. Property Owner (current owner information)

APPLICANT/BUSINESS NAME Terra Magic, Inc.		PHONE NO. (541) 786-4533	ADDITIONAL CONTACT NO.
ADDRESS P.O. Box 3093			
CITY La Grande	STATE OR	ZIP 97850	E-MAIL

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. ***Each permit or transfer holder of record must sign this form.***

3. Permit or transfer holder of record (this may, or may not, be the current property owner)

PERMIT OR TRANSFER HOLDER OF RECORD Terra Magic, Inc.		
ADDRESS P.O. Box 3093		
CITY La Grande	STATE OR	ZIP 97850

ADDITIONAL PERMIT OR TRANSFER HOLDER OF RECORD		
ADDRESS		
CITY	STATE	ZIP

4. Date of Site Inspection: 9/20/2014

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

NAME	DATE	ASSOCIATION WITH THE PROJECT
Colton Rasmussen	9/20/2014	Farm Manager

6. County: Union

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)):

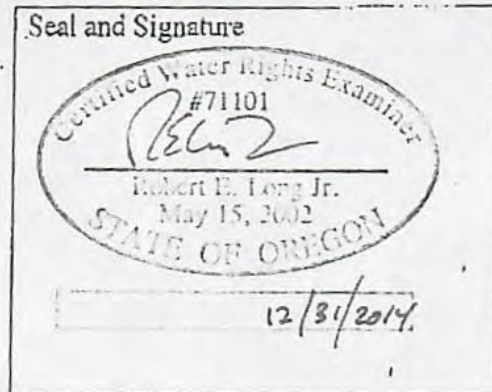
OWNER OF RECORD		
ADDRESS		
CITY	STATE	ZIP

Add additional tables for owners of record as needed

SECTION 2 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 Robert E. Long Jr.		PHONE NO: 503-280-4628	ADDITIONAL CONTACT NO. 503-799-0304
ADDRESS 4380 Southwest Macadam Avenue Suite 500			
CITY Portland	STATE OR	ZIP 97239	E-MAIL blong@farallonconsulting.com

Permit or Transfer Holder's of Record Signature or Acknowledgement

Each permit or transfer holder of record must sign this form in the space provided below.

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	TITLE	DATE
	Colton Rasmussen	Farm Manager	09/30/14

SECTION 3

CLAIM DESCRIPTION

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)
Well No. 3	UNIO 52060	L-85259

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
Well No. 3	Powder River volcanic and volcaniclastic aquifer	NA (well is completed into a confined aquifer)

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	ACTUAL RATE OR VOLUME USED (CFS, GPM, OR AF)
Well No. 3	Irrigation	Peas/wheat	March 1 through October 31	Actual rate not measured. Water meter is not operational. Calculated rate is 3.78 CFS
Total Quantity of Water Used				

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:**

As further depicted on the COBU Map attached as Exhibit A, Well No. 3 is located approximately 160 feet east of Hunter Road and is fitted with a 250 hp vertical turbine motor and 5-stage pump. Upon withdrawal, water is first pumped through a 10-inch steel mainline to a buried T-junction located outside and immediately south of the pump house. From the T-junction the water is conveyed *via* 10-inch PVC mainlines to the eastern and western portions of the Site.

Eastern Portion of the Site. As further depicted on the COBU Map attached as Exhibit A, water is applied to beneficial use *via* the operation of two center pivots and hand lines. Water is conveyed from Well No. 3 to (a) the center pivots *via* a 3,800 foot long 10-inch diameter buried PVC mainline, and to (b) the hand lines (used to irrigate corners not irrigated by the center pivot) *via* two separate, above-ground, 2,500 feet-long aluminum 5-inch diameter mainlines. Each center pivot operates with 59 sprinkler heads each. The hand line system consists of approximately 12,200 feet of 3-inch diameter hand line with 7/32"

sprinklers installed at 40 ft spacing.

Western Portion of Site. As further depicted on the COBU Map attached as Exhibit A, water is applied to beneficial use *via* the operation of hand lines. Water is conveyed from Well 3 to the hand lines *via* an above-ground, 2,640 foot long aluminum 8-inch diameter mainline. The hand line system consists of approximately 11,000 feet of 3-inch diameter hand line with 7/32" sprinklers installed at 40 ft spacing.

Reminder: The map associated with this claim must identify the location of the point(s) of diversion, Donation Land Claims (DLC), Government Lots (GLot), and Quarter-Quarters (QQ).

5. Variations:

Was the use developed differently from what was authorized by the permit, permit amendment final order, or extension final order? If yes, describe below. YES

(e.g. "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.")

The Final Order approving the transfer authorized the completion of two additional points of appropriation which are identified in the order as Wells Nos. 2 and 3. Only Well No. 3 has both been fully completed and been used to withdraw and apply water to beneficial use to the full extent authorized under the Final Order. Due to financial constraints, Well No. 2 has not yet been deepened into the confined aquifer.

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
Well No. 3	2.8 cfs	Center pivot sprinklers: 3.78 cfs Handline sprinklers: 13 cfs	3.78 CFS *Please see comment below.	Irrigation	455	455

Comment: Well No. 3 is an artesian well with a measured shut-in pressure of approximately 29 PSI. The wellhead did not have access for a water level indicator or air line for measurement of the drawdown within the well during pumping, therefore water level measurements during pumping were not completed. The installed flow meter was not operational. The estimated drawdown used for the *Amount of Water Measured* above is based on the calculated flow from the two pivot irrigation system's sprinkler configuration run at the observed 50 PSI operating pressure.

SECTION 4

SYSTEM DESCRIPTION

Are there multiple PODs or POAs?

YES

There is the original POA consisting of Well No. 1 and the additional POA identified as Well No. 3 in the Final Order and further confirmed under this COBU. A third POA does exist and is identified as Well No. 2, however, that well will be the subject of an additional transfer application at such time that the applicant can afford the further deepening of such well into the same aquifer as Well No. 3 is currently completed.

A. Place of Use

1. Is the right for municipal use?

NO

If "YES" the table below may be deleted.

TWP	RNG	MER	SEC	QQ	GLOT	DLC	USE	IF IRRIGATION, # PRIMARY ACRES	IF IRRIGATION, # SUPPLEMENTAL ACRES
2 S	38 E	WM	2	SW SW			Irrigation	40.0	
2 S	38 E	WM	2	SE SW			Irrigation	39.1	
2 S	38 E	WM	3	SW SW			Irrigation	40.0	
2 S	38 E	WM	3	SE SW			Irrigation	39.5	
2 S	38 E	WM	3	SW SE			Irrigation	1.6	
2 S	38 E	WM	3	SE SE			Irrigation	38.5	
2 S	38 E	WM	4	SE SE			Irrigation	12.3	
2 S	38 E	WM	9	NE NE			Irrigation	12.4	
2 S	38 E	WM	10	NE NE			Irrigation	39.1	
2 S	38 E	WM	10	NW NE			Irrigation	36.2	
2 S	38 E	WM	10	NE NW			Irrigation	23.2	
2 S	38 E	WM	10	NW NW			Irrigation	39.1	
2 S	38 E	WM	11	NW NW			Irrigation	39.1	
2 S	38 E	WM	3	SW SE			Irrigation		36.4
2 S	38 E	WM	3	SE SE			Irrigation		1.5
2 S	38 E	WM	10	NW NE			Irrigation		2.0
2 S	38 E	WM	10	NE NW			Irrigation		15.0
Total Acres Irrigated								400.1	54.9

Reminder: The map associated with this claim must identify Donation Land Claims (DLC), Government Lots (GLOT), Quarter Quarters (QQ), and if for irrigation, the number of acres irrigated within each projected DLC, GLOT, and QQ.

B. 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?

YES

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

2. Pump Information

MANUFACTURER	MODEL	SERIAL NUMBER	TYPE (CENTRIFUGAL, TURBINE OR SUBMERSIBLE)	INTAKE SIZE	DISCHARGE SIZE
Goulds Pump	14 RHHC		5-stage turbine		10", 12"

3. Motor Information

MANUFACTURER	HORSEPOWER
U.S. Electrical Motors	250

4. Theoretical Pump Capacity

HORSEPOWER	OPERATING PSI	LIFT FROM SOURCE TO PUMP *If a well, the water level during pumping	LIFT FROM PUMP TO PLACE OF USE	TOTAL PUMP OUTPUT (IN CFS)
250	50	Estimate provided by drillers: 275 ft	N/A	4

5. Provide pump calculations:

Observed operating pressure = 50 psi, so pressure head = $50/4.3 = 116$ ft

Estimate of drawdown during pumping = lift head = 275 ft

Total head = $275 + 116 = 391$ ft

$Q = (250 \text{ hp} * 7.04) / 391 = 4 \text{ cfs} = 1,800 \text{ gpm}$

6. Measured Pump Capacity (using meter if meter was present and system was operating)

INITIAL METER READING	ENDING METER READING	DURATION OF TIME OBSERVED	TOTAL PUMP OUTPUT (IN CFS)
Meter broken			

Reminder: For pump calculations use the reference information at the end of this document.

7. Is the distribution system piped?

YES

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

8. Mainline Information

MAINLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
10"	3,800'	PVC	Buried
8"	2,640'	Aluminum	Above Ground
5"	5,000'	Aluminum	Above Ground

9. Lateral or Handline Information

LATERAL OR HANDLINE SIZE	LENGTH	TYPE OF PIPE	BURIED OR ABOVE GROUND
3"	23,200'	Aluminum	Above Ground

10. Sprinkler Information

SIZE	OPERATING PSI	SPRINKLER OUTPUT (GPM)	TOTAL NUMBER OF SPRINKLERS	MAXIMUM NUMBER USED	TOTAL SPRINKLER OUTPUT (CFS)
7/32"	50	9.9 per sprinkler	570 (estimated from reported sprinkler spacing)	132	2.91

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)
McCook Manufacturing	1393.5 ft.	50	849.6	1.89
McCook Manufacturing	1395.5 ft.	50	849.6	1.89

12. Additional notes or comments related to the system:

The pivot systems have a maximum output at 65 PSI of 900 gpm per the manufacturer. The pivot systems are run at the same time and were observed in operation at 50 PSI. In the future the Applicant will seek an additional POA at Well #2 for an identical rate and amount of water, in order to permanently abandon Well #1. The majority of the authorized acreage east of Hunter Road is irrigated via the two center-pivot systems, with the remainder of such acreage not reached by the center-pivot system irrigated via 5" mainlines and 3" handlines.

C. Groundwater Source Information (Well and Sump)

1. Is the appropriation from ground water (well or sump)?

YES

If "NO", items 2 through 8 relating to this section may be deleted.

2. Describe the access port (type and location) or other means to measure the water level in the well:

No access available at the time of Site visit. This is an artesian well with as shut in pressure of approximately 29 PSI and has been reported as high as 39 PSI before the May 2009 pump test, attached as Exhibit B.

3. If well logs are not available, provide as much of the following information as possible:

WELL	CASING DIAMETER	CASING DEPTH	TOTAL DEPTH (FT BELOW GROUND SURFACE)	COMPLETION DATE OF ORIGINAL WELL	COMPLETION DATES OF ALTERATIONS	WHO THE WELL WAS DRILLED FOR	WELL DRILLED BY
Well No. 3	18", 10"	2-796, 758-998	1200	12/10/2008		Terra Magic Inc	Riverside Inc.

4. In addition to the information requested in item "3" above, provide any other information which may help the Department locate any well logs associated with this appropriation.

5. Is the appropriation from a dug well (sump)?

NO

If "NO", items 6 through 8 relating to this section may be deleted.

D. Storage

1. Does the distribution system include in-system storage (e.g. storage tank, bulge in system / reservoir)

NO

If "NO", item 2 and 3 relating to this section may be deleted.

E. 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?

NO

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

F. 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?

NO

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

G. Reservoir

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

NO

Reminder: Complete this section 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.

If "NO", items 2 through 9 relating to this section may be deleted.

SECTION 5 CONDITIONS

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 was to be completed. 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	June 15, 2009		
BEGIN CONSTRUCTION (A)	N/A	April 2009	
COMPLETE CONSTRUCTION (B)	N/A	May 2009	Completed construction of the well with accompanying well test
COMPLETE APPLICATION OF WATER (C)	October 1, 2013	September 30, 2009	Applied groundwater to beneficial use to the full extent as provided under the terms of the Final Order

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

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

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

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

If "NO", items 6b through 6e relating to this section may be deleted.

7. Measurement Conditions:

a. 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.

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?

YES

c. Meter Information

POD/POA NAME OR #	MANUFACTURER	SERIAL #	CONDITION (WORKING OR NOT)	CURRENT METER READING	DATE INSTALLED
Well No. 3	Seametrics	07083556	Currently not working*	Not Available	May 2009

* The original water meter was installed by the vendor (Pendleton Grain Growers, Inc.) at the time the well was completed in 2009. While it appeared the meter operated correctly for some time, it wasn't until 2013 that Terra-Magic began noticing that its operation may have been very much intermittent at worst or inaccurate at best. The vendor inspected the meter and determined that the battery was faulty. After the battery was replaced, problems again arose, and in 2014, it was determined that the problems may have stemmed from a poor seal on the battery housing which failed and allowed water into the electronics. Because of Terra-Magic's inability to confirm when the meter actually failed to function properly, no measurements are currently available. Terra-Magic has recently taken delivery of a new meter and is in the process of installing it.

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

8. Recording and reporting conditions

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

NO

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

9. Fish Screening

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

NO

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

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.

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

a. Were there special well construction standards?

YES

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?

YES

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

Per Superseding Final Order; Special order Volume 78, pages 118-123:

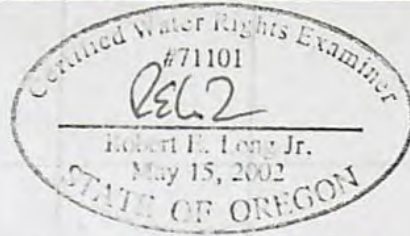
1. "The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer." *Action Taken: Well No. 3 was constructed in accordance with this requirement.*
2. "...any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water." *Action Taken: Well No. 1 has not been placed in use.*
3. "prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing." *Action Taken: Well No. 1 has not been placed in use.*
4. "emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs." *Action Taken: Well No. 1 has not been placed in use.*
5. "Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated." *Action Taken: The water user has installed a totalizing flow meter as described in Conditions Section 7c above.*

SECTION 6

ATTACHMENTS

Provide a list of any additional documents you are attaching to this report:

ATTACHMENT NAME	DESCRIPTION
May 2009 Pump Test	Pump test of Well No. 3 performed on 5/5/2009, Exhibit B

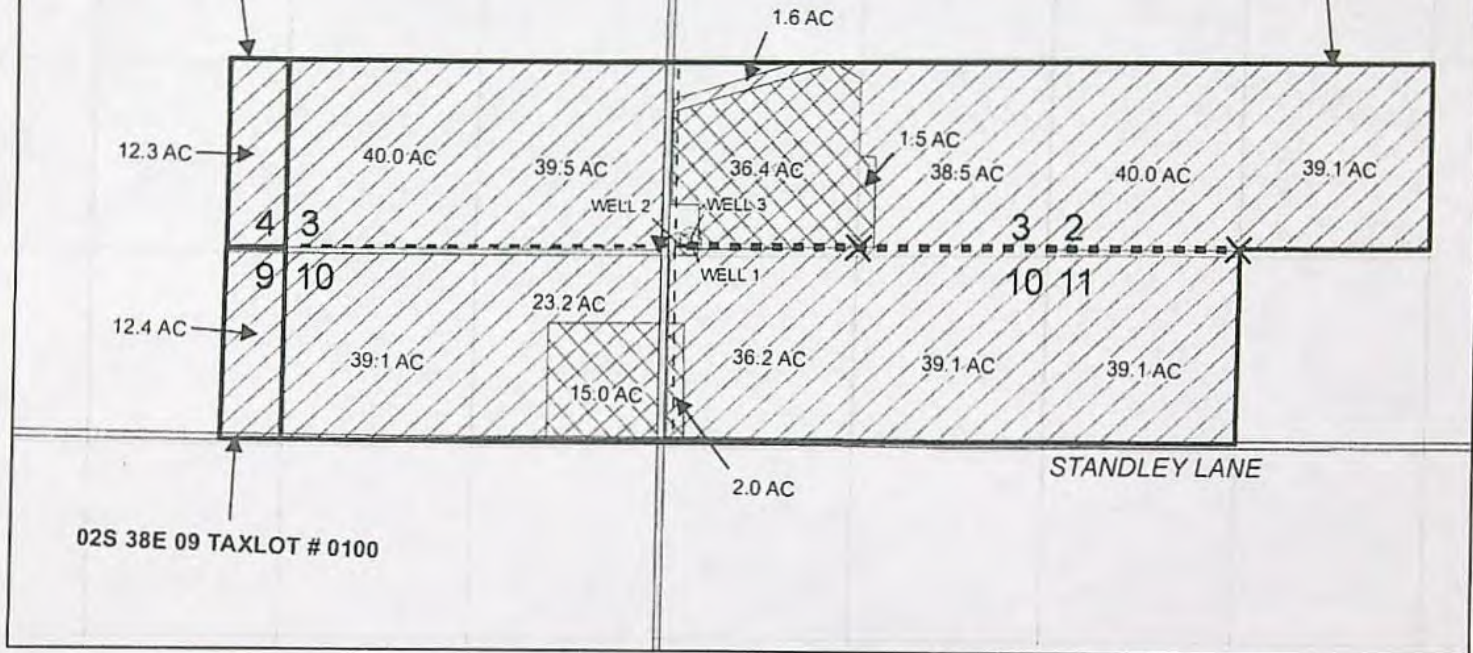


12/31/2014

HUNTER ROAD

02S 38E 04 TAXLOT # 2600

02S 38E TAXLOT # 1000



LEGEND

- AUTHORIZED AND ACTUAL IRRIGATION AREA- PRIMARY (400.1 ACRES)
- AUTHORIZED AND ACTUAL IRRIGATION AREA - SUPPLEMENTAL (54.9 ACRES)
- TAXLOT BOUNDARY
- PLSS QUARTER-QUARTER SECTIONS
- 10 INCH PVC MAIN-LINE
- 8 INCH ALUMINUM MAIN-LINE
- 5 INCH ALUMINUM MAIN-LINE
- ROAD
- 10" MAIN-LINE ELBOW CONNECTION
- CENTER PIVOT PAD
- WELL

NOTES:

THIS MAP IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

UNION COUNTY TAX LOTS NOTED ON FIGURE

AREA EAST OF HUNTER ROAD IS IRRIGATED WITH 2 CENTER PIVOTS AND HANDLINES

AREA WEST OF HUNTER ROAD IS IRRIGATED WITH HANDLINES ONLY

LOCATIONS OF POINTS OF DIVERSION

WELL 1: -118°2'40.992", 45°24'47.928"

WELL 2: -118°2'42.153", 45°24'47.924"

WELL 3: -118°2'40.995", 45°24'48.331"



1 inch = 1,320 feet



EXHIBIT A
CLAIM OF BENEFICIAL USE MAP
TERRA MAGIC INC. PROPERTY
TRANSFER: T-10455
UNION COUNTY, OREGON

Farallon PN: 1343001

Drawn By: PFG

Checked By: REL

Date: 10/1/14

Disc Reference: 1343001

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 compiled using geographic Information Systems and satellite imagery sourced from the ArcGIS Map Service: http://services.arcgisonline.com/arcgis/services/World_Imagery
Image date: 8/7/2010

Map Checklist

Please be sure that the map you submit includes ALL the items listed below.
(Reminder: Incomplete maps and/or claims may be returned.)

- ☐ Map on polyester film
- ☐ Appropriate scale (1" = 400 feet, 1" = 1320 feet, or the original full-size scale of the county assessor map)
- ☐ Township, Range, Section, Donation Land Claims, and Government Lots
- ☐ If irrigation, number of acres irrigated within each projected Donation Land Claims, Government Lots, Quarter-Quarters
- ☐ Locations of fish screens and/or fish by-pass devices in relationship to point of diversion
- ☐ Locations of meters and/or measuring devices in relationship to point of diversion or appropriation
- ☐ Conveyance structures illustrated (pumps, reservoirs, pipelines, ditches, etc.)
- ☐ Point(s) of diversion or appropriation (illustrated and coordinates)
- ☐ Tax lot boundaries and numbers
- ☐ Source illustrated if surface water
- ☐ Disclaimer ("This map is not intended to provide legal dimensions or locations of property ownership lines")
- ☐ Application and permit number or transfer number
- ☐ North arrow
- ☐ Legend
- ☐ CWRE stamp and signature

att. Peter Mohr

Exhibit B
Page 1 of 2**Riverside, Inc.**P.O. BOX 720
111 S. Roswell Blvd.
Parma, ID 83660
(208) 722-6731 • FAX (208) 722-6736**Well Test**

Standard
tube Air Line Setting 400'
Pump Suction Setting 420'
Static Water Level 38 PSI

Date: 5-5-09
Customer: Tuna Magee

Well Dia: Inches 18" Depth 13 to 796'
10" 758' to 1198'
to

Well Location: Hunter Lane N of Island City

Time	Water Level	GPM	RPM	Water Condition	Temp F	Motor Amps	Total GPM Pumped	Calculated GPM
The well has been idle for more than 116 days								
5:00 AM	38 PSI							
5:20	38 PSI			Electric water level				
5:40	38 PSI			measured was used				
6:00	38 PSI			A calibrated pipe was				
6:02	start up			used for gauging				
6:04	Adjust to 1500 GPM							
6:06	0'	1500						
6:08	38'	1510						
6:10	76'	1500						
6:12	114'	1490		Adjusting throttle to keep				
6:14	142'	1500		at 1500 RPM				
6:20	208'	1500						
6:25	232'	1500						
6:30	241'	1500		Clear with some material from mud				
6:35	249'	1500		drilling				
6:40	254'	1500						
6:45	260'	1500						
7:00	266'	1500		Clear with some material from mud				
7:15	269'	1500		drilling				
7:30	272'	1500						
7:45	277'	1500						
8:00	277' 2"	1500						
8:15	277' 1"	1500		Clear with some material from mud				
				drilling				

Page _____ of _____

Continued on Reverse Side

Certified By: _____



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 19, 2009

TERRA MAGIN INC
PO BOX 3093
LA GRANDE, OR 97850

RE: Superseding Order

Enclosed is a copy of Special Order Volume 78, Page 118-123. This order has been issued to correct an error in Special Order Volume 77, Page 769-774.

If you have any questions, please contact the transfer section at 503-986-0883.

Sincerely,

Sarah Henderson

Sarah Henderson
Executive Support

Cc: Watermaster #6
Carrie Jones, Eastern Region
Peter Mohr, Agent
Gregory Blackman, CWRE
File T-10455

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	SUPERSEDING FINAL ORDER
T-10455, Union County	)	APPROVING ADDITIONAL POINTS
	)	OF APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008, the application map was amended.
5. On April 1, 2008, a second amendment to the application map was made.

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

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)
Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
Priority Date: August 12, 1964
Rate: 5.6 cubic feet per second (cfs)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2. The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 (UNIO 51475) - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
11. On June 24, 2008, the applicant's agent 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.
12. On September 4, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10455 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 September 18, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

15. On January 21, 2009, the Department e-mailed the applicant's agent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-10455. The applicant's agent requested the Department to proceed with issuance of the revised Preliminary Determination.
16. On April 10, 2009, the Department issued a preliminary determination proposing to approve Transfer T-10455 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 April 14, 2009, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
17. On May 18, 2009, the Department issued a final order approving Transfer T-10455, recorded at Special Order Volume 77, Pages 769 to 774. The order contains an error in Finding of fact No. 21. Finding of Fact No. 21 erroneously contains a reference to Finding of Fact No. 17; the correct reference should be to Finding of Fact No. 19.
18. This superseding order is issued with the correct reference within Finding of Fact No. 23.

Transfer Review Criteria (OAR 690-380-4010)

19. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
20. A 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 Transfer Application T-10455.
21. According to the well constructor, the proposed Well No. 3 is cased to a depth of 998 feet below land surface (bls). The casing is therefore set throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
22. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
23. The Department finds that the well construction described in Finding No. 21 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.

24. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
25. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.
26. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
27. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
28. On May 15, 2008, the applicant requested a condition regarding the use of the authorized Well No. 1. The condition requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
29. The proposed changes, as conditioned, would not result in injury to other water rights.
30. The applicant requested that the completion deadline be extended until 2013.

Conclusions of Law

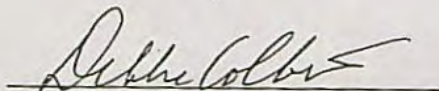
The additional points of appropriation proposed in Transfer Application T-10455 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-10455 are approved.
2. Water right certificate 34399 is cancelled.
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 34399 and any related decree.

4. The proposed additional points of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.
5. The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.
6. Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.
7. Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.
8. Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.
9. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.
10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 15th day of June 2009.


Phillip C. Ward, Director *tn*

Mailing Date: JUN 22 2009

Water Right Transfer Checklist

Transfer T-10455

Transfer Specialist: E Region Drawer

Transfer Type: Regular

Applicant Name/Address: Terra-Magic Inc. an Oregon Corporation, PO Box 3093, 1621 North Spruce Street, LaGrande, Oregon 97850

Agent Name/Address: Peter Mohr, One SW Columbia Street, Suite 1110, Portland, Oregon 97258, 503-221-5222

CWRE Name/Number: Gregory Blackman #021

Rec Landowner Name/Address: NONE

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: NONE

Commentors: Name/Address: NONE

*Superceding
6-15-09 v. 78p. 118*

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
☒	☒	G 2946	G 2739		☐ Yes ☒ No	
☐	☐				☐ Yes ☐ No	
☐	☐				☐ Yes ☐ No	

Key Dates & Initial Actions

Rec'd: <u>09/05/07</u>	Proposed Action(s): POU POD HST APD USE OTHER: <u>APOA</u>	
Fees Pd: <u>400.00</u>	WM District: <u>6</u>	ODFW District: <u>NONE</u>
Initial Notice: <u>09/18/07</u>	WM Review sent: <u>09/17/07</u>	ODFW Review sent: <u>NONE</u>
Acknowledgement Letter Sent ☒		GW Review sent: <u>09/17/07</u>

Processing Dates & Actions

Deficiency Contacts: All originals are being sent in from Peter Mohr, see email in folder.09/17/07

Newspaper Pub Affid Due: _____

☐ not required

DPD Mailed: _____

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: _____	Reviewer: <u>PKS</u>	Reviewer: <u>PKS</u>
Date: _____	Date: <u>8/25/08</u>	Date: <u>5/15/09</u>
Coordinator: _____	Coordinator: <u>SBP</u>	Coordinator: _____
Date: _____	Date: <u>9/3/09</u>	Date: _____

Comments/Special Issues: Minor insertion in PD. APOA
Conditions were developed in consultations with the Department
PD was pre-reviewed by Peter Mohr via email.

Special Order Volume: Vol 77 Pages 769 Final Order Signature Date: 5-18-09

Notice of FO email'd to processors Carrie/Kelly

*4-10-09
Revised
PD for APOA.*

*Bart Barlow Interested Party; wants
copies
Barloenv@ucinet.com*

*6/10/09
Superseding
order
PKS*

Review Checklist

T-10455

Processor: E Region Drawer

Application

- A- POA*
- ☒ The type of change is clearly indicated.
 - ☐ The application is appropriately signed. *NO. Dennis Rossmussen Squidit, President is Debra Powell*
 - ☒ 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)*
 - NA* ☒ Ditch company, district and/or BOR, sent a copy of the application and map, if appropriate.
 - ☒ All required attachments received. ** App Sump entire input but 12.4 sec NENE, 9 not mapped*

Water right subject to transfer

- ☒ Certificated right or Proof accepted "to the satisfaction..."
- ☒ The right been exercised according to terms & conditions of certificate. *Amount used*
- ☒ 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. *Sec 3 SWSE, SE, SE Not Broken down*
- ☐ Affidavits prepared for rights that need to be canceled or diminished. *Sec 10 NENE, 23²/15² 1 NWNE 2/36²⁰*

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 & 1/4 1/4 on map match the transfer application and certificate descriptions.
- NO* ☒ Map acres match the tabulation on the certificate.
- ☒ Have final proof maps/deed maps for the rights. *yes* ☒ Application map matches certificate FPS. *FPS wrong & CWRE used it for them*
- ☒ Have necessary aerial photos.

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

- ☒ 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 1/4 1/4.

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.
- OL corporation question* ☒ All owners on the deed/ROLI have signed the application.
- ☐ 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 XXXX | | | |

Reviews/comments/conditions received?

- | | | |
|---|---|--|
| ☐ Watermaster | ☐ ODFW | ☐ GW |
| Headgate ☐ When in the judgment | ☐ Prior to diverting | ☐ Existing and maintain |
| Measuring Devices ☐ When in the judgment | ☐ Prior to diverting | ☐ Existing and maintain |
| Fish Screen Devices ☐ | | |

Injury: Y N

Enlargement: Y N

Conditions to avoid enlargement/injury -

* See "Other Remarks" in application "Emergency Back-up"



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

September 18, 2007

TERRA MAGIC INC.
AN OREGON CORPORATION
PO BOX 3093
LA GRANDE OR 97850

Reference: Transfer 10455

On September 5, 2007 we received your water right transfer application. The application was accompanied by \$400.00. Our receipt 89506 is enclosed.

By copy of this letter, we are asking the Watermaster for his 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 #6
Gregory Blackman, CWRE
Peter Mohr, Agent
Groundwater

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 09/18/07

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: Union
Transfer: T -10455
Water Right: Cert:34399 OR *
Priority Date: 1964
Name: TERRA MAGIC INC. AN OREGON CORPORATION
Address: PO BOX 3093; LA GRANDE OR 97850
Change: APOA
Source: WELL 1 > SLIDE CREEK
Authorized APOA: T2S R38E 3
Proposed APOA: T2S R38E 3

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.



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 (1 to 5 yrs.) | ☐ Permanent |
| • total number of years: _____ | ☐ Time-Limited |
| (begin year: _____) | ☐ Drought Transfer |
| (end year: _____) | X Other |

2. APPLICANT INFORMATION

Name: Terra-Magic, Inc., an Oregon corporation

Address: P.O. Box 3093, 1621 North Spruce Street

La Grande OR 97850

Phone: (541) 963-2443

Fax: _____ E-Mail address: _____

3. AGENT INFORMATION

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

Name: Peter Mohr

Address: One SW Columbia Street, Suite 1110

Portland OR 97258

Phone: (503) 221-5222

Fax: _____ E-Mail address: pdm@mohrwater.com

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

- X 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.

T 10455

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.		G-2739	34399
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 (POD) ☐ Additional Point of Diversion
 - ☐ Character of Use ☐ Point of Appropriation (POA, or well) ☒ Additional POA
 - ☐ Instream Transfer ☐ Surface Water POD to Ground Water POA
 - ☐ Substitution of Supplemental Groundwater right for Primary Surface water right
 - ☐ Historic POD change ☐ Other
- Reason(s) for change(s): [PLEASE SEE ATTACHED EXHIBIT A]

5. WATER DELIVERY SYSTEM

- 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.

[PLEASE SEE ATTACHED EXHIBIT A]

- System capacity: approx. 5.6 cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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WATER RESOURCES DEPT
SALEM, OREGON

T 10455

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

- 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:

8. LOCAL GOVERNMENTS

- List the name and mailing address of all local governments (i.e., each county, city, municipal corporation, or tribal government within whose jurisdiction water will be diverted, conveyed or used).

Union County

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SALEM, OREGON

9. 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 (for Permanent Transfers see Section 12(c)).

Names of Current Landowner(s): _____
First Last

Address: _____

City State Zip

- 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): _____
First Last

Address: _____

City State Zip

- 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.)

10. Other Remarks (optional)

[PLEASE SEE ATTACHED EXHIBIT A for requested terms and conditions to be included in any subsequent permit and certificate]

T 10455 _____

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SALEM, OREGON

11. 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 For Proposed Changes:

For Instream Transfers:

- ☐ Notice of the intent to file an instream transfer application has been provided to each affected local government along the proposed reach, and copies of the notices are enclosed. (For instream transfers a Land Use Information Form is not required.)

For All Other Transfers:

- ☒ Land Use Information Form is enclosed; or
- ☐ All of the following criteria are met, therefore a Land Use Information Form is not required:
- 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: \$ 400.00.
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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T 10455

Last revised: 7/27/2007

Transfer Application/5

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WATER RESOURCES DEPT FS
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.

12. SIGNATURES

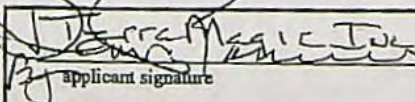
▪ Check one of the following, as appropriate, and sign the application in the signature box below:

X 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 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	Dennis Rasmussen, Vice Pres. name and title if applicable (print)	8-31-07 date
_____ applicant signature	_____ name and title if applicable (print)	_____ date

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WATER RESOURCES DEPT
SALEM, OREGON

Exhibit A to Terra-Magic, Inc.'s
Application for Transfer (for an Additional POA)

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WATER RESOURCES DEPT
SALEM, OREGON

Application Question 4. Proposed Change(s) to Water Rights

* * *

Reason(s) for change(s):

Terra-Magic, Inc. currently owns 2 wells located on the affected property: Well No. 1, which was originally completed in November 1964 (UNIO 325) and subsequently repaired in October 2003 (UNIO 51447), and Well No. 2 which was completed in October 2003 (UNIO 51475). Well No. 1 is the well currently approved for the withdrawal of groundwater pursuant to Certificate No. 34399. This application is submitted to achieve two specific objectives: (a) to further confirm the right to complete Well No. 2 as an additional Point of Appropriation (POA) under Certificate No. 34399; and (b) following any Department approval and completion of Well No. 2 as an additional POA, to limit future use of Well No. 1 as an "emergency" or "back-up" well only, with any such use to be limited to those circumstances if and when Well No. 2 becomes inoperational and would otherwise prohibit Terra-Magic from placing water to beneficial use to the extent provided under any subsequent permit or certificate as may be issued under this application.

Although Well No. 1 functions properly to this day, Well No. 2 was completed in order to ensure the continued appropriation of ground water given the prior difficulties and limited capacity associated with Well No. 1. Well No. 2 was completed subject to the direct oversight of Bob Maynard of the Department. Upon its completion, Well No. 2 well was completed to a depth of only 436 feet. This application is submitted in part to further complete Well No. 2 in the same strata/source as Well No. 1 as originally completed.

OAH Case No. PC 09-06

These objectives are also sought to ensure satisfaction of terms and conditions contained in a settlement agreement entered into in OAH Case No. PC 09-06. This case arose from assertions of neighboring property owners that Certificate No. 34399 should be subject to forfeiture. Following the amicable resolution of all issues in OAH Case No. PC 09-06 among Terra-Magic, Inc. and all adverse parties of record, which included the affiants' subsequent withdrawal of their affidavits of non-use, the Department withdrew this case from the OAH on August 6, 2007. The provisions referred to below in response to **Question 10** of this application are specifically requested in response to an express condition of the parties' settlement in OAH Case No. PC 09-06.

Application Question 5. Water Delivery System

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

Response:

The *current* delivery system used to apply water to lands specified under the water right is described as follows:

T 10455

SEP 05 2007

WATER RESOURCES DEPT
SALEM, OREGON*Well No. 1 and Well No. 2.*

Water is currently distributed for irrigation from Terra-Magic's existing Well No. 1 and Well No. 2 to lands specified under Certificate No. 34399. Well No. 1 is equipped with a 60hp Cornell centrifugal pump rated at 1200 gpm and can withdraw ground water at a sustained rate of approximately 800 gpm. Well No. 2 is currently equipped with a 250hp vertical motor with a turbine pump rated at 2500 gpm and, as currently completed, can withdraw ground water at a sustained rate of approximately 1300 gpm. Both pumps are powered by electric service from the local utility.

Distribution System

The distribution system for the application of water for irrigation purposes on the subject lands is described as following equipment:

a. Mainlines.

2640 Feet of 6-inch Portable mainline (used for irrigating pivot corners)
2640 Feet of 5-inch Portable mainline (used for irrigating pivot corners)
3000 Feet of 8-inch Portable mainline to irrigate upper ground (everything west of Hunter Road)

b. Handlines.

8 quarter mile handlines at 3 or 4 inch diameter 40 foot pipes with Rainbird 40 x 60 sprinklers with 7/32 nozzles. These handlines are used to irrigate corners of pivots on lower grounds and are used to irrigate all of the ground West of Hunter road *via* the 8-inch mainline. One quarter mile handline operates at approximately 450 gpm at 65 psi.

c. Pivots.

Two (2) Valley Pivots that are approximately 1300 feet long with overhead sprinklers which are low angle 40 x 60 Nelson sprinklers with appropriate nozzles for spacing of heads. Also each pivot is equipped with a Nelson end gun with a 1.25-inch nozzle. Both pivots operate at approximately 1150 gpm without endguns running and 1250 with endguns running.

The distribution system has an operational capacity in excess of 2,500 gpm/5.6 cfs and is used to irrigate all lands specified under the Certificate 34399.

Application Question 10. Other Remarks (optional)

Terra-Magic, Inc. specifically requests that any permit and subsequent certificate as may be issued in response to this application shall expressly state:

- a. That any future use of Well No. 1 shall be limited to use as an "emergency" or "back-up well" and as a result Well No. 1 shall only be used under those circumstances where Well No. 2 becomes inoperable to the extent that Terra-Magic is unable to withdraw ground water pursuant to this [permit / certificate]; and

- b. Prior to any withdrawal of ground water by Well No. 1 as an "emergency" or "back-up" well, Terra-Magic shall inform the local watermaster of its intentions to utilize Well No. 1 for such purpose.

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WATER RESOURCES DEPT
SALEM, OREGON

2. CURRENT WATER RIGHT INFORMATION

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

☒ X	Certificated Right	34399	G-2739
		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: Sylvan B. and Martha Joy Rasmussen
- County: Union
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): August 12, 1964

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: Ground water from basalt aquifer in Slide Creek basin

Tributary to: N/A

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).

- Certificate Number or other identifying number: Cert. No. 34399

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)
UNIO 325 UNIO 51447 (See Atch)	Ground water from basalt aquifer - Slide Creek basin	2 South	38 E	W. M.	3	SW1/4 SE1/4	1000	10 feet North and 2460 feet West from the SE Corner

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

x Yes ☐ No (Surface water source only.)

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

- 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

- ~~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

- Certificate Number or other identifying number: Cert. No. 34399

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)
Ground water from basalt aquifer - Slide Creek basin	2 South	38 E	W. M.	3	SW1/4 SE1/4	1000	79 feet North and 2548 feet West from the SE 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>): PLEASE SEE ATTACHED WELL LOG. WELL WAS CONSTRUCTED PER OWRD APPROVAL BUT REQUIRES DEEPENING

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
Yes	UNIO 51475 (See Attch)	16"	16"	436	Screened from 200' to 430'	28'	45'	200'	3" Tube	436'

- Certificate Number or other identifying number: Cert. No. 34399

SEP 05 2007

NOTICE TO WATER WELL CONTRACTOR

The original and first copy
of this report are to be
filed with the

STATE ENGINEER, SALEM 10, OREGON
within 30 days from the date
of well completion.

WATER WELL REPORT

STATE OF OREGON
(Please type or print)

WATER RESOURCES DEPT

SALEM, OREGON 97331-3138

State Permit No. _____

(1) OWNER:

Name S.B. RASMUSSEN
Address ISLAND CITY HIGHWAY
LA GRANDE, OREGON

(2) LOCATION OF WELL:

County UNIION Driller's well number 119
NW 1/4 SE 1/4 Section 3 T. 2S R. 38E W.M.
Bearing and distance from section or subdivision corner

(3) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐
and/or, describe material and procedure in Item 12.

(4) PROPOSED USE (check):

Domestic ☐ Industrial ☐ Municipal ☐
Irrigation ☒ Test Well ☐ Other ☐

(5) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(6) CASING INSTALLED:

Threaded ☐ Welded ☒
14" Diam. from 0 ft. to 366 ft. Gage 2.50
10" Diam. from 366 ft. to 710 ft. Gage 2.16
8 1/2" Diam. from 710 ft. to 1061 ft. Gage 2.16

(7) PERFORATIONS:

Perforated? ☒ Yes ☐ No
Type of perforator used Roscoe mms and Torcut
Size of perforations 1/8 in. by 3 in. (downward)
perforations from 0 ft. to 366 ft.
perforations from 366 ft. to 710 ft.
perforations from 710 ft. to 1061 ft.

(8) SCREENS:

Well screen installed ☐ Yes ☒ No
Manufacturer's Name Perforated casing as above. Set
with J Tool as shown. Inside of 14"
Slot size Set from 0 ft. to 366 ft.
Slot size Set from 366 ft. to 710 ft.
Slot size Set from 710 ft. to 1061 ft.

(9) CONSTRUCTION:

Well seal—Material used in seal Cement grout
Depth of seal 0-40 ft. Was a packer used? No
Diameter of well bore to bottom of seal 24 in.
Were any loose strata cemented off? ☐ Yes ☒ No Depth _____
Was a drive shoe used? ☐ Yes ☒ No
Was well gravel packed? ☒ Yes ☐ No Size of gravel: 3/8"
Gravel placed from 40 ft. to 710 ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? _____ Depth of strata _____
Method of sealing strata off _____

(10) WATER LEVELS:

Static level Artesian Flow ft. below land surface Date 12/10/64
Artesian pressure _____ lbs per square inch Date _____

(11) WELL TESTS:

Drawdown is amount water level is lowered below static level
Was a pump test made? ☐ Yes ☒ No If yes, by whom? OWNER
Yield: 800 gal./min. with 180 ft. drawdown after 16 hrs.
"Test made while well at 710' drilled depth"
"Pump test to be made in Feb. 1965 to find"
Bailer test gal./min. with _____ ft. drawdown after _____ hrs.
Artesian flow 40 g.p.m. Date 12/10/64
Temperature of water 66 Was a chemical analysis made? ☐ Yes ☒ No

(12) WELL LOG:

Diameter of well below casing 9 1/2"
Depth drilled 1061 ft. Depth of completed well 1061 ft.

Formation: Describe by color, character, size of material and structure, and show thickness of aquifers and the kind and nature of the material in each stratum penetrated, with at least one entry for each change of formation.

MATERIAL	FROM	TO
CLAY DARK BROWN	0	34
GRAVEL SMALL (IN CLAY)	34	36
CLAY BLUE	36	94
GRAVEL LARGE IN BLUE CLAY	94	100
CLAY BLUE SANDY	100	387
SAND COARSE TO GRAVEL LARGE	387	430
(ARTESIAN FLOW NOTED IN DRILLING FLUID AT 387')		
SAND STRIPTS BLUE CLAY	430	450
SAND (HARD FINE)	450	460
SAND MED. AND BROKEN ROCK	460	500
SANDY BLUE & BROWN CLAYS	500	530
Boulders broken small to med.	530	570
CLAY BLUE	570	575
Boulders broken + SAND MED-	575	750
SANDSTONE HARD	750	770
CLAY BLUE SANDY	770	780
Basalt with streaks clay	780	880
BASALT HARD	880	920
" with streaks sandy clay	920	960
GRAVEL COARSE	960	1010
BASALT HARD	1010	1030
GRAVEL COARSE		
BASALT HARD		
GRAVEL COARSE		
BASALT HARD		

Work started 7/17/64 19 _____ Completed 11/25/1964
Date well drilling machine moved off of well 12/20 1964

(13) PUMP:

Manufacturer's Name _____
Type: _____ H.P. _____

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.

NAME OTIS ELLSWORTH
(Person, firm or corporation) (Type or print)

Address P.O. Box 471 Island City, OREGON

Drilling Machine Operator's License No. 282

[Signed] OTIS ELLSWORTH
(Water Well Contractor)

Contractor's License No. 398 Date JAN 10, 1965

T 10455

(USE ADDITIONAL SHEETS IF NECESSARY)

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

Instructions for completing this report are on the last page of this form.

WELL I.D. # 66077
START CARD # 158903

(1) LAND OWNER

Name Terra Magic Inc Well Number _____
Address P.O. Box 3693
City Lebanon State OR Zip 97050

(2) TYPE OF WORK

☐ New Well ☐ Deepening ☒ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:

☐ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other _____

(4) PROPOSED USE:

☐ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☐ No Depth of Completed Well _____ ft.
Explosives used ☐ Yes ☐ No Type _____ Amount _____

HOLE			SEAL			Sacks or pounds
Diameter	From	To	Material	From	To	

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E

☐ Other _____

Backfill placed from _____ ft. to _____ ft. Material _____

Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Drive Shoe used ☐ Inside ☐ Outside ☐ None

Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:

☐ Perforations Method _____
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐

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

☐ Pump ☐ Bailor ☐ Flowing
Yield gal/min _____ Drawdown _____ Drill stem at _____ Time _____

	JAN 1, 2007	1 hr.
WATER RESOURCES DEPT SALEM, OREGON		

Temperature of water _____ Depth Artesian Flow Found _____
Was a water analysis done? ☐ Yes By whom _____

(9) LOCATION OF WELL by legal description:

County _____ Latitude _____ Longitude _____
Township 2 N or S Range 38 E or W. WM.
Section 3 NW 1/4 SE 1/4
Tax Lot 100 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Hunter Road

(10) STATIC WATER LEVEL:

_____ ft. below land surface. Date 11-11-03
Artesian pressure 42 lb. per square inch Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found _____

From	To	Estimated Flow Rate	SWL

(12) WELL LOG:

Ground Elevation _____

Material	From	To	SWL
Reinforced concrete	Install	2'	
Liner in well to bottom	669'		
Line 4" to 3" to pump			
Cement grout in liner to top			
to top. We poured in			
68 years of cement			
grout			
Amend.			
4" pipe was left in for artesian			
flow for customer to keep as water			
supply			

Date started 8-20-03 Completed 10-1-03

(unbonded) Water Well Constructor Certification:

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

Signed Kevin Christensen WWC Number 11073
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work

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WATER RESOURCES DEPT
SALEM, OREGON

T 10455

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

WELL I.D. # L 66026
START CARD # 158917

Instructions for completing this report are on the last page of this form.

(1) LAND OWNER Well Number _____
Name Terra Magic Inc
Address P.O. Box 3093
City LaGrande State Ore. Zip 97850

(2) TYPE OF WORK
☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☐ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other Reverse Rotary

(4) PROPOSED USE:
☐ Domestic ☐ Community ☐ Industrial ☒ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 436'
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE				SEAL			
Diameter	From	To	Material	From	To	Sacks or pounds	
2.8"	0	495'	Acetate	0	28'	7500 lb	

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E
☐ Other Overbore & pour

Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from 28' ft. to 495' ft. Size of gravel 3/4"

Casing		Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
16"		16"	270'	280'	.035	☒	☐	☒	☐
16"		16"	280'	320'	.035	☒	☐	☒	☐
16"		16"	320'	370'	.035	☒	☐	☒	☐
16"		16"	370'	410'	.035	☒	☐	☒	☐
16"		16"	410'	430'	.035	☒	☐	☒	☐

Drive Shoe used ☐ Inside ☐ Outside ☒ None
Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:
☐ Perforations Method Johnson Wire Wf.
☒ Screens Type Wire Wf. Material M.S.

From	To	Slot size	Number	Diameter	Tele. size	Casing	Liner
200'	270'	.035		16"		☒	☐
280'	320'	.035		16"		☒	☐
320'	370'	.035		16"		☒	☐
370'	410'	.035		16"		☒	☐

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

Pump		Bailer		Air		Flowing	
☐		☐		☒		☐	
Yield gal/min	Drawdown	Drill stem at		Time			
2006 PM	45'	160'		3 hr.			

Need Pump test to confirm max

Temperature of water 59° Depth Artesian Flow Found _____

Was a water analysis done? ☐ Yes By whom _____

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

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____

Depth of strata: _____

(9) LOCATION OF WELL by legal description:

County Union Latitude _____ Longitude _____
Township 2 N or S Range 38 E or W. WM.
Section 3 NW 1/4 SE 1/4
Tax Lot 1000 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Hunter Rd.

(10) STATIC WATER LEVEL:

45' ft. below land surface. Date 10-28-03
Artesian pressure _____ lb. per square inch Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found _____

From	To	Estimated Flow Rate	SWL
<u>All Sands & Gravels below</u>			
<u>45'</u>			

(12) WELL LOG:

Ground Elevation _____

Material	From	To	SWL
<u>Dark Top Soil</u>	<u>0</u>	<u>3'</u>	
<u>Brn Loam</u>	<u>3'</u>	<u>12'</u>	
<u>Gravel</u>	<u>12'</u>	<u>14'</u>	
<u>Brn Sticky Clay</u>	<u>14'</u>	<u>38'</u>	
<u>Sand & Gravel & clay</u>	<u>38'</u>	<u>66'</u>	
<u>Med Sand, Clay & shls</u>	<u>66'</u>	<u>433'</u>	
<u>Grey Clay</u>	<u>433'</u>	<u>495'</u>	

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SALEM, OREGON

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WATER RESOURCES DEPT
SALEM, OREGON

Date started 10-9-03 Completed 10-29-03

(unbonded) Water Well Constructor Certification:

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

Signed Kevin Chastain WWC Number _____ Date 11-9-03

(bonded) Water Well Constructor Certification:

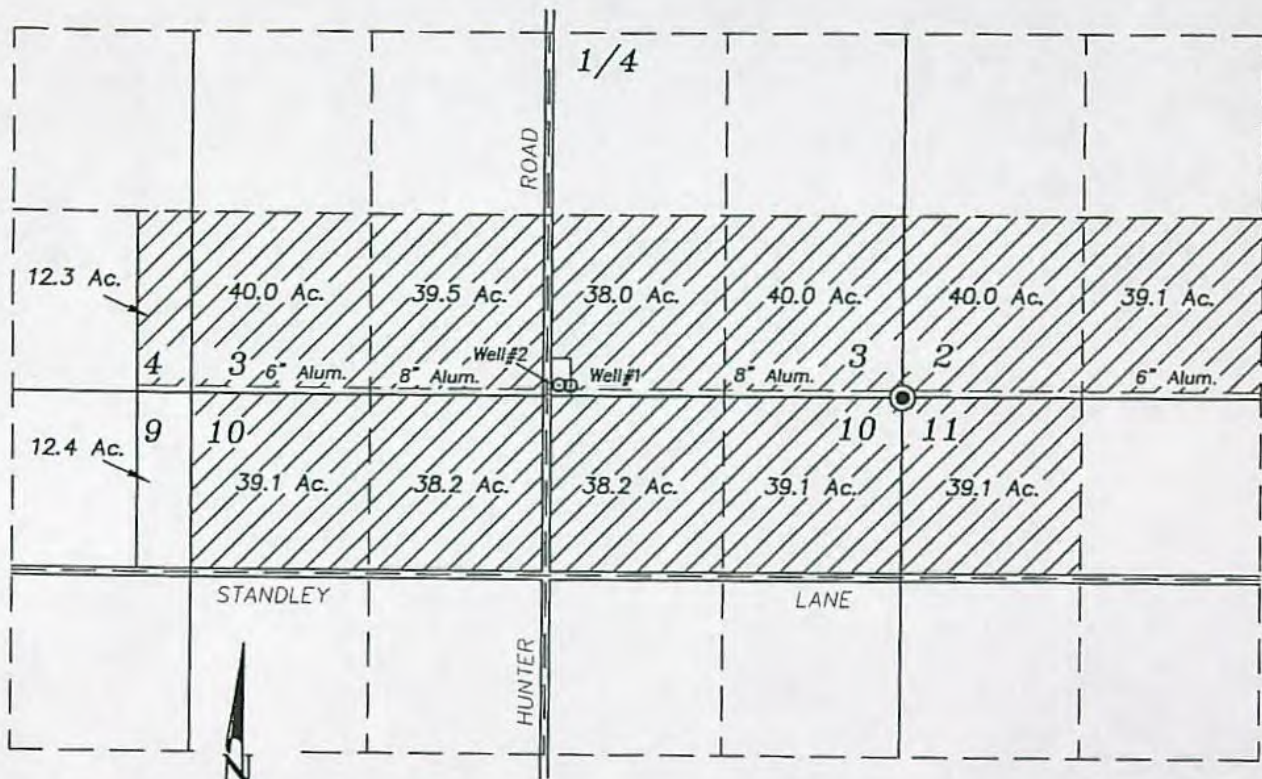
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge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

Signed [Signature] WWC Number 1506 Date 11-9-03

ORIGINAL - WATER RESOURCES DEPARTMENT FIRST COPY - CONSTRUCTOR SECOND COPY - CUSTOMER

T-10455

T 2 S R 38 E



Well#1 Location is 10 feet North and 2460 feet West of the Southeast corner of Section 3.

Well#2 Additional Point of Appropriation is located 79 feet North and 2548 feet West of the Southeast corner of Section 3.

SCALE: 1"=1320'

September 5, 2007

FINAL PROOF MAP FOR
WATER RIGHTS FROM A
ADDITIONAL POINT OF APPROPRIATION
FOR
TERRA MAGIC INC.

BY
BAGETT - GRIFFITH & BLACKMAN
2006 ADAMS AVENUE
LAGRANDE, OREGON 97850



NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and has no intent to provide dimensions or location of property ownership lines. Location information shown hereon was furnished by the applicant.

Application No. _____

Permit Number _____

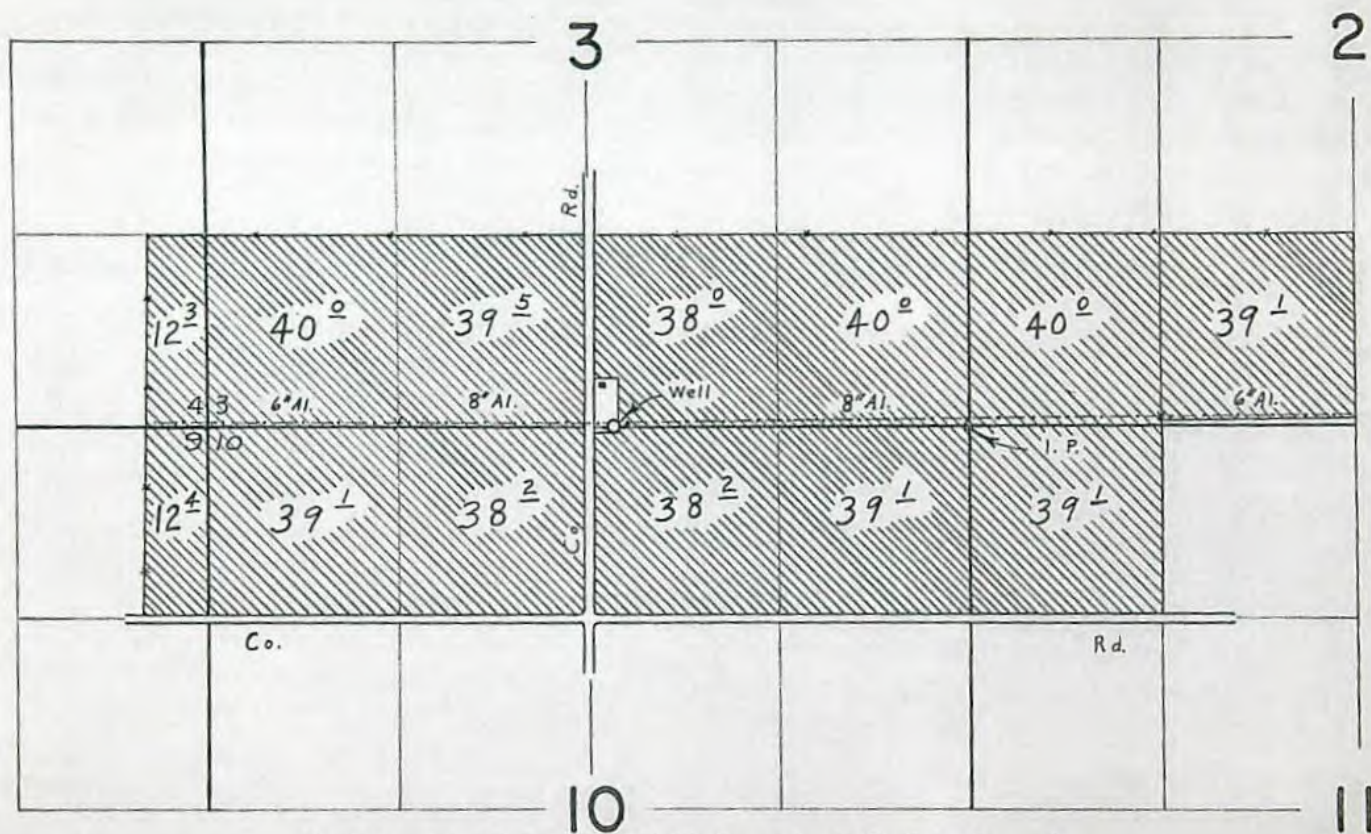
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WATER RESOURCES DEPT
SALEM, OREGON

T 10455

T.2 S.R.38 E.W.M.



Well located 10' N. & 2460' W. from the S.E. Cor. Sec. 3

FINAL PROOF SURVEY
UNDER

Application No. G-2946 Permit No. G-2739
IN NAME OF

SYLVAN B. & MARTHA JOY RASMUSSEN

Surveyed Nov. 3 1966 by L. E. Gould

T-10455

Name Terra-Magic, Inc.
an Oregon Corporation
 Address PO Box 3093, 1621 North Spruce St
LaGrande, OR 97850
541 963-2443

Change in APOA
 Date Filed 9-5-2007
 Initial notice date _____
 DPD issued date _____
 PD issued date _____
 PD notice date _____
 Date of FO _____ Vol _____ Page _____

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

DESCRIPTION OF WATER RIGHT(S)

Name of Stream Well
 Trib. of Slide Creek
 Use IR County Union
 Quantity of water (CFS) _____ No. of Acres _____
 Name of ditch _____
 App # 6 2946 Per # 6 2739 Cert # 34399 PR Date 1964
 App # _____ Per # _____ Cert # _____ PR Date _____
 App # _____ Per # _____ Cert # _____ PR Date _____
 App # _____ Per # _____ Cert # _____ PR Date _____

FEES PAID
 Date 9/5/07 Amount 400.00 Receipt # 89506

FEES REFUNDED
 Date _____ Amount _____ Receipt# _____

Assignments: _____

Irrigation District N/A
 Agent Peter Mohr One SW Columbia St, Suite 1110 Portland OR 97258
503 221-5227
 CWRE Gregory Blackmun # 021
 CC's list Union County

☐ - Oversized map - Location _____

Sarah Henderson

From: Carrie Jones
Sent: Monday, June 01, 2009 10:31 AM
To: Sarah Henderson
Subject: RE: T-10455

Attachments: error-in-order.pdf



error-in-order.pdf
(73 KB)

Sarah;

I read through the order and marked where Peter found the typo. He is right. Take a look at the attachment and let me know if it makes sense.

Carrie Jones
Transfer Specialist
541-523-8224 Ext 36
Fax: 1-866-214-3493
carrie.r.jones@wrdd.state.or.us

Water Resources Dept.
Eastern Region
1995 3rd Street, Suite 180
Baker City, OR 97814
www.wrdd.state.or.us

-----Original Message-----

From: Sarah Henderson
Sent: Friday, May 29, 2009 10:00 AM
To: Carrie Jones
Subject: FW: T-10455

Hi Carrie,

Can you look at the attachment and give him a call about the additional finding in the order? Thanks, Sarah

Thank you

Have

-----Original Message-----

From: Peter D. Moore
Sent: Thursday, June 4, 2009 10:00 AM
To: Sarah Henderson
Cc: Peter D. Moore
Subject: T-10455

Sarah,

Wanted to follow up my voice mail of a week ago (figuring you're slammed with the legislature) regarding the FOI issued for this application. There is a typo in the findings identified in paragraph 21 in the FO. The typo simply is the result of an additional findings being added for the first time in the FO which then required a change to the referral in paragraph 21 from "Finding No. 19" to "Finding No. 17".

Please call me to discuss/confirm the change.

Sarah Henderson

From: Carrie Jones
Sent: Monday, June 01, 2009 10:31 AM
To: Sarah Henderson
Subject: RE: T-10455

Attachments: error-in-order.pdf



error-in-order.pdf
(73 KB)

Sarah;

I read through the order and marked where Peter found the typo. He is right. Take a look at the attachment and let me know if it makes sense.

Carrie Jones
Transfer Specialist
541-523-8224 Ext 36
Fax: 1-866-214-3493
carrie.r.jones@wrdd.state.or.us

Water Resources Dept.
Eastern Region
1995 3rd Street, Suite 180
Baker City, OR 97814
www.wrdd.state.or.us

-----Original Message-----

From: Sarah Henderson
Sent: Friday, May 29, 2009 7:52 AM
To: Carrie Jones
Subject: FW: T-10455

Hi Carrie,

Can you look at this order and write Peter or give him a call about the additional finding in the order. I'm not sure I understand his question.

Thank you.

Have a super Friday! :)

-----Original Message-----

From: Peter Mohr [mailto:pdm@mohrwater.com]
Sent: Thursday, May 28, 2009 6:28 PM
To: Sarah Henderson
Cc: Peter D. Mohr
Subject: T-10455

Sarah,

Wanted to follow up my voice mail of a week ago (figuring you're slammed with the legislature) regarding the FO issued for this application. There is a typo in the findings identified in paragraph 21 in the FO. The typo simply is the result of an additional findings being added for the first time in the FO which then required a change to the referral in paragraph 21 from "Finding No. 19" to "Finding No. 17".

Please call me to discuss/confirm the change.

Thanks,

Peter

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
pdm@mohrwater.com

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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

May 19, 2009

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

REFERENCE: Transfer Application T-10455

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@wrdd.state.or.us.

Sincerely,

Sarah Henderson
Executive Support
Field Services Division

cc: Watermaster Dist. #6
Gregory Blackman, CWRE
Peter Mohr, Agent
Bart Barlow, (via e-mail)

Enclosure



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

In the Matter of Transfer Application	)	FINAL ORDER
T-10455, Union County	)	APPROVING ADDITIONAL POINTS
	)	OF APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008, the application map was amended.
5. On April 1, 2008, a second amendment to the application map was made.

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

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)
Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
Priority Date: August 12, 1964
Rate: 5.6 cubic feet per second (cfs)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2. The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 (UNIO 51475) - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
11. On June 24, 2008, the applicant's agent 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.
12. On September 4, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10455 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 September 18, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

15. On January 21, 2009, the Department e-mailed the applicant's agent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-10455. The applicant's agent requested the Department to proceed with issuance of the revised Preliminary Determination.
16. On April 10, 2009, the Department issued a preliminary determination proposing to approve Transfer T-10455 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 April 14, 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)

17. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
18. A 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 Transfer Application T-10455.
19. According to the well constructor, the proposed Well No. 3 is cased to a depth of 998 feet below land surface (bls). The casing is therefore set throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
20. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
21. The Department finds that the well construction described in Finding No. 17 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.
22. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
23. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.

24. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
25. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
26. On May 15, 2008, the applicant requested a condition regarding the use of the authorized Well No. 1. The condition requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
27. The proposed changes, as conditioned, would not result in injury to other water rights.
28. The applicant requested that the completion deadline be extended until 2013.

Conclusions of Law

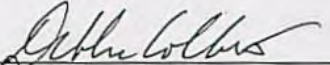
The additional points of appropriation proposed in Transfer Application T-10455 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The additional points of appropriation proposed in Transfer Application T-10455 are approved.
2. Water right certificate 34399 is cancelled.
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 34399 and any related decree.
4. The proposed additional points of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.
5. The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.

6. Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.
7. Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.
8. Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.
9. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.
10. When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this 18th day of May 2009.


Phillip C. Ward, Director *per*

Mailing Date: MAY 20 2009



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 13, 2009

Terra Magic Inc.
P O Box 3093
La Grande Oregon 97850

SUBJECT: Water Right Transfer Application T-10455

Please find enclosed the revised Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10455. 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.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the revised 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 proponent of the decision proposed in the Preliminary Determination to present information supporting their position in a quasi-judicial proceeding.

Please do not hesitate to contact me at if

Sincerely,

Kelly Starnes
Transfer Specialist
Field Services Division

cc: Shad L. Hattan, District 6 Watermaster
Peter Mohr, Agent
Greg Blackman, CWRE #21

enc

*PD Noticed
4-14-09*





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
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April 13, 2009

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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 if I may be of assistance.

Sincerely,

Kelly Starnes
Transfer Specialist
Field Services Division

cc: Shad L. Hattan, District 6 Watermaster
Peter Mohr, Agent
Greg Blackman, CWRE #21

enc



BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10455, Union County	)	PROPOSING APPROVAL OF
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008, the application map was amended.
5. On April 1, 2008, a second amendment to the application map was made.

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.
--

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)
Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
Priority Date: August 12, 1964
Rate: 5.6 cubic feet per second (cfs)
Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.
Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
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2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
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Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
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2 S	38 E	WM	10	NW NE	2.0
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Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2. The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 (UNIO 51475) - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
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12. On September 4, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10455 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 September 18, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

15. On January 21, 2009, the Department e-mailed the applicant's agent a copy of the revised draft Preliminary Determination proposing to approve Transfer Application T-10455. The applicant's agent requested the Department to proceed with issuance of the revised Preliminary Determination.

Transfer Review Criteria (OAR 690-380-4010)

16. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
17. A 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 Transfer Application T-10455.
18. According to the well constructor, the proposed Well No. 3 is cased to a depth of 998 feet below land surface (bls). The casing is therefore set throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
19. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
20. The Department finds that the well construction described in Finding No. 17 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.
21. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
22. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.
23. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
24. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.

25. On May 15, 2008, the applicant requested a condition regarding the use of the authorized Well No. 1. The condition requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
26. The proposed changes, as conditioned, would not result in injury to other water rights.
27. The applicant requested that the completion deadline be extended until 2013.

Determination and Proposed Action

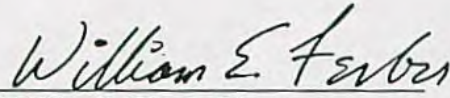
The additional points of appropriation proposed in Transfer Application T-10455 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-10455 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-10455 are approved.*
2. *Water right certificate 34399 is cancelled.*
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 34399 and any related decree.*
4. *The proposed additional points of appropriation shall acquire water from only a single aquifer and therefore be limited to development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.*
5. *The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The quantity of water diverted from Well No. 1 shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer, however, any withdrawal from Well No. 1 shall be for emergency use only should Well No. 2 or Well No. 3 become inoperable to the extent that the applicant is unable to withdraw ground water.*
6. *Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.*

7. *Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, well collapse, or other well failure occurs.*
8. *Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.*
9. *The approved change shall be completed and full beneficial use of the water shall be made on or before October 1, 2013. 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 change and full beneficial use of the water.*
10. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

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


Phillip C. Ward, Director

This Preliminary Determination was prepared by Kelly Starnes. If you have questions about the information in this document, you may reach me at 503-986-0886 or Patrick.K.Starnes@wrdd.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-10455**

T-10455 filed by Terra Magic Inc., P.O. Box 3093, La Grande, Oregon 97850, proposes additional points of appropriation under Certificate 34399. The right allows the use of 5.6 cfs (priority date August 12, 1964) from a well in Sec. 3, T 2 S, R 38 E, W.M. (Grande Ronde Basin) for irrigation and supplemental irrigation in Sec. 2, 3, 4, 9, 10 and 11. The applicant proposes additional points of appropriation within approximately 70 feet of the original authorized point of appropriation in Sec. 3, T 2 S, R 38 E, 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.

UNIO 52060

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.765 & OAR 690-205-0210)

WELL LABEL # L 85259
START CARD # 193732

(1) LAND OWNER Owner Well I.D. _____
First Name _____ Last Name _____
Company TERRA MAGIC INC
Address P.O. BOX 3093
City LaGRANDE State OR Zip 97850

(2) TYPE OF WORK ☒ New Well ☐ Deepening ☐ Conversion
☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD
☐ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger ☐ Cable Mud
☒ Reverse Rotary ☐ Other

(4) PROPOSED USE ☐ Domestic ☒ Irrigation ☐ Community
☐ Industrial/ Commercial ☐ Livestock ☐ Dewatering
☐ Thermal ☐ Injection ☐ Other

(5) BORE HOLE CONSTRUCTION Special Standard ☐ Attach copy
Depth of Completed Well 1,200 ft.

BORE HOLE			SEAL			sacks/	
Dia	From	To	Material	From	To	Amt	lbs
28	0	340	Cement	0	240	27	4,685
26	340	796	Cement	766	796	4	468
16	796	1,200					

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

Backfill placed from 240 ft. to 766 ft. Material High Solid Bentonite
Filter pack from _____ ft. to _____ ft. Material _____ Size _____

Explosives used: ☐ Yes Type _____ Amount _____

(6) CASING/LINER

Casing	Liner	Dia	+	From	To	Gauge	Stl	Plstc	Wld	Thrd
☒	☐	18	☒	2	796	.375	☒	☐	☒	☐
☐	☐	10	☐	758	998	.250	☐	☐	☒	☐

Shoe ☐ Inside ☐ Outside ☐ Other Location of shoe(s) _____
Temp casing ☐ Yes Dia _____ From _____ To _____

(7) PERFORATIONS/SCREENS
Perforations Method _____
Screens Type Johnson CS-W41 Material LCS

Perf/S	Casing/ Screen				Scr/slot	Slot	# of	Tele/
creen	Liner	Dia	From	To	width	length	slots	pipe size
Screen		10	998	1,198	.04			

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailer ☐ Air ☒ Flowing Artesian
Yield gal/min Drawdown Drill stem/Pump depth Duration (hr)

200			
-----	--	--	--

Temperature 65 °F Lab analysis ☐ Yes By _____
Water quality concerns? ☐ Yes (describe below) **RECEIVED**
From _____ To _____ Description _____ Amount _____ Units _____
JAN 02 2009

(9) LOCATION OF WELL (legal description)
County UNION Twp 2 S N/S Range 38 E F/W WM
Sec 3 NW 1/4 of the SE 1/4 Tax Lot 1000
Tax Map Number _____ Lot _____
Lat _____ or _____ DMS or DD
Long _____ or _____ DMS or DD
☐ Street address of well ☒ Nearest address

1/4 MILE NORTH OF STANDLEY ON HUNTER ROAD

(10) STATIC WATER LEVEL Date SWL(psi) + SWL(ft)
Existing Well / Predeepening _____
Completed Well 12-10-2008 31
Flowing Artesian? ☒ Dry Hole? ☐

WATER BEARING ZONES Depth water was first found

SWL Date	From	To	Est Flow	SWL (psi)	+ SWL (ft)
12-10-2008	991	1,193	200	31	

(11) WELL LOG Ground Elevation _____

Material	From	To
TOP SOIL	0	3
BROWN CLAY, W/LAYERS OF SAND, GRAVEL	3	45
SAND, BROWN CLAY LAYERS	45	449
BLACK SANDSTONE W/SAND STREAKS	449	469
BROWN CLAY SAND LAYERS	469	537
STICKY GREY CLAY W/SM SAND LAYERS	537	655
STICKY GREY CLAY W/BURNT CLAY LAYERS	655	748
HARD SILTSTONE W/CLAY LAYERS	748	786
STICKY GREY CLAY	786	991
GREEN METAMORPHIC POWDER RIVER		
VOLCANIC'S AS PER DOGMI	991	993
SILTSTONE	993	997
GREEN METAMORPHIC POWDER RIVER		
VOLCANIC'S PER DOGMI	997	1,193
BROWN & GREY ASH	1,193	1,200

Date Started 06-04-2008 Completed 12-10-2008

(unbonded) Water Well Constructor Certification
I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.

License Number 1764 Date 12-29-2008
Password: (if filing electronically) _____
Signed _____

(bonded) Water Well Constructor Certification
I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

License Number 1505 Date 12-29-2008
Password: (if filing electronically) _____
Signed _____
Contact Info (optional) _____

UNIO 52060

WATER SUPPLY WELL REPORT -
continuation page

WELL I.D. # L 85259

START CARD # 193732

(5) BORE HOLE CONSTRUCTION

[illegible]

FILTER PACK

From	To	Material	Size

(6) CASING/LINER

[illegible]

(7) PERFORATIONS/SCREENS

[illegible]

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

Yield gal/min	Drawdown	Drill stem/Pump depth	Duration (hr)

Water Quality Concerns

From	To	Description	Amount	Units
			RECEIVED	
			JAN 02 2009	
			WATER RESOURCES DEPT	

WATER RESOURCES DEPT
SALEM, OREGON

(10) STATIC WATER LEVEL

Water Bearing Zones

[illegible]

(11) WELL LOG

[illegible]

Comments/Remarks

NOTES: TOP OF 10" CASING HAS A FEMALE SWEDGE AT 3" TAPER.
12" x 8'-3" HEADPIPE W/ MALE SWEDGE AT 3" TAPER ON BOTTOM
W/ JOHNSON K-PACKER ON TOP TO SEAL TO 18" CASING TOP OF
K-PACKER AT 749'.

✓ 1

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	DRAFT PRELIMINARY DETERMINATION PROPOSING APPROVAL OF ADDITIONAL POINTS OF APPROPRIATION
T-10455, Union County	)	
	)	
	)	
	)	
	)	

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc., filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007, the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007, a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008, the application map was amended.
5. On April 1, 2008, a second amendment to the application map was made.
6. The right to be transferred is as follows:

Certificate:	34399 in the names of Sylvan B. and Martha Joy Rasmussen (perfected under Permit G-2739)
Use:	Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres
Priority Date:	August 12, 1964
Rate:	5.6 cubic feet per second (cfs)

Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: Well 1 in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 1 (UNIO 325) - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 2 (~~UNIO 51475~~). The applicant proposes to deepen and re-construct Well No. 2 so as to only develop water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics. The location of Well No. 2 is:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 2 - 79 feet North and 2548 feet West from the SE Corner of Section 3. (UNIO 51475)

8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcaniclastic aquifer of the Powder River Volcanics located at:

and which shall be

Twp	Rng	Mer	Sec	Q-Q	Measured distances
2 S	38 E	WM	3	SW SE	Well No. 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
10. On April 11, 2008, the Department mailed the applicant and agent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10455. The draft Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
11. On June 24, 2008, the applicant's agent 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.
12. On September 4, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10455 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 September 18, 2007, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.
13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

Transfer Review Criteria (OAR 690-380-4010)

15. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A 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 Transfer Application T-10455.

According to the well constructor,

17. ⁹⁹⁵ The proposed Well No. 3 is cased to a depth of 796 feet below land surface (bls), and ~~according to the well constructor, the casing is set 10 feet into the top of a clay unit~~ ^{therefore throughout the entirety of a} encountered at 786 feet bls. ~~The clay unit is 205 feet in thickness and ends at 991 feet bls.~~ ^{in thickness, and is initially} The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.

18. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.

19. The Department finds that the well construction described in Finding No. 17 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.

20. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.

21. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.

22. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.

23. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.

24. On May 15, 2008, the applicant requested a condition regarding the use of the authorized ~~well known as~~ Well No. 1, ~~and is described in Finding of Fact No. 6.~~ The condition ~~will~~ require that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.

25. The proposed changes, as conditioned, would not result in injury to other water rights.

26. The applicant requested that the completion deadline be extended until 2013.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-10455 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-10455 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-10455 are approved.*
2. *Water right certificate 34399 is cancelled.*
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 34399 and any related decree.*
4. *Water from the proposed additional points of appropriation shall be acquired from only a single aquifer, ~~and therefore be limited to development of~~ ^{water} ~~If Well No. 3 develops the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit, The well shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit, to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.~~*
5. *The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics, ~~and 2.8 cfs from the alluvial aquifer.~~ ^{regardless of which} Further, ~~when both the proposed wells and~~ ^{in 1977} ~~original well are operated at the same time,~~ the quantity of water diverted shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer.*
6. *Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.*
7. *Groundwater withdrawal from Well No. 1 shall be limited to emergency use only under those circumstances where Well No. 2 or Well No. 3 ~~as described in Findings of Fact No. 7 and No. 8,~~ becomes inoperable to the extent that the applicant is unable to withdraw ground water.*
8. *Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.*

9. Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, ~~or well collapse occurs,~~ *or other well failure*
10. The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.
11. When satisfactory proof of the completed changes 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

from Det Mohr
1/29/09

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application
T-10455, Union County

) **DRAFT**
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF
) ADDITIONAL POINTS OF
) APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

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Limit/Duty: ONE-EIGHTIETH of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: Well 1 in the Grande Ronde River Basin

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Twp	Rng	Mer	Sec	Q-Q	Measured distances
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8. Transfer Application T-10455 proposes an additional point of appropriation at Well No. 3, to be constructed so as to only appropriate water from the volcanic and volcanoclastic aquifer of the Powder River Volcanics and which shall be located at:

Twp	Rng	Mer	Sec	Q-Q	Measured distances
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13. On November 3, 2008, the applicant's agent, Peter Mohr, submitted a written request to withdraw the Preliminary Determination issued September 4, 2008. New well construction has revealed geologic data that suggests the lower water bearing zone is not in Grande Ronde basalt, but is in Powder River Volcanics instead. The new data requires changes to the conditions of approval of Transfer Application T-10455.
14. On November 20, 2008, the Department withdrew the Preliminary Determination issued September 4, 2008. Notice of the withdrawal of this Preliminary Determination was published in the Department's weekly notice on November 25, 2008.

Transfer Review Criteria (OAR 690-380-4010)

15. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A 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 Transfer Application T-10455.

17. According to the well constructor, The proposed Well No. 3 is cased to a depth of 796 998 feet below land surface (bls) and, according to the well constructor, The casing is therefore set 10 feet into the top of a throughout the entirety of a clay unit which is 205 feet in thickness and is initially encountered at 786 feet bls. The clay unit is 205 feet in thickness and ends at 991 feet bls. The geologic unit immediately below the clay has been interpreted to be Powder River Volcanics. The original target aquifer, the Grande Ronde Basalt, would be another estimated one thousand or more feet below 991 feet bls.
18. The Department finds that developing water-bearing zones within the volcanic and volcanoclastic units of the Powder River Volcanics below the clay unit would meet the intent of developing the basalt aquifer stated in the Preliminary Determination of September 4, 2008.
19. The Department finds that the well construction described in Finding No. 17 would not allow commingling between the shallow alluvial and deep volcanic and volcanoclastic water-bearing zones.
20. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the shallow alluvial aquifer and the deeper underlying volcanic and volcanoclastic aquifer of the Powder River Volcanics were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair Well No. 1 in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
21. Based on information available, the department finds that Well No. 1 (UNIO 325) developed 2.8 cubic feet per second (cfs) from the alluvial aquifer and 2.8 cfs from the deeper underlying volcanic and volcanoclastic aquifer.
22. Developing more water from the volcanic and volcanoclastic aquifer than what was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if Condition No. 5 below is met.
23. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
24. On May 15, 2008, the applicant requested a condition regarding the use of the authorized well known as Well No. 1, and is described in Finding of Fact No. 6. The condition will requires that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" when the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.
25. The proposed changes, as conditioned, would not result in injury to other water rights.
26. The applicant requested that the completion deadline be extended until 2013.

Determination and Proposed Action

The additional points of appropriation proposed in Transfer Application T-10455 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-10455 is approved, the final order will include the following:

- 1. The additional points of appropriation proposed in Transfer Application T-10455 are approved.*
- 2. Water right certificate 34399 is cancelled.*
- 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 34399 and any related decree.*
- 4. Water from the proposed additional points of appropriation shall be acquired water from only a single aquifer. If Well No. 3 and therefore be limited to develops development of the volcanic and volcanoclastic aquifer of the Powder River Volcanics below the clay unit. The wells shall be cased and sealed to a minimum depth of 10.0 feet into the clay unit, to ensure that water is developed only from underlying volcanic and volcanoclastic aquifer.*
- 5. The quantity of water diverted from the proposed additional points of appropriation is limited to 2.8 cfs from the volcanic and volcanoclastic aquifer of the Powder River Volcanics, and 2.8 cfs from the alluvial aquifer. Further, regardless of which of when both the proposed wells and the original well are in operated at the same timeion, the quantity of water diverted shall not exceed a cumulative total of 2.8 cfs from the volcanic and volcanoclastic aquifer and 2.8 cfs from the alluvial aquifer.*
- 6. Prior to diverting water, the water user shall install an in-line totalizing flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.*
- 7. Groundwater withdrawal from Well No. 1 shall be limited to emergency use only under those circumstances where Well No. 2 or Well No. 3 as described in Findings of Fact No. 7 and No. 8, becomes inoperable to the extent that the applicant is unable to withdraw ground water.*
- 8. Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.*

9. *Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, or well collapse, or other well failure occurs.*
10. *The approved change shall be completed and full beneficial use of the water shall be made on or before October 1, 2013. 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 change and full beneficial use of the water.*
11. *When satisfactory proof of the completed changes 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



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

November 21, 2008

Terra Magic, Inc.
PO Box 3093
La Grande OR 97527

SUBJECT: Water Right Transfer Application T-10455

Please find enclosed a copy of the Withdrawal of Preliminary Determination indicating that, based on your request, the Department has withdrawn the Preliminary Determination issued on September 4, 2008, for Transfer Application T-10455.

A public notice is being published in the Department's weekly publication simultaneously with the issuance of the Withdrawal of Preliminary Determination.

If you have any questions, please call me at 503-986-0886 or contact me via email at Patrick.K.Starnes@ wrd.state.or.us.

Sincerely,

Kelly Starnes
Transfer Specialist

cc: Rick Lusk, District 6 Watermaster
Peter Mohr, Agent
Greg Blackman, CWRE

enc

**Notice of Preliminary Determination for
Water Right Transfer T-10455**

T-10455 filed by Terra Magic, Inc., P.O. Box 3093, La Grande, Oregon 97850, proposes additional points of appropriation under Certificate 34399. At the request of the applicant, the Preliminary Determination issued September 4, 2008, is withdrawn.

PETER D. MOHR
ATTORNEY AT LAW

Admitted in Colorado
and Oregon

ONE SW COLUMBIA ST., SUITE 1110
PORTLAND, OR 97258
TEL 503.221.5222
FAX 503.227.7829
WWW.MOHRWATER.COM

October 30, 2008

RECEIVED

NOV 03 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Via E-Mail / Original by US Mail

Dorothy Pedersen
Transfer Program Advisor
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

Re: Application T-10455 / Terra-Magic, Inc. Applic. for Additional POA, as amended

Dear Dorothy:

On behalf of the applicant, Terra-Magic, Inc., I am writing to request the withdrawal of the Preliminary Determination dated September 4, 2008 (the "Original PD"). This request is conditioned on our agreement to proceed with the withdrawal and issuance of a new PD in the manner provided in our e-mail exchange of October 17, 2008, a copy of which is attached. In consideration of the attached and the numerous conversations which have preceded it, I think it appropriate to briefly revisit (a) the events which now require the withdrawal of the Original PD and (b) the procedure by which a new PD will be issued.

Based on existing well logs for the area, the Department had previously (and reasonably) estimated that the basalt layer would exist somewhere between 750 and 850 feet below ground surface (bgs). As summarized in Ivan Gall's e-mail to me of October 20, 2008, a copy of which I have also attached to this letter, information gained from Terra-Magic's efforts to complete proposed Well No. 3 confirm that neither proposed Well Nos. 2 or 3 can for all practical purposes be completed within a hard basalt layer. More specifically, Terra-Magic's drilling efforts have failed to locate the existence of any hard or solid basalt layer as far down as 1,100 feet bgs. As Ivan Gall stated in his e-mail, this lack of any hard basalt layer down to such a depth has been further confirmed by the Department's and OGAMI's own joint analysis of drill cuttings from the bore of Well No. 3. Given these and other related findings, it is my understanding the Department now believes that the casing and sealing of Well No. 3 down to 796 feet, which in part extends down through a significant clay unit and into the underlying water-bearing Powder River Volcanics, would meet the intent of the Original PD to avoid commingling between shallow and deep water-bearing zones.

Consistent with our attached e-mail exchange of October 17, 2008, I would also like to reaffirm that Terra-Magic's request to withdraw the Original PD is in part conditioned on the Department's agreement to circulate a DRAFT PD to my office prior to any issuance of a new PD. As we discussed, such an approach should allow for greater efficiencies in the Department's preparation and issuance of any new PD by allowing Terra-Magic the opportunity to comment and address concerns of its own

Dorothy Pedersen
October 30, 2008
Page 2 of 2

including those as may arise within the context of the settlement agreement entered into among the parties in OAH Case No. PC 09-06.

Finally, as we also previously agreed, this request for withdrawal is submitted on the condition that opportunities for filing a protest following the issuance and publication of any new PD shall be governed under the same procedures and timelines that would apply as if the Original PD never been issued.

Thank you again for your cooperation in addressing these matters. Please feel free to contact me with any comments or questions.

Sincerely,



Peter D. Mohr

Attachments

cc: Terra-Magic, Inc.
Ivan Gall (*via e-mail only*)
Carrie Jones (*via e-mail only*)

RECEIVED

NOV 03 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Subject: RE: T-10455 / Applic. of Terra-Magic
From: Dorothy Pedersen <pedersdi@wrд.state.or.us>
Date: Sat, 18 Oct 2008 01:22:34 +0000
To: Peter Mohr <pdm@mohrwater.com>
CC: Carrie Jones <jonescr@wrд.state.or.us>, Kelly Starnes <starnepk@wrд.state.or.us>, Debbie Colbert <colberdl@wrд.state.or.us>

Hi Peter,

This matches my understanding of how we will proceed with the processing of T-10455.

Thank you for assisting with resolution of these issues.

Sincerely,
Dorothy

-----Original Message-----

From: Peter Mohr [mailto:pdm@mohrwater.com]
Sent: Friday, October 17, 2008 1:56 PM
To: Dorothy Pedersen
Cc: Carrie Jones
Subject: T-10455 / Applic. of Terra-Magic

Dorothy,

I am simply following up on our call just now to confirm how the Department and my client Terra-Magic intends to proceed with application T-10455:

1. I will prepare a letter on Terra-Magic's behalf requesting that the existing PD be withdrawn. This letter will also include reference to the circumstances requiring such withdrawal. This letter will also provide that the withdrawal shall not encumber any further opportunity for either Terra-Magic or other parties/interested members of the public from filing comments and/or protests on the new PD to be subsequently issued.
2. Following the Department's withdrawal of the existing PD and prior to the Department's issuance of a new PD, the Department will circulate a DRAFT PD to account for the changes in circumstances affecting the completion of Terra-Magic's Well No. 3 and more specifically, requirements necessary to ensure that Terra-Magic's completion of a well sealed to a specified depth is sufficient to avoid co-mingling with water sourced from the upper alluvial.
3. Following any agreement as to the terms of the new PD, the new PD would then be issued by the Department and noticed as necessary.

If this summary of how we intend to proceed is incorrect, please let me know. As discussed, I will look to provide with you with a formal letter requesting the withdraw of the PD early next week as I still will need to run this all by my client. I have no reason to believe Terra-Magic will object to this approach.

Regards,

Peter

RECEIVED

NOV 03 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
pdm@mohrwater.com

NOTICE: THE INFORMATION CONTAINED IN THIS COMMUNICATION AND ITS ATTACHMENTS MAY BE PRIVILEGED AND/OR CONFIDENTIAL INFORMATION AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS COMMUNICATION IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE OR E-MAIL, AND DELETE IT FROM YOUR COMPUTER. THANK YOU.

TAX ADVICE NOTICE: IRS CIRCULAR 230 REQUIRES US TO ADVISE YOU THAT, IF THIS COMMUNICATION OR ANY ATTACHMENT CONTAINS TAX ADVICE, THE ADVICE IS NOT INTENDED TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF AVOIDING FEDERAL TAX PENALTIES OR FOR PROMOTING, MARKETING, OR RECOMMENDING TO ANYONE ELSE ANY TAX-RELATED MATTERS ADDRESSED HEREIN. A TAXPAYER MAY RELY ON PROFESSIONAL ADVICE TO AVOID FEDERAL TAX PENALTIES IF AND ONLY IF THE ADVICE IS REFLECTED IN A COMPREHENSIVE TAX OPINION THAT CONFORMS TO STRICT REQUIREMENTS.

RECEIVED

NOV 03 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

Subject: Terramagic well construction

From: Ivan Gall <gallik@wrđ.state.or.us>

Date: Mon, 20 Oct 2008 14:48:32 +0000

To: Peter Mohr <pdm@mohrwater.com>

CC: Doug Woodcock <woodcode@wrđ.state.or.us>, Dorothy Pedersen <pedersdi@wrđ.state.or.us>, Debbie Colbert <colberdl@wrđ.state.or.us>

Hi Peter-

In response to your request for a statement about the proposed well construction at the new Terramagic well in Union County:

At this time the Department understands that Riverside Drilling will be constructing the new Terramagic irrigation well as follows. Eighteen-inch diameter steel casing has been set and sealed to a depth of 796 feet, which is 10 feet into the top of a 205-foot thick clay unit (beginning at 786 feet below ground surface (bgs) and ending at 991 feet bgs). Samples of drill cuttings provided by Riverside and evaluated by Mark Ferns at the Oregon Department of Geology and Mineral Industries suggest that the units beneath the clay belong to the Powder River Volcanics (PRV). Given estimated thickness of the PRV, the original target aquifer of the Grande Ronde Basalt is likely another one thousand or more feet deeper below the 1,100+ foot depth of the well. Riverside's proposal to develop this new well in the volcanic and volcanoclastic water-bearing zone beneath the 205-foot thick clay unit meets the intent of the original transfer order. The well construction proposed by Riverside should not allow commingling between the shallow and deep water-bearing zones.

Please let me know if you have any questions.

Regards

Ivan K. Gall
Manager, Eastern Region
Oregon Water Resources Department
1995 3rd Street Suite 180
Baker City OR 97814
541.523.8224 ext. 24
FAX 866.214.3493
Ivan.K.Gall@wrđ.state.or.us

RECEIVED

NOV 03 2008

**WATER RESOURCES DEPT
SALEM, OREGON**

**Notice of Preliminary Determination for
Water Right Transfer T-10455**

T-10455 filed by Terra Magic, Inc., P.O. Box 3093, La Grande, Oregon 97850, proposes additional points of appropriation under Certificate 34399. The right allows the use of 5.6 cfs (priority date August 12, 1964) from a well in Sec. 3, T 2 S, R 38 E, W.M. (Grande Ronde River Basin) for irrigation and supplemental irrigation in Sects. 2, 3, 4, 9, 10, and 11. The applicant proposes two additional points of appropriation approximately 30 to 90 feet away within Sec. 3, T 2 S, R 38 E, 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.



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

September 5, 2008

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

PETER MOHR
ONE SW COLUMBIA ST, SUITE 1110
PORTLAND, OR 97258

SUBJECT: **Transfer Application T-10455**

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10455. 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.

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@wrds.state.or.us if I may be of assistance.

Sincerely,

Dorothy Pedersen
Field Services Division

cc: Rick Lusk, District 06 Watermaster
Greg Blackman, CWRE
Bart Barlow

enc



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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10455, Union County	)	PROPOSING APPROVAL OF
	)	ADDITIONAL POINTS OF
	)	APPROPRIATION

Authority

ORS 537.705 and 540.505 to 540.580 establish the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC, INC.
PO BOX 3093
LA GRANDE, OREGON 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic, Inc. filed an application for additional points of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007 the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007 a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008 the application map was amended.
5. On April 1, 2008 a second amendment to the application map was made.

6. The right to be transferred is as follows:

Certificate: 34399 in the names of Sylvan B. and Martha Joy Rassmussen (perfected under Permit G-2739)

Use: Irrigation of 400.1 acres and supplemental irrigation of 54.9 acres

Priority Date: August 12, 1964

Rate: 5.6 cubic feet per second (cfs)

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.
--

Limit/Duty: ONE-EIGHTIETH of one cfs per acre, not to exceed 3.0 acre feet per acre for each acre irrigated during the irrigation season of each year.

Source: Well 1 (UNIO 325) in the Grande Ronde River Basin

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	Well 1 - 10 feet North and 2460 feet West from the SE Corner of Section 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total					54.9

7. The applicant proposes to deepen and alter a well identified by well log number (UNIO 51475), also known as Well No. 2, in order to develop water from only the basalt aquifer. Transfer Application T-10455 proposes to add Well No. 2 to this water right:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	Well 2 - 79 feet North and 2548 feet West from the SE Corner of Section 3.

8. The applicant also proposes to construct an additional well completed in the basalt aquifer located at:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	Well 3 - 40 feet North and 2460 feet West from the SE Corner of Section 3.

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A 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-10455.
12. Well No. 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the alluvial and underlying aquifers were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair the well in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
13. Based on information available, the department finds that the well UNIO 325 developed 2.8 CFS from the alluvial aquifer and 2.8 CFS from the basalt aquifer.
14. Developing more water from the basalt aquifer than was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if condition #5 below is met.
15. The proposed change would not result in injury to other water rights.
16. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
17. The applicant requested that the completion deadline be extended until 2013.
18. On April 11, 2008, the Department mailed the applicant and agent a copy of the Preliminary Determination proposing to approve Transfer Application T-10455. The Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
19. On May 15, 2008, the applicant requested a condition regarding the use of the authorized well known as Well No. 1, and is described in Finding of Fact #6. The condition will require that Well No. 1 shall be dedicated as an "emergency use" or "back-up well" where the proposed well or wells become inoperable. The condition also requires that prior to withdrawing water from Well No. 1, the applicant shall notify the local Watermaster in writing.

20. On June 24, 2008, the applicant's agent 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.

Determination and Proposed Action

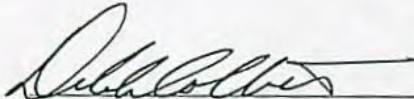
The additional points of appropriation proposed in Transfer Application T-10455 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If Transfer Application T-10455 is approved, the final order will include the following:

1. *The additional points of appropriation proposed in Transfer Application T-10455 are approved.*
2. *Water right certificate 34399 is cancelled.*
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 34399 and any related decree.*
4. *Water from the new wells shall be acquired from only a single aquifer. If the new wells develop the basalt aquifer, they shall be continuously cased and continuously sealed to a minimum depth of 20.0 feet into competent basalt, estimated to be 800.0 feet below land surface, to ensure that water is developed only from the basalt aquifer. In the event a water-bearing zone is encountered in the upper 20 feet of basalt, the applicant or driller shall immediately contact the Department's groundwater section.*
5. *The quantities of water diverted at the new wells are limited to 2.8 cfs from the basalt aquifer and/or 2.8 cfs from the alluvial aquifer. Further, when both the new and original wells are operated at the same time, the quantity of water diverted shall not exceed a cumulative total of 2.8 cfs from the basalt aquifer and 2.8 cfs from the alluvial aquifer.*
6. *Prior to diverting water, the water user shall install an in-line flow meter or other suitable measuring device on each well for measuring and recording the quantity of water appropriated. The type and plans of the measuring devices 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 devices as required by the Department.*
7. *Groundwater withdrawal from Well No. 1 shall be limited to emergency use only under those circumstances where Well No. 2 or Well No. 3 as described in Findings of Fact #7 and #8, becomes inoperable to the extent that the applicant is unable to withdraw ground water.*
8. *Prior to any groundwater withdrawal from Well No. 1, the applicant shall notify the local Watermaster in writing.*

9. *Well No. 1 shall not be used more than 30 days for emergency purposes only during the irrigation season of each year, absent obtaining further written approval from the Watermaster with such approval not to be unreasonably withheld based on considerations of hardship. Emergency use of Well No. 1 shall be implemented only when pump failure, power failure, or basalt well collapse occurs.*
10. *The approved change shall be completed and full beneficial use of the water shall be made on or before **October 1, 2013**. 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 change and full beneficial use of the water.*
11. *When satisfactory proof of the completed changes is received, a new certificate confirming the right transferred will be issued.*

Dated at Salem, Oregon this 4th day of September 2008.


Phillip C. Ward, Director

This Preliminary Determination was prepared by Carrie Jones. If you have questions about the information in this document, you may reach me at 541-523-8224 x 36 or Carrie.R.Jones@wrds.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-10455**

T-10455 filed by Terra Magic Inc., P.O. Box 3093, La Grande, Oregon 97850, proposes additional points of appropriation under Certificate 34399. The right allows the use of 5.6 cfs (priority date AUGUST 12, 1964) from a well in Sec. 3, T 2 S, R 38 E, W.M. (Grande Ronde Basin) for IRRIGATION and SUPPLEMENTAL IRRIGATION in Sec. 2, 3, 4, 9, 10 and 11. The applicant proposes additional points of appropriation within approximately 70 feet of the original authorized point of appropriation in Sec. 3, T 2 S, R 38 E, 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) 986-0883. 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.

STATE OF OREGON
COUNTY OF UNION
CERTIFICATE OF WATER RIGHT

This Is To Certify, That SYLVAN B. and MARTHA JOY RASMUSSEN

of Route 1, Box 338, La Grande, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Well No. 1

a tributary of Slide Creek (Grande Ronde River) for the purpose of irrigation of 400.1 acres and supplemental irrigation of 54.9 acres under Permit No. G-2739 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from August 12, 1964

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 5.60 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, T. 2 S., R. 38 E., W. M. Well located 10 feet North and 2460 feet West from the SE Corner, Section 3.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year;

and shall

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Supplemental	Primary	
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.1 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
		Section 2
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.5 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
36.4 acres	1.6 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$
1.5 acres	38.5 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 3
	12.3 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 4
	12.4 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
		Section 9
	39.1 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
2.0 acres	36.2 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$
15.0 acres	23.2 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 10
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 11
		T. 2 S., R. 38 E., W. M.

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

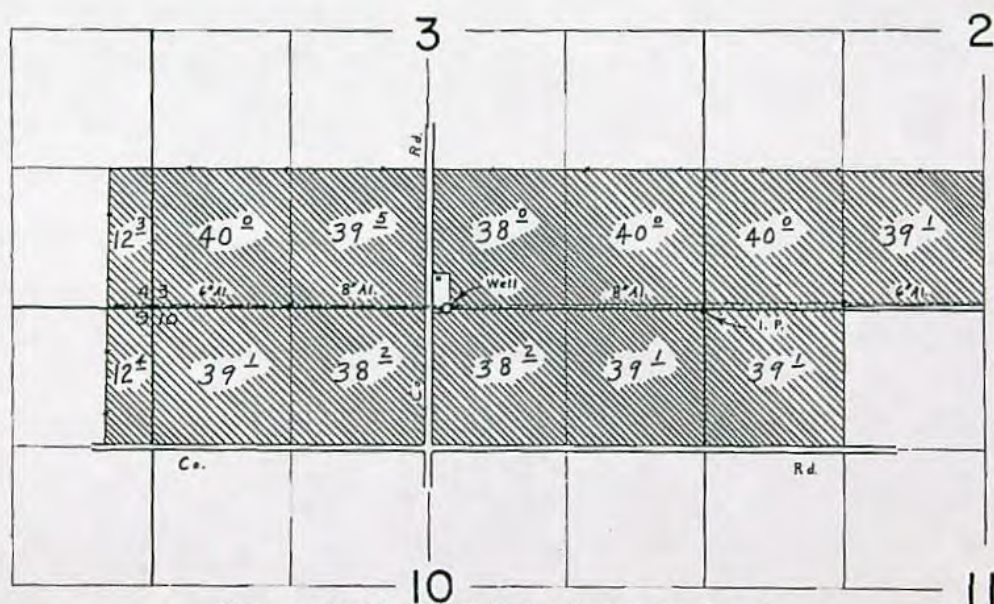
WITNESS the signature of the State Engineer, affixed

this 24 day of October , 1967.

CHRIS L. WHEELER
State Engineer

Recorded in State Record of Water Right Certificates, Volume 26 , page 34399

T.2 S.R.38 E.W.M.



FINAL PROOF SURVEY
UNDER

Application No. G-2946 Permit No. G-2739
IN NAME OF

SYLVAN B. & MARTHA JOY RASMUSSEN

Surveyed Nov. 3 1966 by L. E. Gould

Dorothy Pedersen

From: Peter Mohr [pdm@mohrwater.com]
Sent: Thursday, October 30, 2008 2:52 PM
To: Dorothy Pedersen
Cc: Ivan Gall; Carrie Jones
Subject: T-10455 / Applic. of Terra-Magic, Inc. / Request to W/draw Original PD

Attachments: DPedersen Ltr-ReqWPD-103008.pdf



DPedersen
-ReqWPD-103008.pdf

Dorothy,

Please find attached my letter requesting that the original PD issued under this application be withdrawn. Please feel free to contact me with any questions.

Regards,

Peter

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
pdm@mohrwater.com

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PETER D. MOHR
ATTORNEY AT LAW

*Admitted in Colorado
and Oregon*

ONE SW COLUMBIA ST., SUITE 1110
PORTLAND, OR 97258
TEL 503.221.5222
FAX 503.227.7829
WWW.MOHRWATER.COM

October 30, 2008

Via E-Mail / Original by US Mail

Dorothy Pedersen
Transfer Program Advisor
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

Re: Application T-10455 / Terra-Magic, Inc. Applic. for Additional POA, as amended

Dear Dorothy:

On behalf of the applicant, Terra-Magic, Inc., I am writing to request the withdrawal of the Preliminary Determination dated September 4, 2008 (the "Original PD"). This request is conditioned on our agreement to proceed with the withdrawal and issuance of a new PD in the manner provided in our e-mail exchange of October 17, 2008, a copy of which is attached. In consideration of the attached and the numerous conversations which have preceded it, I think it appropriate to briefly revisit (a) the events which now require the withdrawal of the Original PD and (b) the procedure by which a new PD will be issued.

Based on existing well logs for the area, the Department had previously (and reasonably) estimated that the basalt layer would exist somewhere between 750 and 850 feet below ground surface (bgs). As summarized in Ivan Gall's e-mail to me of October 20, 2008, a copy of which I have also attached to this letter, information gained from Terra-Magic's efforts to complete proposed Well No. 3 confirm that neither proposed Well Nos. 2 or 3 can for all practical purposes be completed within a hard basalt layer. More specifically, Terra-Magic's drilling efforts have failed to locate the existence of any hard or solid basalt layer as far down as 1,100 feet bgs. As Ivan Gall stated in his e-mail, this lack of any hard basalt layer down to such a depth has been further confirmed by the Department's and OGAMI's own joint analysis of drill cuttings from the bore of Well No. 3. Given these and other related findings, it is my understanding the Department now believes that the casing and sealing of Well No. 3 down to 796 feet, which in part extends down through a significant clay unit and into the underlying water-bearing Powder River Volcanics, would meet the intent of the Original PD to avoid commingling between shallow and deep water-bearing zones.

Consistent with our attached e-mail exchange of October 17, 2008, I would also like to reaffirm that Terra-Magic's request to withdraw the Original PD is in part conditioned on the Department's agreement to circulate a DRAFT PD to my office prior to any issuance of a new PD. As we discussed, such an approach should allow for greater efficiencies in the Department's preparation and issuance of any new PD by allowing Terra-Magic the opportunity to comment and address concerns of its own

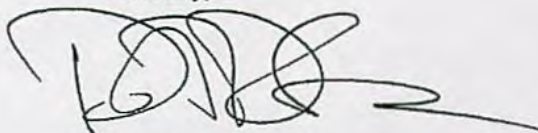
Dorothy Pedersen
October 30, 2008
Page 2 of 2

including those as may arise within the context of the settlement agreement entered into among the parties in OAH Case No. PC 09-06.

Finally, as we also previously agreed, this request for withdrawal is submitted on the condition that opportunities for filing a protest following the issuance and publication of any new PD shall be governed under the same procedures and timelines that would apply as if the Original PD never been issued.

Thank you again for your cooperation in addressing these matters. Please feel free to contact me with any comments or questions.

Sincerely,

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

Peter D. Mohr

Attachments

cc: Terra-Magic, Inc.
Ivan Gall (*via e-mail only*)
Carrie Jones (*via e-mail only*)

Subject: RE: T-10455 / Applic. of Terra-Magic
From: Dorothy Pedersen <pedersdi@wrд.state.or.us>
Date: Sat, 18 Oct 2008 01:22:34 +0000
To: Peter Mohr <pdm@mohrwater.com>
CC: Carrie Jones <jonescr@wrд.state.or.us>, Kelly Starnes <starnepk@wrд.state.or.us>, Debbie Colbert <colberdl@wrд.state.or.us>

Hi Peter,

This matches my understanding of how we will proceed with the processing of T-10455.

Thank you for assisting with resolution of these issues.

Sincerely,
Dorothy

-----Original Message-----

From: Peter Mohr [mailto:pdm@mohrwater.com]
Sent: Friday, October 17, 2008 1:56 PM
To: Dorothy Pedersen
Cc: Carrie Jones
Subject: T-10455 / Applic. of Terra-Magic

Dorothy,

I am simply following up on our call just now to confirm how the Department and my client Terra-Magic intends to proceed with application T-10455:

1. I will prepare a letter on Terra-Magic's behalf requesting that the existing PD be withdrawn. This letter will also include reference to the circumstances requiring such withdrawal. This letter will also provide that the withdrawal shall not encumber any further opportunity for either Terra-Magic or other parties/interested members of the public from filing comments and/or protests on the new PD to be subsequently issued.
2. Following the Department's withdrawal of the existing PD and prior to the Department's issuance of a new PD, the Department will circulate a DRAFT PD to account for the changes in circumstances affecting the completion of Terra-Magic's Well No. 3 and more specifically, requirements necessary to ensure that Terra-Magic's completion of a well sealed to a specified depth is sufficient to avoid co-mingling with water sourced from the upper alluvial.
3. Following any agreement as to the terms of the new PD, the new PD would then be issued by the Department and noticed as necessary.

If this summary of how we intend to proceed is incorrect, please let me know. As discussed, I will look to provide with you with a formal letter requesting the withdraw of the PD early next week as I still will need to run this all by my client. I have no reason to believe Terra-Magic will object to this approach.

Regards,

Peter

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
pdm@mohrwater.com

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Subject: Terramagic well construction

From: Ivan Gall <gallik@wrdd.state.or.us>

Date: Mon, 20 Oct 2008 14:48:32 +0000

To: Peter Mohr <pdm@mohrwater.com>

CC: Doug Woodcock <woodcode@wrdd.state.or.us>, Dorothy Pedersen <pedersdi@wrdd.state.or.us>,

Debbie Colbert <colberdl@wrdd.state.or.us>

Hi Peter-

In response to your request for a statement about the proposed well construction at the new Terramagic well in Union County:

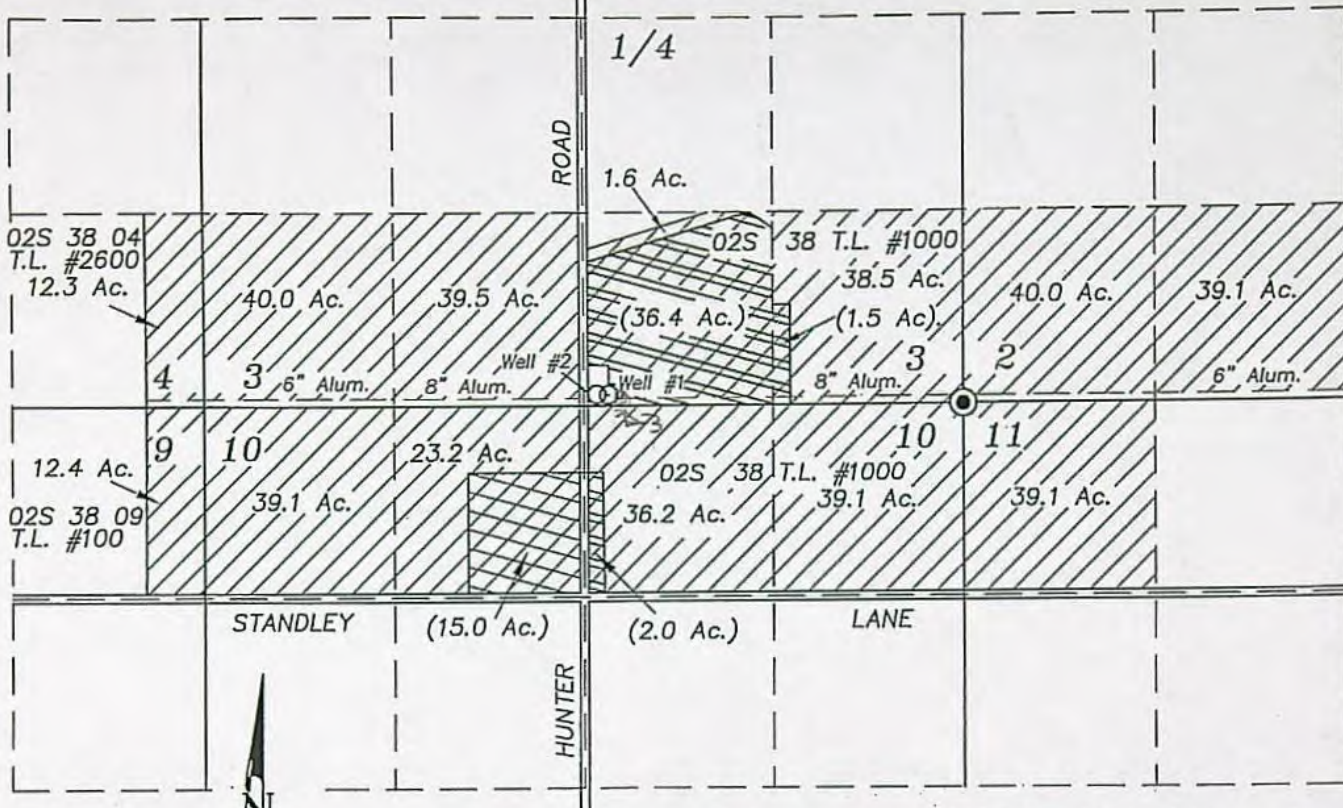
At this time the Department understands that Riverside Drilling will be constructing the new Terramagic irrigation well as follows. Eighteen-inch diameter steel casing has been set and sealed to a depth of 796 feet, which is 10 feet into the top of a 205-foot thick clay unit (beginning at 786 feet below ground surface (bgs) and ending at 991 feet bgs). Samples of drill cuttings provided by Riverside and evaluated by Mark Ferns at the Oregon Department of Geology and Mineral Industries suggest that the units beneath the clay belong to the Powder River Volcanics (PRV). Given estimated thickness of the PRV, the original target aquifer of the Grande Ronde Basalt is likely another one thousand or more feet deeper below the 1,100+ foot depth of the well. Riverside's proposal to develop this new well in the volcanic and volcanoclastic water-bearing zone beneath the 205-foot thick clay unit meets the intent of the original transfer order. The well construction proposed by Riverside should not allow commingling between the shallow and deep water-bearing zones.

Please let me know if you have any questions.

Regards

Ivan K. Gall
Manager, Eastern Region
Oregon Water Resources Department
1995 3rd Street Suite 180
Baker City OR 97814
541.523.8224 ext. 24
FAX 866.214.3493
Ivan.K.Gall@wrdd.state.or.us

T 2 S R 38 E



Well#1 Location is 10 feet North and 2460 feet West of the Southeast corner of Section 3.

Well#2 Additional Point of Appropriation is located 79 feet North and 2548 feet West of the Southeast corner of Section 3.

SCALE: 1"=1320'



Lands with Primary rights under Certificate 34399 from Well number 1, requesting additional point of Appropriation from Well number 2.

25.7 Primary Acreage



(12.0) Supplemental Acreage



Lands with Primary rights under Certificate 6148 (1883) and Supplemental rights under Certificate 34399 from Well number 1, requesting additional point of Appropriation from Well number 2.

COPY



January 24, 2008

APPLICATION MAP FOR
AN ADDITIONAL POINT OF
APPROPRIATION

FOR
TERRA MAGIC INC.

BY
BAGETT - GRIFFITH & BLACKMAN
2006 ADAMS AVENUE
LAGRANDE, OREGON 97850

RECEIVED

APR 01 2008

WATER RESOURCE DEPT.
EASTERN REGION

NOTE: The preparation of this map was for the purpose of identifying the location of the proposed water right and has no intent to provide dimensions or location of property ownership lines. Location information shown hereon was furnished by the applicant.

Application No. T- 10455

Permit Number T- 10455

Dorothy Pedersen

From: Peter Mohr [pdm@mohrwater.com]
Sent: Tuesday, October 21, 2008 11:01 AM
To: Dorothy Pedersen
Cc: Carrie Jones
Subject: Applic T-10455 / Addressing withdrawal of PD

Dorothy,

I am just writing to let you know that I am still waiting to hear back from Terra-Magic concerning the proposed withdraw of the PD. Terra-Magic's VP, Dennis Rasmussen, is currently out of the country and so as soon as I can confirm his agreement to such an approach (which I fully anticipate), I will then send you the letter requesting the withdrawal.

Regards,

Peter

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
pdm@mohrwater.com

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Dorothy Pedersen

From: Ivan Gall
Sent: Friday, October 17, 2008 11:24 AM
To: Dorothy Pedersen
Subject: FW: Draft Terramagic language

Hi Dorothy-

Below is the language I would forward to Peter Mohr to help set the other side at ease. Let me know if you have any comments. I also will be checking with Mark at Dogami to make sure he is okay with the geology discussion.
Thanks

Ivan K. Gall
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Oregon Water Resources Department
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Baker City OR 97814
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FAX 866.214.3493
Ivan.K.Gall@wrdd.state.or.us

-----Original Message-----

From: Doug Woodcock
Sent: Friday, October 17, 2008 8:40 AM
To: Ivan Gall
Subject: RE: Draft Terramagic language

I'm ok with it....

Regarding the geology tour...

I'm looking into budget stuff today to see if we can send folks to Baker City. Things getting quite tight here.

Talk soon.

D

-----Original Message-----

From: Ivan Gall
Sent: Thursday, October 16, 2008 2:16 PM
To: Doug Woodcock
Subject: Draft Terramagic language

After talking with Peter Mohr again, they are after some general language discussing the proposed well construction, where it will not allow commingling. See what you think about the following; when you are done I will run it by Ferns for his okay.

At this time the Department understands that Riverside Drilling will be constructing the new Terramagic irrigation well as follows. Eighteen-inch diameter steel casing has been set and sealed to a depth of 796 feet, which is 10 feet into the top of a 205-foot thick clay unit which begins at 786 feet below ground surface (bgs) and ends at 991 feet bgs. Samples of drill cuttings provided by Riverside and evaluated by Mark Ferns at the Oregon Department of Geology and Mineral Industries suggest that the units beneath the clay belong to the Powder River Volcanics (PRV). Given estimated thickness of the PRV, the original target aquifer of the Grande Ronde Basalt is likely another one thousand or more feet deeper. Riverside's proposal to develop this new well in the volcanic and volcanoclastic water-bearing zone beneath the 205-foot thick clay unit meets the intent of the original transfer order, and the proposed well construction should not allow commingling between the shallow and deep water-bearing zones.

ikg

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Oregon Water Resources Department
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Baker City OR 97814
541.523.8224 ext. 24
FAX 866.214.3493
Ivan.K.Gall@wrd.state.or.us

Kelly Starnes

From: Dorothy Pedersen
Sent: Monday, October 20, 2008 9:43 AM
To: Kelly Starnes
Subject: FW: Terramagic well construction

FYI, this was to be forwarded to Peter Mohr prior to our draft revised PD.

-----Original Message-----

From: Ivan Gall
Sent: Monday, October 20, 2008 7:49 AM
To: Peter Mohr
Cc: Doug Woodcock; Dorothy Pedersen; Debbie Colbert
Subject: Terramagic well construction

Hi Peter-

In response to your request for a statement about the proposed well construction at the new Terramagic well in Union County:

At this time the Department understands that Riverside Drilling will be constructing the new Terramagic irrigation well as follows. Eighteen-inch diameter steel casing has been set and sealed to a depth of 796 feet, which is 10 feet into the top of a 205-foot thick clay unit (beginning at 786 feet below ground surface (bgs) and ending at 991 feet bgs). Samples of drill cuttings provided by Riverside and evaluated by Mark Ferns at the Oregon Department of Geology and Mineral Industries suggest that the units beneath the clay belong to the Powder River Volcanics (PRV). Given estimated thickness of the PRV, the original target aquifer of the Grande Ronde Basalt is likely another one thousand or more feet deeper below the 1,100+ foot depth of the well. Riverside's proposal to develop this new well in the volcanic and volcanoclastic water-bearing zone beneath the 205-foot thick clay unit meets the intent of the original transfer order. The well construction proposed by Riverside should not allow commingling between the shallow and deep water-bearing zones.

Please let me know if you have any questions.
Regards

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Oregon Water Resources Department
1995 3rd Street Suite 180
Baker City OR 97814
541.523.8224 ext. 24
FAX 866.214.3493
Ivan.K.Gall@wrdd.state.or.us

Kelly Starnes

From: Dorothy Pedersen
Sent: Friday, October 17, 2008 6:23 PM
To: Peter Mohr
Cc: Carrie Jones; Kelly Starnes; Debbie Colbert
Subject: RE: T-10455 / Applic. of Terra-Magic

Hi Peter,

This matches my understanding of how we will proceed with the processing of T-10455.

Thank you for assisting with resolution of these issues.

Sincerely,
Dorothy

-----Original Message-----

From: Peter Mohr [mailto:pdm@mohrwater.com]
Sent: Friday, October 17, 2008 1:56 PM
To: Dorothy Pedersen
Cc: Carrie Jones
Subject: T-10455 / Applic. of Terra-Magic

Dorothy,

I am simply following up on our call just now to confirm how the Department and my client Terra-Magic intends to proceed with application T-10455:

1. I will prepare a letter on Terra-Magic's behalf requesting that the existing PD be withdrawn. This letter will also include reference to the circumstances requiring such withdrawal. This letter will also provide that the withdrawal shall not encumber any further opportunity for either Terra-Magic or other parties/interested members of the public from filing comments and/or protests on the new PD to be subsequently issued.
2. Following the Department's withdrawal of the existing PD and prior to the Department's issuance of a new PD, the Department will circulate a DRAFT PD to account for the changes in circumstances affecting the completion of Terra-Magic's Well No. 3 and more specifically, requirements necessary to ensure that Terra-Magic's completion of a well sealed to a specified depth is sufficient to avoid co-mingling with water sourced from the upper alluvial.
3. Following any agreement as to the terms of the new PD, the new PD would then be issued by the Department and noticed as necessary.

If this summary of how we intend to proceed is incorrect, please let me know. As discussed, I will look to provide with you with a formal letter requesting the withdraw of the PD early next week as I still will need to run this all by my client. I have no reason to believe Terra-Magic will object to this approach.

Regards,

Peter

--

Peter D. Mohr
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Kelly Starnes

From: Dorothy Pedersen
Sent: Friday, October 17, 2008 6:00 PM
To: Kelly Starnes
Subject: FW: Draft Terramagic language

Hi Kelly,

This is the latest on T-10455. Would you mind starting to draft the revised PD with a finding as to why we withdrew the original PD, then translate the geology story into revised findings and conditions that they will be able to prove up on?

Peter Mohr will be sending in an order next week, requesting to withdraw the PD.

I've printed out some of the documents from T-9858 where we issued an order withdrawing a PD, noticed the withdrawal of the PD, then issued a revised PD. We'll plan to follow the same procedure with this one. Peter Mohr and the applicant want to see a draft of the revised PD before we actually issue it.

Thanks,
Dorothy

-----Original Message-----

From: Ivan Gall
Sent: Friday, October 17, 2008 11:24 AM
To: Dorothy Pedersen
Subject: FW: Draft Terramagic language

Hi Dorothy-

Below is the language I would forward to Peter Mohr to help set the other side at ease. Let me know if you have any comments. I also will be checking with Mark at Dogami to make sure he is okay with the geology discussion.
Thanks

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-----Original Message-----

From: Doug Woodcock
Sent: Friday, October 17, 2008 8:40 AM
To: Ivan Gall
Subject: RE: Draft Terramagic language

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From: Ivan Gall
Sent: Thursday, October 16, 2008 2:16 PM

To: Doug Woodcock
Subject: Draft Terramagic language

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well 13?

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ikg

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Ivan.K.Gall@wrd.state.or.us

Dorothy Pedersen

From: Peter Mohr [pdm@mohrwater.com]
Sent: Thursday, September 04, 2008 2:45 PM
To: Dorothy Pedersen
Cc: Debbie Colbert
Subject: Applic T-10455 / Terra-Magic, Inc.

Dorothy,

I'm responding to your voice mail of late yesterday seeking confirmation that a prior voice mail of mine had nothing to do with me possessing additional concerns with the PD to be submitted to Debbie for signature. The voice mail in question was left PRIOR to our subsequent discussion during which I made it clear that, but for some typos, we were fine with the final version of the PD.

Please contact me should you have any questions.

Regards,

Peter

--

Peter D. Mohr
Attorney at Law
One SW Columbia Street, Suite 1110
Portland, Oregon 97258
ph: (503) 221-5222
fax: (503) 227-7829
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STATE OF OREGON
COUNTY OF UNION
CERTIFICATE OF WATER RIGHT

This Is To Certify, That SYLVAN B. and MARTHA JOY RASMUSSEN

of Route 1, Box 338, La Grande, State of Oregon, has made proof to the satisfaction of the STATE ENGINEER of Oregon, of a right to the use of the waters of Well No. 1

a tributary of Slide Creek (Grande Ronde River) for the purpose of irrigation of 400.1 acres and supplemental irrigation of 54.9 acres

under Permit No. G-2739 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from August 12, 1964

that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 5.60 cubic foot per second

or its equivalent in case of rotation, measured at the point of diversion from the stream. The point of diversion is located in the SW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 3, T. 2 S., R. 38 E., W. M. Well located 10 feet North and 2460 feet West from the SE Corner, Section 3.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre feet per acre for each acre irrigated during the irrigation season of each year;

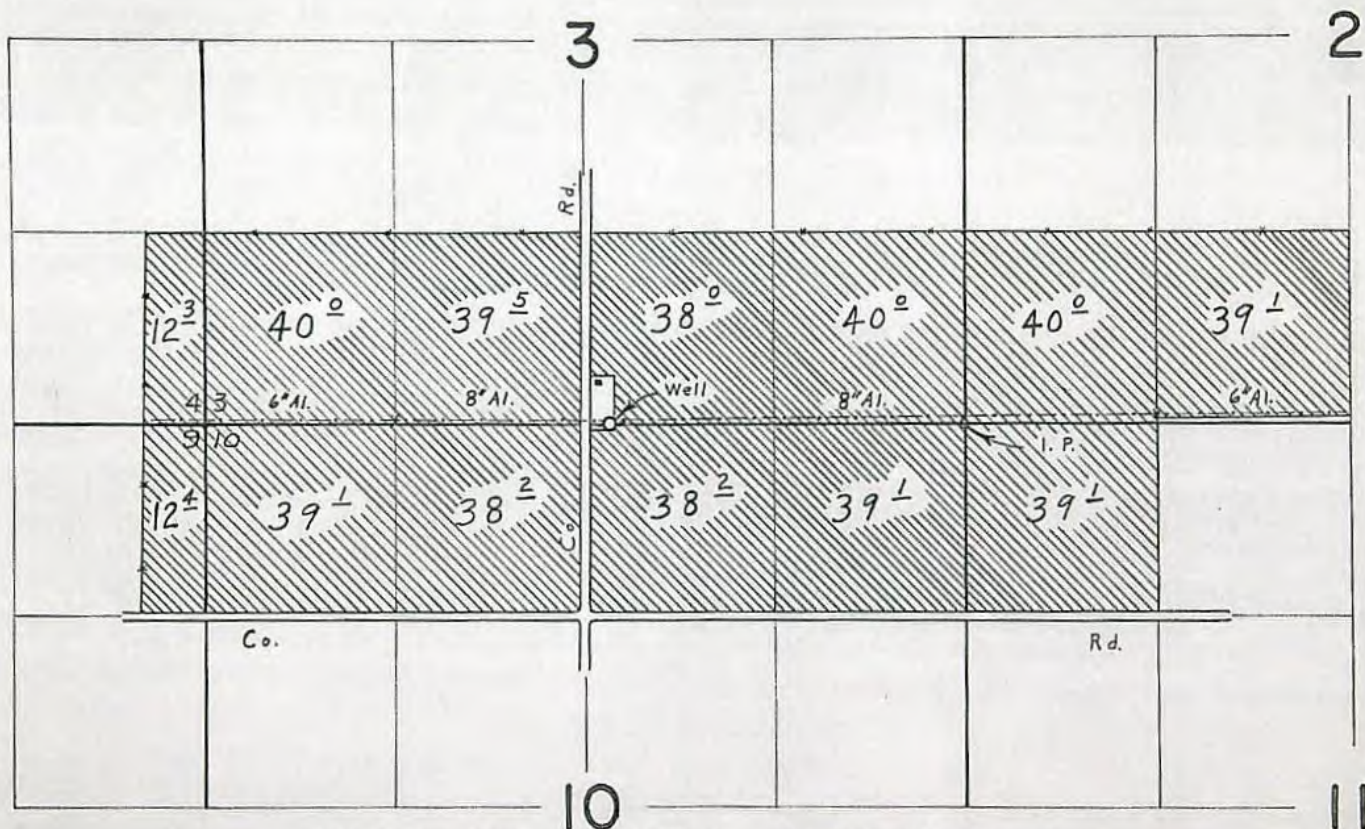
and shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

Supplemental	Primary	
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.1 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
		Section 2
	40.0 acres	SW $\frac{1}{4}$ SW $\frac{1}{4}$
	39.5 acres	SE $\frac{1}{4}$ SW $\frac{1}{4}$
36.4 acres	1.6 acres	SW $\frac{1}{4}$ SE $\frac{1}{4}$
1.5 acres	38.5 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 3
	12.3 acres	SE $\frac{1}{4}$ SE $\frac{1}{4}$
		Section 4
	12.4 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
		Section 9
	39.1 acres	NE $\frac{1}{4}$ NE $\frac{1}{4}$
2.0 acres	36.2 acres	NW $\frac{1}{4}$ NE $\frac{1}{4}$
15.0 acres	23.2 acres	NE $\frac{1}{4}$ NW $\frac{1}{4}$
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 10
	39.1 acres	NW $\frac{1}{4}$ NW $\frac{1}{4}$
		Section 11
		T. 2 S., R. 38 E., W. M.

file 2946

T.2 S.R.38 E.W.M.



Well located 10' N. & 2460' W. from the S.E. Cor. Sec. 3

FINAL PROOF SURVEY UNDER

Application No. G-2946 Permit No. G-2739
IN NAME OF

SYLVAN B. & MARTHA JOY RASMUSSEN

Surveyed Nov. 3 1966 by L. E. Gould



Oregon

Theodore R. Kulongoski, Governor

RA

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

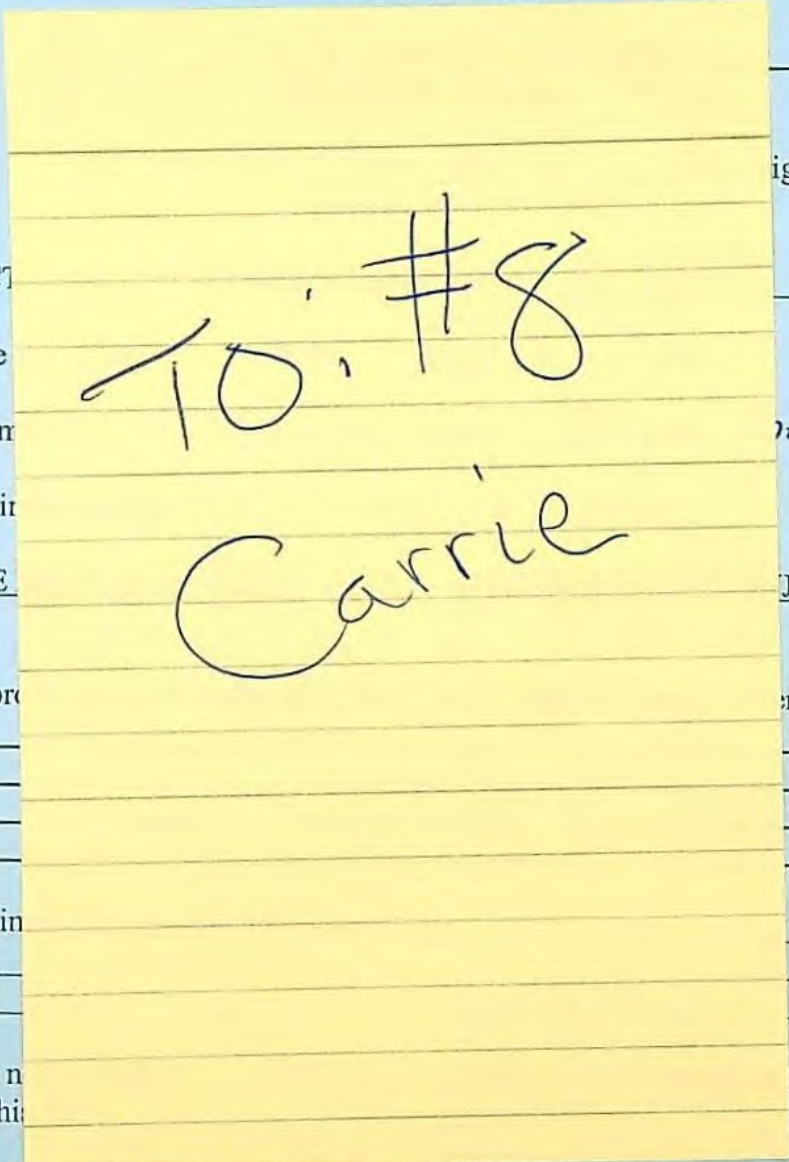
INTEROFFICE MEMO

FORWARD TO:

Sarah Henderson (ery)
FIELD PROCESSOR WORKING ON THIS TRANSFER

DATE: 9-18-07

FROM:



Signed 10/3/2007

SUBJECT

A change

of water.

In the name

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In my opinion

✓ MAY BE
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JURY* to an existing water

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from the source(s) which

If for change in point of diversion, is there any intervening point(s) for diversion between the authorized and proposed points of diversion? (Yes or No) _____

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

_____ (1) PRIOR to the diverting of water at the new point of diversion . . .

_____ (2) WHEN IN the judgement of the watermaster it becomes necessary . . .

The enclosed copy of the transfer application and map(s) is for your records.



Oregon

Theodore R. Kulongoski, Governor

RA

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

INTEROFFICE MEMO

FORWARD TO:

Sarah Henderson (ery)
FIELD PROCESSOR WORKING ON THIS TRANSFER

DATE: 9-18-07

FROM:

X WATERMASTER, DISTRICT # _____
GROUNDWATER SECTION

(SIGNATURE) Mike Zwart date signed 10/3/2007
signed by injury reviewer

SUBJECT: WATER RIGHT TRANSFER # 10455

A change in: POU POD (A POA) USE of water.

In the name(s) of Terra Magic Inc / An Oregon Corp.

In my opinion (assuming the right is valid), the proposed change

☒ MAY BE MADE WITHOUT INJURY WOULD RESULT IN INJURY* to an existing water right.

*The approval of this transfer application would result in injury to other water rights because

The existing right may not be valid because

Headgate notices HAVE HAVE NOT Been issued for diversion from the source(s) which serve(s) this right.

If for change in point of diversion, is there any intervening point(s) for diversion between the authorized and proposed points of diversion? (Yes or No) _____

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

_____ (1) PRIOR to the diverting of water at the new point of diversion . . .

_____ (2) WHEN IN the judgement of the watermaster it becomes necessary . . .

The enclosed copy of the transfer application and map(s) is for your records.

wmtrans.frm

**OREGON WATER RESOURCES DEPARTMENT
INTEROFFICE MEMO**

To: Ground Water files Date: November 8, 2007

From: Michael J. Zwart

Subject: Application Review: T-10455, Terra Magic, Inc.

This application proposes an additional POA. However, it was not clear regarding the proposed construction of the additional POA. I spoke with Watermaster Shad Hattan and the applicant's agent, Peter Mohr, several times on 10/3/07, and can now complete my review. It may be appropriate to have the applicant amend the application regarding the proposed construction of well #2.

Water Right Certificate 34399 authorizes use of well #1 (UNIO 325). This well was originally 1061 feet deep and developed both basalt of the Columbia River Basalt Group and overlying alluvial deposits. It therefore commingled two aquifers within the well bore and did not meet construction standards. The top of basalt was reported to be at 770 feet below land surface.

This well was repaired in 2003 (UNIO 51447). The repair was done to stop uncontrolled artesian flow. The bottom of the well was found to be caved in to a depth of 669 feet. The well bore was plugged with cement grout from that depth to land surface, but a 4-inch casing was installed to the bottom and is able to produce water. The application proposes to continue to use well #1, but only as an emergency or back up well to well #2. The well bore below the cement plug is still open to both the alluvial and basalt aquifers and therefore continues to commingle the two aquifers. This well should be properly abandoned as a condition of approval of this transfer.

Well #2 (UNIO 51475) was constructed in 2003 following repair of well #1. As currently constructed, well #2 develops the alluvial aquifer. However, the application appears to propose that well #2 will develop the basalt aquifer. The construction information provided (page 5) reflects the current alluvial well. The applicant's agent confirmed that the intent is to deepen well #2 to produce only from the basalt. He indicated that the well was constructed to produce from the alluvial aquifer as a result of a lack of funds to construct a deep basalt well at the time. The application could more clearly indicate that a basalt well is intended by proposing construction information for the well following its proposed deepening instead of as it is currently built.

The right of record authorizes both alluvial and basalt sources of ground water. The Department has historically treated rights subject to transfer that authorize appropriation from more than one aquifer in a manner that would limit the rate of appropriation to a percentage of the total allowed rate from each aquifer. In this case, the certificate was issued prior to recognition of a well-construction problem and therefore it authorizes a combined rate (as if only one aquifer was developed). Approval of this transfer should therefore limit the rate allowed for the basalt aquifer. Both alluvial and basalt wells would be required to approve a transfer of the entire 5.6 cfs. Since the current proposal is for one basalt well, the rate should be limited to less than the total rate. The original well log does not provide guidance as to the respective percent contribution of the basalt and alluvial aquifers developed. Absent the ability to now collect site-specific information at the original well #1, I recommend that the transfer limit the rate allowed from proposed well #2 to 2.8 cfs.

I find that the proposed change may be made without injury provided the following:

- Well #1 is properly abandoned.
- The rate allowed for proposed well #2 is limited to 2.8 cfs.
- The proposed construction of well #2 is clearly stated.
- The right is valid and the Watermaster can approve the proposal.

SC 114172 Terra Magic Inc. "Hunter Road" well.

December 2002 Waldo Lowe deepened the "Hunter Road" well by 150 feet and encountered an artesian water bearing zone (Per letter from Terra Magic to Waldo Lowe dated 8-8-2003).

- 2-5-2003 Eastern Region Field Office of the Water Resources Department received Start Card number 114172 from Waldo Lowe for an alteration of the Terra Magic "Hunter Road" well.
- 2-5-2003 Waldo Lowe called Robert Maynard at home and told him that he had a problem with the Terra Magic "Hunter Road" well and the Robert Maynard should come out and take a look at it (Per Robert Maynard).
- 2-6-2003 Well inspection by Robert Maynard. Not completed. Flowing 600-800 GPM.
- 2-7-2003 ** Well inspection. Well was still flowing. No ring or cap between 8 inch and 6 inch casing.
- 2-19-2003 Well Inspected by Robert Maynard. Not completed yet. Still flowing.
- 3-17-2003 Well inspected by Robert Maynard and Shad Hattan. Trying to remove liner to reseal.
- 5-5-2003 Robert Maynard meet with Waldo Lowe and Terra Magic (Diary Notes) to discuss problems with well. Inspection form says 5-6-2003.
- 5-14-2003 Robert Maynard meet with Kevin with Riverside Drilling. Meet with Waldo Lowe (Diary Notes).
- 5-28-2003 Robert Maynard meet with Dennis and Kevin with Riverside about Terra Magic wells.
- 6-5-2003 Robert Maynard meet with Waldo Lowe on another site. No changes with Terra Magic well yet.
- 6-17-2003 Robert Maynard. Terra Magic flow has slowed down to about 300 GPM. Meet with Terry (Riverside) and talked about repair or abandonment with Dennis Rasmussen (Terra Magic).
- 6-26-2003 Waldo Lowe came into Shad Hattans office to ask about the situation on Rasmussen (Terra Magic). (per Shad Hattans diary notes).
- 7-22-2003 Robert Maynard meet with Waldo Lowe and discuss Terra Magic well.
- 7-24-2003 ** Robert Maynard talked to Dennis and said that he wanted either Waldo to start

work on the well or to be released and a new driller sent in. I told him that I needed an answer by 8-4-2003.

- 7-30-2003 Dennis Rasmussen Terra Magic tried to video artesian well (Riverside Drilling) but camera broke. Will bring new camera by end of week.
- 8-4-2003 ** Terry (Riverside) tried to video well but camera broke. He is going to suggest that Ed Brown camera the well. Terry is suggesting drilling a new well and then abandoning the old one.
- 8-6-2003 Video Terra Magic well and then meet with Dennis (Riverside) and go over video and abandonment ways. Also present were Shad Hattan, Dennis Rasmussen and his son Colton, Terry Daugherty and Kevin (Riverside Drilling).
- 8-7-2003 ** Dennis called. We went over legal steps involved with Waldo vs Riverside on well. I told him if Riverside submitted a Start Card then Waldo was released, or Waldo would need a letter stating his release (ordering off property).
- 8-8-2003 ** Received letter from Terra Magic Inc.
- 8-8-2003 ** I sent a letter stating that I had received their letter.
- 8-11-2003 Talked to Tracy. Juno not available. Tracy said to write Waldo a letter and say that the well was in violation of OAR 690-210-0155. I called Dennis (Terra Magic) and told him that I would write Waldo a letter as soon as Jerry returned.
- 8-12-2003 Juno called and we discussed the Terra Magic well. Juno said that what we wanted to do was bring the well into compliance. If Waldo was unavailable to do this and beings the landowner already had another driller lined up (Riverside) then tell landowner to bring in another driller and get well into compliance. I asked Juno whether or not Waldo was responsible or if we would go after license and bond. Juno said that if Waldo was unable to bring well into compliance and there was another driller able or willing to do it then release Waldo and get well fixed. The ultimate responsibility is the landowner. If the landowner feels Waldo has done him wrong then that is a civil matter between him and Waldo. Juno also stated that unless there was something that she did not know or was unaware of then that was the end of it.

Note in border: Lawyers name is John Parsons.

- 8-12-2003 I called Dennis (Terra Magic) he was not very happy and wanted to talk to lawyer John and get back to me. He also noted that he would call Terry (Riverside) and tell him to move in on well.
- 8-12-2003 Dennis called and he wanted to talk to Juno or someone in charge before we did

anything else on this well. I gave him Juno's phone number and told him that she was out of town until Thursday.

- 8-15-2003 Dennis called me and wanted me to send Juno copy of his letter to Waldo to Juno and have her look it over and then give him a reply.
- 8-15-2003 Jerry and myself talked matter over and came up with an e-mail (for Dennis) and sent it off Juno for her ok.
- 8-16-2003 Dennis called my house and left messages at office and left a message that Waldo had hooked up to drill rig and rig looked like it was ready to be moved. But he did not know if the well rig had been moved yet.
- 8-18-2003 I called Dennis and left message to try to confirm if drill rig had been moved and ask him to let me know.
- 8-18-2003 I called Shad and ask him if he was going to be in area (he said yes) to see if drill was still on site and let me know. We also discussed what had taken place so far.
- 8-18-2003 13:15 Dennis called me and everything is gone except drill rig. It had been torn down and is ready but is still over well.
- 8-18-2003 15:30 Juno called and said that she had taken care of everything and that I was to do nothing. Terra Magic was going to go to Waldo and have him state what he was going to do and it was a matter between Terra Magic and Waldo.
- 8-19-2003 Waldo called and said that Dennis had met with him at Joe's and asked him what his intention was for the well. Waldo said that all he wanted to do was to get his drill rig and pull off the site and be done with it. He said Dennis said ok.
- 8-20-2003 Waldo called and said that he had talked to Terry and Kevin of Riverside and if things went as planned that they would move in on August 21, 2003 to abandon the well.
- 8-20-2003 I called Terry and asked him what he was going to do. He said as soon as he got word from Dennis (Terra Magic) he would send (fax) a Start Card and move onto well (8-21-2003) but to call Kevin and ask him about his schedule for sure.
- 8-20-2003 I called Kevin and left a message to call me and let me know his schedule on well.
- 8-20-2003 Kevin called and said that they would probably set up tomorrow afternoon 8-21-2003 and maybe try the bentonite drop Friday or Monday. Would call tomorrow and let me know.

8-21-2003 Waldo Lowe brought a copy of letter from Dennis Rasmussen to himself in the AM (per Shad Hattans diary notes).

8-25-2003 Postmark for Start Card number 158903 submitted by Riverside Drilling for Hunter Road Well abandonment.

8-26-2003 Put 60 ft of 3-inch pipe down well and put air tube down center to do a air lift. Could only move about 150 GPM. Pulled pipe and put perforator down well. Perforator would not work.

8-27-2003 Start Card number 158903 received from Riverside Drilling for abandonment of the "Hunter Road" well for Terra Magic.

8-27-2003 Tried to get perforator to work but it would not. Order one from Western Well.

8-28-2003 Got perforator from Western Wells. Perforator worked for a while then something broke. Pulled perforator and column of pull pipe had broken. They are going to go home and get new pull pipe and rest of stuff needed for abandonment.

9-2-2003 Put perforator back down well and perforate and start down with 4-inch steel pipe down center.

9-3-2003 Finish putting 4-inch to bottom and do a gravel pack around bottom screen on 4-inch pipe. Set tremie pipe down well (filled well to 609 ft bls [too much gravel])

9-4-2003 Pumped cement down well. Six trucks were from Hampton two were from RD Mac. The RD Mack trucks were mixed with a 20% fly ash and mixture was not mixed. The fly ash was in large balls. Everything from large watermelons down, probably 1/2 pickup load for two trucks. These balls plugged up cement dumper. They dumped remainder of RD Mack truck down well and also Hampton last truck. (Filled well to 300 ft below land surface).

9-5-2003 Inspection. Cement pumper would not work. (Inspection Database)

9-8-2003 Tried to pump cement down well but tremie pipe was plugged. Pull pipe then go back down. (Cement has 40% sand.) Pumped 3 truck loads. Eight yards per truck.

9-23-2006 17.5 PSI on well (good liquid gauge). No leakage found this stage of abandonment. Looks good. Dennis now thinks that he will keep and use the four inch well for use for irrigation.

10-28-2003 Well Log number "Unio 51447" received from Riverside Drilling for the alteration/ abandonment work on the "Hunter Road" well for Terra Magic.

7-25-2006 Lynn Steyaert contacted Shad Hattan and asked questions about the status of certificate 34399. Shad answered the questions the best he could and directed cancellation questions to the Salem Office (per e-mail from Shad dated 7-25-2006).

7-28-2006 Request for public records by Schroeder law Offices.

12-14-2006 E-mail from Robert Maynard to Kris Byrd at WRD:

Hey there Kris, you had asked me a question about the Terra Magic Well and I never did answer it. The way I remember it is that the original well never produce hardly any water, so Rasmussen hired Waldo to come in and deepen it. Then Waldo drilled down approx. 150 feet he encountered an artesian flow. The plans were to open the hole up now that they knew they had water down there. Then set a 8" casing in place and grout to land surface, that way sealing the upper part of the well. But in order to enlarge the 150ft of hole they had to first remove a 8" liner that was down there. Waldo tried to pull the liner first by going in with a casing spear and grabbing the liner and pulling it out. But once Waldo grabbed the liner he could not pull it, and his old rig had a lot of pull back too. So then he decided that he would go down and grind the liner out as it should have been thin wall (.177), but the pieces that Waldo got out were all .250 or better, not thin wall like the log stated. Anyway the bit ended up going thru the outside of the casing and then let the formation come in and plug up the well. Waldo was trying to drill the steel liner and the formation out, but was going very slow and Rasmussen got impatient and wanted Waldo off. So that is basically what happened on this well. Hope that explains things a little better, Bob

“***” Denotes items added by Robert Maynard from his notes not included in packet sent out as part of records request. These were added to list on December 14, 2006.

Corrected

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-10455, Union County)
)
)
)

PRELIMINARY DETERMINATION
PROPOSING TO APPROVE AN
ADDITIONAL POINT OF
APPROPRIATION

X

Authority

ORS 537.705 and 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of appropriation, place of use, or character of use authorized under an existing water right. OAR Chapter 690, Division 380 implements the statutes and provides the Department's procedures and criteria for evaluating transfer applications.

Applicant

TERRA MAGIC INC.
PO BOX 3093
LA GRANDE OR 97850

Findings of Fact

Background

1. On September 5, 2007, Terra Magic Inc. filed an application for an additional point of appropriation under Certificate 34399. The Department assigned the application number T-10455.
2. On November 15, 2007 the applicant was notified of the deficiencies found in the application and map.
3. On December 18, 2007 a representative for the applicant resolved a portion of the issues.
4. On March 3, 2008 the application map was amended.
5. On April 1, 2008 a second amendment to the application map was made.
6. The portion of the right to be transferred is as follows:
Certificate: 34399 in the name of Sylvan B. Rasmussen; Martha Joy Rasmussen (perfected under Permit G-2739)
Use: IRRIGATION of 400.1 ACRES; SUPPLEMENTAL IRRIGATION of 54.9 ACRES
Priority Date: AUGUST 12, 1964

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: 5.6 CUBIC FEET PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: WELL 1 (UNIO 325) in the GRANDE RONDE RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	WELL No. 1: 10 FEET NORTH & 2460 FEET WEST FROM SE CORNER, SECTION 3

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	2	SW SW	40.0
2 S	38 E	WM	2	SE SW	39.1
2 S	38 E	WM	3	SW SW	40.0
2 S	38 E	WM	3	SE SW	39.5
2 S	38 E	WM	3	SW SE	1.6
2 S	38 E	WM	3	SE SE	38.5
2 S	38 E	WM	4	SE SE	12.3
2 S	38 E	WM	9	NE NE	12.4
2 S	38 E	WM	10	NE NE	39.1
2 S	38 E	WM	10	NW NE	36.2
2 S	38 E	WM	10	NE NW	23.2
2 S	38 E	WM	10	NW NW	39.1
2 S	38 E	WM	11	NW NW	39.1
Total:					400.1

SUPPLEMENTAL IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
2 S	38 E	WM	3	SW SE	36.4
2 S	38 E	WM	3	SE SE	1.5
2 S	38 E	WM	10	NW NE	2.0
2 S	38 E	WM	10	NE NW	15.0
Total:					54.9

7. The applicant proposes to deepen and alter a well identified by well log number (UNIO 51475) also known as Well No. 2 in order to develop water from only the basalt aquifer. Application T-10455 proposes to add Well No 2 to this water right:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	WELL No. 2: 79 FEET NORTH AND 2548 FEET WEST FROM THE SE CORNER, SECTION 3

8. The applicant also proposes to construct an additional well completed in the basalt aquifer located at:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
-----	-----	-----	-----	-----	--------------------

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
2 S	38 E	WM	3	SW SE	WELL NO 3: 40 FEET NORTH AND 2460 FEET WEST FROM THE SE CORNER, SECTION 3

9. Notice of the application for transfer was published on September 18, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. There is not sufficient evidence that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A 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-10455.
12. Well No 1 (UNIO 325) was constructed to a depth of 1061 feet deep. As a result the alluvial and underlying aquifers were commingled and (UNIO 325) did not meet well construction standards. There was an attempt to repair the well in 2003 (UNIO 51447). This well is the authorized well for Certificate 34399.
13. Based on information available, the department finds that the well UNIO 325 developed 2.8 CFS from the alluvial aquifer and 2.8 CFS from the basalt aquifer.
14. Developing more water from the basalt aquifer then was available at the original well would be considered enlargement of Certificate 34399. Enlargement will not occur if condition 5 below is met.
15. The proposed change would not result in injury to other water rights.
16. The issuance of a final order approving this transfer does **not** relieve the applicant from complying with the requirements for construction standards for all wells, as may be required by OAR Chapter 690, Division 200, Well Construction and Maintenance.
17. The applicant requested that the completion deadline be extended until 2013.
18. On April 11, 2008, the Department mailed the applicant and agent a copy of the Preliminary Determination proposing to approve Transfer Application T-10455. The Preliminary Determination set forth a deadline of May 7, 2008, for the applicant to respond. The authorized agent responded and submitted an amendment to the application and map and provided an ownership and lien report on May 19, 2008.
19. On June 24, 2008, the applicant's agent 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 (or amended the application or did not respond by the deadline).
20. On May 15, 2008, the applicant requested a condition regarding the use of the authorized well known as Well No 1, and is described in finding of fact number 6. The condition will require that Well No 1 shall be dedicated as an "emergency use" or "back-up well" where