

T-10397

T-10397

4 Ace Weston

Name Otto C. Gaither, Patsy L. Rusby-Gaither

By _____

Address 1740 Cedar Flat RdWilliams, OR 97544541 846-6255Change in PODDate filed 5-29-07

Date of hearing _____

Place of hearing _____

Date of order 11-9-09 Vol. 79, page 167

Date for application of water _____

Proof mailed _____

Proof received _____

Certificate issued _____ Vol. _____, page _____

E= 85910
CF 85909RR 85908
RR 85907

DESCRIPTION OF WATER RIGHT

Name of stream Munger Creek Hartley ResTrib. of W F Williams cr/Chinac County of JosephineUse IR

Quantity of water _____ No. of acres _____

Name of ditch _____

Date of priority 1881 1914In name of IT HartleyRogue River Final Decree
Adjudication, Vol. _____, page 16346App. No. 5-3860 Per. No. 5-2142 Cert. No. 2038

Certificate cancelled _____

Notation made on record by _____

FEES PAID

Date	Amount	Receipt No.
<u>5-29-07</u>	<u>350.00</u>	<u>87816</u>
TOTAL . . .		
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

REMARKS

NOID/CURE: Gordon R. Lyford #341Josephine County SDD NW 6th St. Grants Pass, OR 97526

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **87816**

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

INVOICE # _____

RECEIVED FROM: Offo C Gauthier or
BY: Pat L Busby Gauthier

APPLICATION	
PERMIT	
TRANSFER	<u>T-10397</u>

CASH: ☐ CHECK:# 2327 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 350.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

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

4270 WRD OPERATING ACCT

MISCELLANEOUS PCA-46111

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

WATER RIGHTS:

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

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ _____ CARD # _____
0210 MONITORING WELLS \$ _____ CARD # _____

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **87816**

DATED: 5/29/07 BY: JS nite



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 2, 2009

Otto C. Gaither
Patsy L. Busby-Gaither
Ace Weston
1740 Cedar Flat Road
Williams, OR 97544

Re: Transfer Application T-10397

We have reviewed your transfer application for a point of diversion change to reflect a historic point of diversion (unauthorized point of diversion used for more than 10 years). In order to process the transfer to reflect this change in point of diversion reflecting historical use, additional documentation is required.

1. Evidence that the actual, current point of diversion for the water rights in question has been in use for more than 10 years. This evidence may be in the form of notarized affidavits from the other water right holders that share the system.
2. Evidence that there has been no claim of injury prior to the request for the change in point of diversion for the water rights. The evidence shall include a statement from the local watermaster that no complaint of injury has been made due to the use of water at the actual current point of diversion. Kathy Smith, Watermaster District 14, has provided this information to our office, so further documentation is not needed at this time.
3. We are required to rule to provide you with a list of affected water rights with an intervening point of diversion. We have identified only one water right - Certificate 41786 issued to C.H. Hennings on March 5, 1975. We are enclosing copies of the certificate and map for your convenience. You are responsible for determining the current holder of this water right (Certificate 41786).
4. You are responsible for mailing or hand delivering a copy of the enclosed notice to the person identified in item 3 above (current holder of Certificate 41786).
5. In addition, you need to provide proof to us that you mailed or hand delivered a copy of the Notice to the current holder of Certificate 41786. We are enclosing a sample of the proof of service for your convenience.

Letter to: Gaither, Busby-Gaither, & Weston
Page Two
September 2, 2009

After we have received all of the above documentation, a 30-day comment period will run. This time period will allow the holder of the water right identified in item #3 above to provide comments on whether the requested change in point of diversion will cause injury. After this 30-day comment period, we will determine whether you have satisfied the requirements and the change does not cause injury, or if any conditions will need to be met to prevent injury.

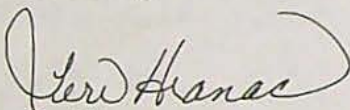
I am enclosing a copy of Oregon Department of Fish and Wildlife (ODF&W) Additional Fish Screening and Passage Information for the Applicant. You will note that ODF&W requires a fish screening and/or by-pass device to be installed prior to water being diverted. We will establish a deadline for compliance with this condition. Please contact the ODF&W personnel listed on the document for assistance.

In addition, we require a Report of Ownership. This is a document prepared by a title company within the last 3 months that includes ownership and a legal description of the lands to which the water rights are appurtenant.

We have requested Josephine County to complete and return a new Land Use Planning form. The document received was only the last page and we need the complete form.

Please do not hesitate to contact me at (503) 986-0881 or teri.k.hranac@wr.d.state.or.us if you should have any questions.

Sincerely,



Teri Hranac
Water Right Transfer Specialist
Field Services

Enclosures

cc: Gordon Lyford, CWRE #341
Kathy Smith, Watermaster District #14

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That C. H. HENNINGS

of 1700 Cedar Flat Road, Williams, State of Oregon 97544, has a right to the use of the waters of West Fork Williams Creek a tributary of Williams Creek for the purpose of irrigation of 37.5 acres and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for Jackson County, and the said decree entered of record at Salem, in the Order Record of the STATE ENGINEER, in Volume 4, at page 1; that the priority of the right thereby confirmed dates from 1900

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 0.625 cubic foot per second

The point of diversion is located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, T. 39 S., R. 5 W., W. M., 360 feet South and 2600 feet West from Ek Corner, Section 4.

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

7.3 acres SW $\frac{1}{4}$ NE $\frac{1}{4}$
30.2 acres SE $\frac{1}{4}$ NE $\frac{1}{4}$
Section 4
T. 39 S., R. 5 W., W. M.

This certificate is issued to confirm a change in point of diversion approved by an order of the State Engineer entered April 30, 1970, and together with the certificate recorded at page 41787, Volume 33 supersedes certificate of water right heretofore issued to J. T. Hartley and recorded at page 16321, Volume 13, State Record of Water Right Certificates.

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

WITNESS the signature of the State Engineer, affixed

this date March 5, 1975.

Chris L. Wheeler
State Engineer

Recorded in State Record of Water Right Certificates, Volume 33, page 41786

BEFORE THE STATE ENGINEER OF OREGON

Josephine County

IN THE MATTER OF THE APPLICATION)
OF C. H. HENNINGS FOR THE APPROVAL)
OF A CHANGE IN POINT OF DIVERSION)
OF WATER FROM WEST FORK WILLIAMS)
CREEK)

ORDER APPROVING
TRANSFER NO. H-198

On June 2, 1969, C. H. Hennings filed an application in the office of the State Engineer for the approval of a change in point of diversion of water from West Fork Williams Creek, pursuant to the provisions of ORS 540.510 to 540.530.

By Decree of the Circuit Court for Jackson County, Oregon, entered April 29, 1925, In the Matter of the Determination of the Relative Rights to the Use of the Waters of Rogue River and its Tributaries, a water right was established in the name of J. T. Hartley for the use of the waters of West Fork Williams Creek for the irrigation of 39.0 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 39 South, Range 5 West, W.M., with a date of priority of April 1, 1900. This right is evidenced by certificate recorded at page 16321, Volume 13, State Record of Water Right Certificates. These lands are irrigated by means of the Hartley Ditch from a point of diversion located 1820 feet north and 1300 feet east from the SW corner of Section 4 being within the NW $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 4, Township 39 South, Range 5 West, W.M.

The applicant herein, owner of 7.3 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ and 30.2 acres in SE $\frac{1}{4}$ NE $\frac{1}{4}$ of the lands above described, proposes to irrigate said lands from a point of diversion to be located 425 feet south from the center of Section 4 being within the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 4, Township 39 South, Range 5 West, W.M.

Notice of the filing of the application was given by publication setting forth a time and place certain for hearing objections

It is FURTHER ORDERED that the following provisions shall be effective when in the judgement of the watermaster it becomes necessary to install headgates and measuring devices.

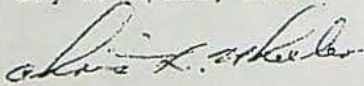
That the diversion works shall include an in-line flow meter, a weir, or other suitable device for measuring the water to which the applicant is entitled.

That the type and plans of the measuring device be approved by the watermaster before the beginning of construction work and that the weir or measuring device be installed under the general supervision of said watermaster.

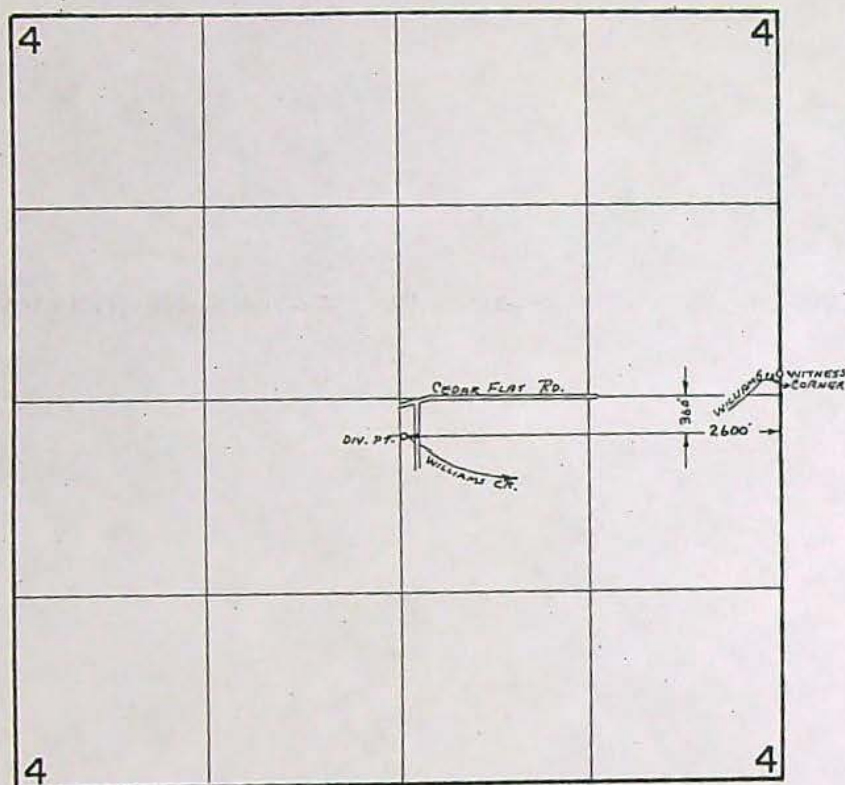
A change in point of diversion for the balance of the land described in the certificate recorded at page 16321, Volume 13, State Record of Water Right Certificates, was approved by an order of the State Engineer entered April 30, 1970.

It is FURTHER ORDERED that certificate of water right heretofore issued to J. T. Hartley and recorded at page 16321, Volume 13, State Record of Water Right Certificates, is canceled and upon receipt of proof satisfactory to the State Engineer of completion of the authorized change in point of diversion, a certificate of water right shall be issued to C. H. Hennings confirming said change in point of diversion.

Dated at Salem, Oregon, this 30th day of April, 1970.


CHRIS L. WHEELER
State Engineer

T.39S.,R.5W.,W.M.



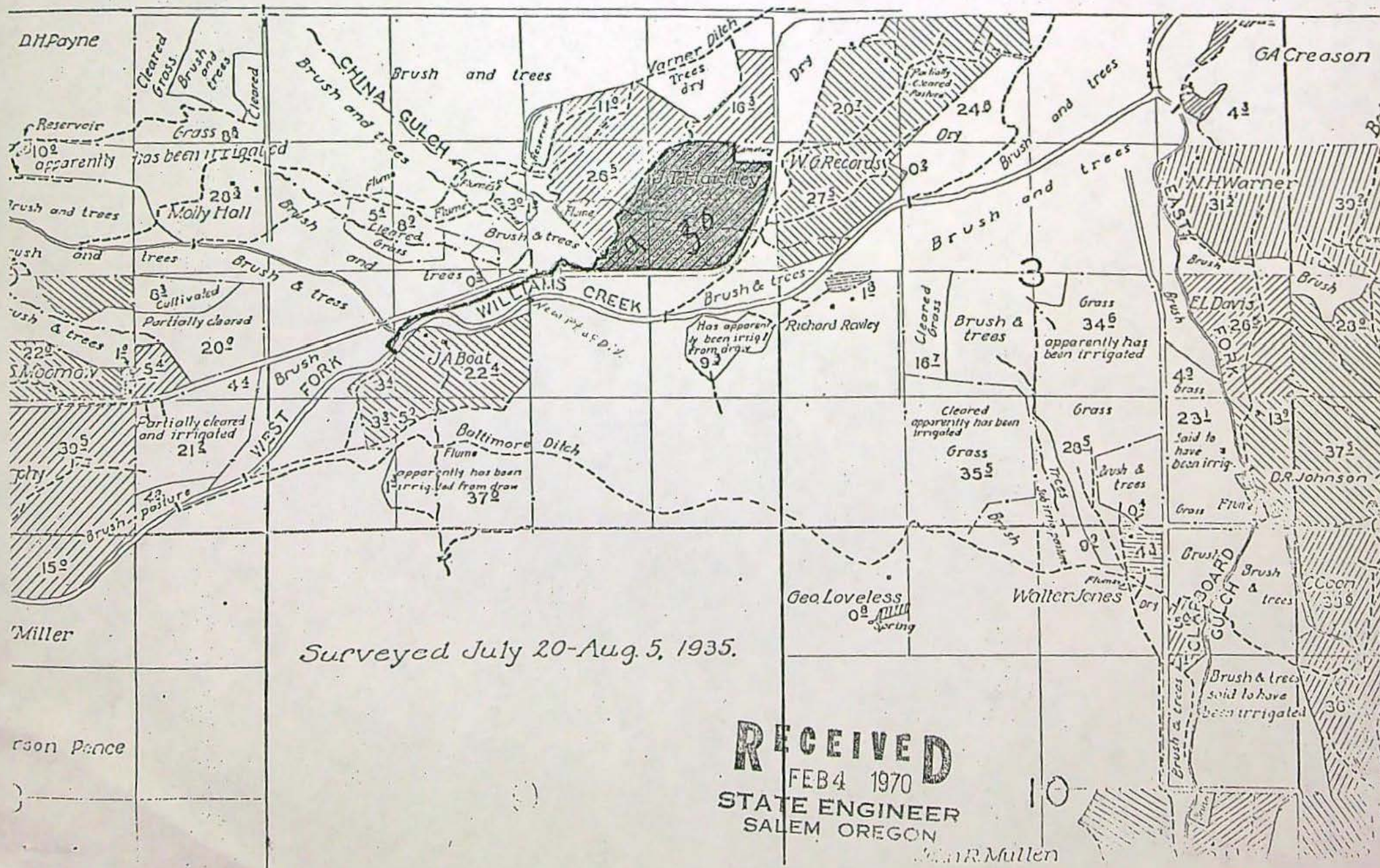
FINAL PROOF SURVEY
UNDER

Transfer No. H-198
Application No. _____ Permit No. _____
IN NAME OF

C. H. HENNINGS

Surveyed SEPT. 12 1974, by L. TOLL

TOWNSHIP 39 S., RANGE 5 W.



IMPORTANT NOTICE OF PROPOSED CHANGE IN A WATER RIGHT POINT OF DIVERSION

Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston, residing at 1740 Cedar Flat Road, Williams, OR 97544, submitted a transfer application under ORS 540.532 to the Oregon Water Resources Department requesting a change in points of diversion for a portion of Water Right Certificates 16346 and 2038 to reflect more than 10 years of historical use of water at a point of diversion other than that described in the water right. The Transfer Application number is 10397.

The authorized point of diversion under Certificate 16346 is: MUNGER Creek, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 4, Township 39 South, Range 5 West, Willamette Meridian.

The authorized point of diversion under Certificate 2038 is: MUNGER CREEK and HARLEY RESERVOIR located in the NW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 4, Township 39 South, Range 5 West, Willamette Meridian.

Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston propose to officially change the point of diversion for 0.6 acres under Certificate 16346, and 2.3 acres under Certificate 2038 to:

WEST FORK OF WILLIAMS CREEK, located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$, Section 4, Township 39 South, Range 5 West, Willamette Meridian; 310 feet South and 50 feet East of the Center of Section 4.

Why You Received This Notice

You have received this notice because the Oregon Water Resources Department has identified you as the owner of a water right that may be affected by the proposed change in point of diversion. By law, it is the responsibility of the applicant to provide you notice of the proposed change in point of diversion. The applicant also is required to provide the Department written proof that this notice was delivered to you.

The Purpose of This Notice

The purpose of this notice is to provide you an opportunity to comment upon whether the proposed change will cause injury to the exercise of your water right. A **30-day comment period** begins upon receipt of this notice. Comments should reference the Transfer Application number, identify the water right subject to injury by permit or certificate number or decree name, and describe the nature of the injury caused by the change in point of diversion.

Mail Your Comments To:

Oregon Water Resources Department
Transfer Section, Field Service Division
725 Summer St. NE, Suite A
Salem, OR 97301-1271

Transfer 10397

How the Department Will Use Your Comments

The Department will use these comments to determine whether the proposed change in point of diversion would injure other water rights. The transfer application shall be approved if the Department finds no injury to other water rights.

Proof of Service

I, _____, hereby certify that I delivered the attached notice, either by prepaid, first-class mail or by hand delivery, a notice of my intent to change the point of diversion to reflect historic use to the following:

Name:	_____	Check <u>One</u>
		____ Hand delivered
Street:	_____	____ Mailed
City, State, Zip:	_____	_____
		Date mailed or delivered

Name:	_____	____ Hand delivered
Street:	_____	____ Mailed
City, State, Zip:	_____	_____
		Date mailed or delivered

Name:	_____	____ Hand delivered
Street:	_____	____ Mailed
City, State, Zip:	_____	_____
		Date mailed or delivered

Name:	_____	____ Hand delivered
Street:	_____	____ Mailed
City, State, Zip:	_____	_____
		Date mailed or delivered

(signature)

Date

Return this completed form to:
Oregon Water Resources Department,
725 Summer St. NE, Suite A
Salem, OR 97301-1266

Transfer 10397

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

Transfer # 10397

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

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

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

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

ODFW staff name: Rich Kilbane
Address: 1495 East Gregory Road
City/State/Zip: Central Point OR 97502
Phone: (541) 826-8224

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

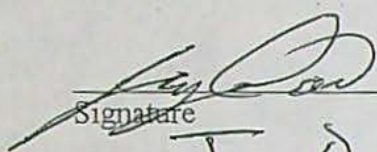
ODFW staff name: _____
Address: _____
City/State/Zip: _____
Phone: () _____

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

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.

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


Signature

Jay Doind
Printed Name

ODFW
Title

(541) 826-8774
Phone

RECEIVED

JUL 05 2007

WATER RESOURCES DEPT
SALEM, OREGON

**Oregon Water
Resources
Department**

Memo

To: Pat Gaither
Kathy Smith, Watermaster
Data Center
File T-10397
From: Sarah Henderson *SH*
Date: December 17, 2009
Re: Water Right Certificate 85919, 85918

Attached are the new correcting Water Right Certificates 85919, 85918 issued to correct the names listed on the previous Water Right Certificates.

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
PATSY BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK AND HARTLEY RESERVOIR, AS DESCRIBED IN PERMIT R-296, CERTIFICATE 2065, tributaries to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 2.3 ACRES.

This right was perfected under Permit S-2142. The date of priority is AUGUST 18, 1914. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.03 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

TwP	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion on Munger Creek and Hartley Reservoir, tributary to the West Fork William Creek located in the NWNE and SWNW OF Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
TwP	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

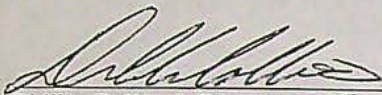
Prior to October 1, 2011, the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

This certificate is issued to correct the names listed on Certificate 85910 issued on November 9, 2009, which approved transfer Application T-10397, and supersedes Certificate 85910, State Record of Water Right Certificates.

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

WITNESS the signature of the Water Resources Director, affixed DEC 17 2009.


Phillip C. Ward, Director *fn*

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
PATSY BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK, tributary to WEST FORK OF WILLIAMS CREEK for IRRIGATION of 0.6 ACRE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1881. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.01 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion on Munger Creek located in the NWSW, Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

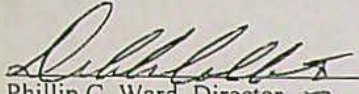
Prior to October 1, 2011, the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This certificate is issued to correct the names listed on Certificate 85909 issued on November 9, 2009, which approved Transfer Application T-10397, and supersedes Certificate 85909, State Record of Water Right Certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

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

WITNESS the signature of the Water Resources Director, affixed DEC 17 2009.


Phillip C. Ward, Director *PCW*

Teri Hranac

From: Sarah Henderson
Sent: Tuesday, November 17, 2009 8:16 AM
To: Teri Hranac
Subject: FW: transfer

Hi Teri,

Can you answer this question?

Thank you.

Sarah

From: pat gaither [mailto:opgoldsearchers@localnet.com]
Sent: Tuesday, November 17, 2009 6:48 AM
To: Sarah Henderson
Subject: transfer

Reference: Transfer Application T-10397

Morning Sarah:

We received our final order for change of point of diversion, I was wondering why on the certificates it only has Otto Gaither name instead of all 3 names as in the application?

We are working ODFW so we can get the fish screen in next spring.
Thank you for all your hard work on getting this approved.

Sincerely

Pat Gaither

11/17/2009

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK, tributary to WEST FORK OF WILLIAMS CREEK for IRRIGATION of 0.6 ACRE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1881. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.01 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion on Munger Creek located in the NWSW, Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

Prior to October 1, 2011, the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T- 10397, and together with Certificate 85907, supersedes Certificate 16346, State Record of Water Right Certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.



Phillip C. Ward, Director *PCW*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK AND HARTLEY RESERVOIR, AS DESCRIBED IN PERMIT R-296, CERTIFICATE 2065, tributaries to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 2.3 ACRES.

This right was perfected under Permit S-2142. The date of priority is AUGUST 18, 1914. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.03 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion on Munger Creek and Hartley Reservoir, tributary to the West Fork William Creek located in the NWNE and SWNW OF Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

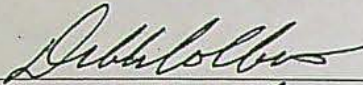
Prior to October 1, 2011 the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397, and together with Certificate 85908, supersedes Certificate 2038, State Record of Water Right Certificates.

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.


Phillip C. Ward, Director *PCW*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J. T. HARTLEY
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK AND HARTLEY RESERVOIR, AS DESCRIBED IN PERMIT R-296, CERTIFICATE 2065, tributaries to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 20.67 ACRES.

This right was perfected under Permit S-2142. The date of priority is AUGUST 18, 1914. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.26 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the points of diversion.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	NE NE	3.00
39 S	5 W	WM	4	NW NE	2.00
39 S	5 W	WM	4	SW NE	15.67

This certificate describes that portion of the water right confirmed by Certificate 2038, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397.

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

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.



Phillip C. Ward, Director *PCW*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J. T. HARTLEY
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK, a tributary to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 27.9 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1881.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.472 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q
39 S	5 W	WM	4	NW SW

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

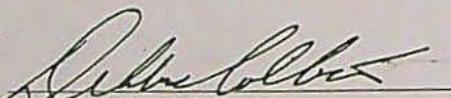
IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	NW NE	2.0
39 S	5 W	WM	4	SW NE	25.9

This certificate describes that portion of the water right confirmed by Certificate 16346, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397.

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

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009


Phillip C. Ward, Director *PCW*

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A CHANGE
T-10397, Josephine County	)	IN POINTS OF DIVERSION TO REFLECT
	)	HISTORIC USE AND PARTIAL
	)	CANCELLATION OF WATER RIGHTS

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right.

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

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

OTTO C. GAITHER
PATSY L. BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

Findings of Fact

Background

1. On May 29, 2007, OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON filed a transfer application for authorization of historic points of diversion under Certificates 16346 and 2038. The Department assigned the application number T-10397.
2. The portion of the first right to be transferred is as follows:

Certificate:	16346 in the name of J. T. HARTLEY (confirmed by Rogue River Final Decree)
Use:	IRRIGATION OF 0.6 ACRE
Priority Date:	1881

This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

Rate: 0.01 CUBIC FOOT PER SECOND

Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

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

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)

Use: IRRIGATION OF 2.3 ACRES

Priority Date: AUGUST 18, 1914

Rate: 0.03 CUBIC FOOT PER SECOND

Source: MUNGER CREEK and HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

4. Transfer Application T-10397 proposes to move the points of diversion for these portions of the rights to reflect historic use of a point of diversion 0.5 mile downstream located on the West Fork of Williams Creek as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

5. Notice of the application for transfer was published on June 5, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

7. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water rights in question, as described in Finding of Fact #4, has been in use for more than 10 years.
8. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to her knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
9. Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.
10. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are 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 are present.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.

Partial Cancellation of Water Rights

14. On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 16346 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 16346 in the name of J. T. HARTLEY (confirmed by Rogue River Final Decree)
Use: IRRIGATION OF 0.5 ACRE
Priority Date: 1881
Rate: 0.008 CUBIC FOOT PER SECOND
Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.5

15. On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 2038 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)
Use: IRRIGATION OF 4.03 ACRES
Priority Date: AUGUST 18, 1914
Rate: 0.05 CUBIC FOOT PER SECOND
Source: MUNGER CREEK AND HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	4.03

Conclusions of Law

The proposed change in points of diversion to reflect historical use in application T-10397 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000 and the abandoned rights should be cancelled.

Now, therefore, it is ORDERED:

1. The change proposed in T-10397 is approved and effective immediately. The portion of the rights that have been abandoned are cancelled.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 16346 and 2038, and any related decrees.
3. Water right certificate 16346 is cancelled. Certificate 85909 will be issued to confirm the change in point of diversion for the portion of the right included in T-10397. Certificate 85907 will be issued to describe that portion of Certificate 16346 not modified by this order. Together, the new certificates shall supersede Certificate 16346.

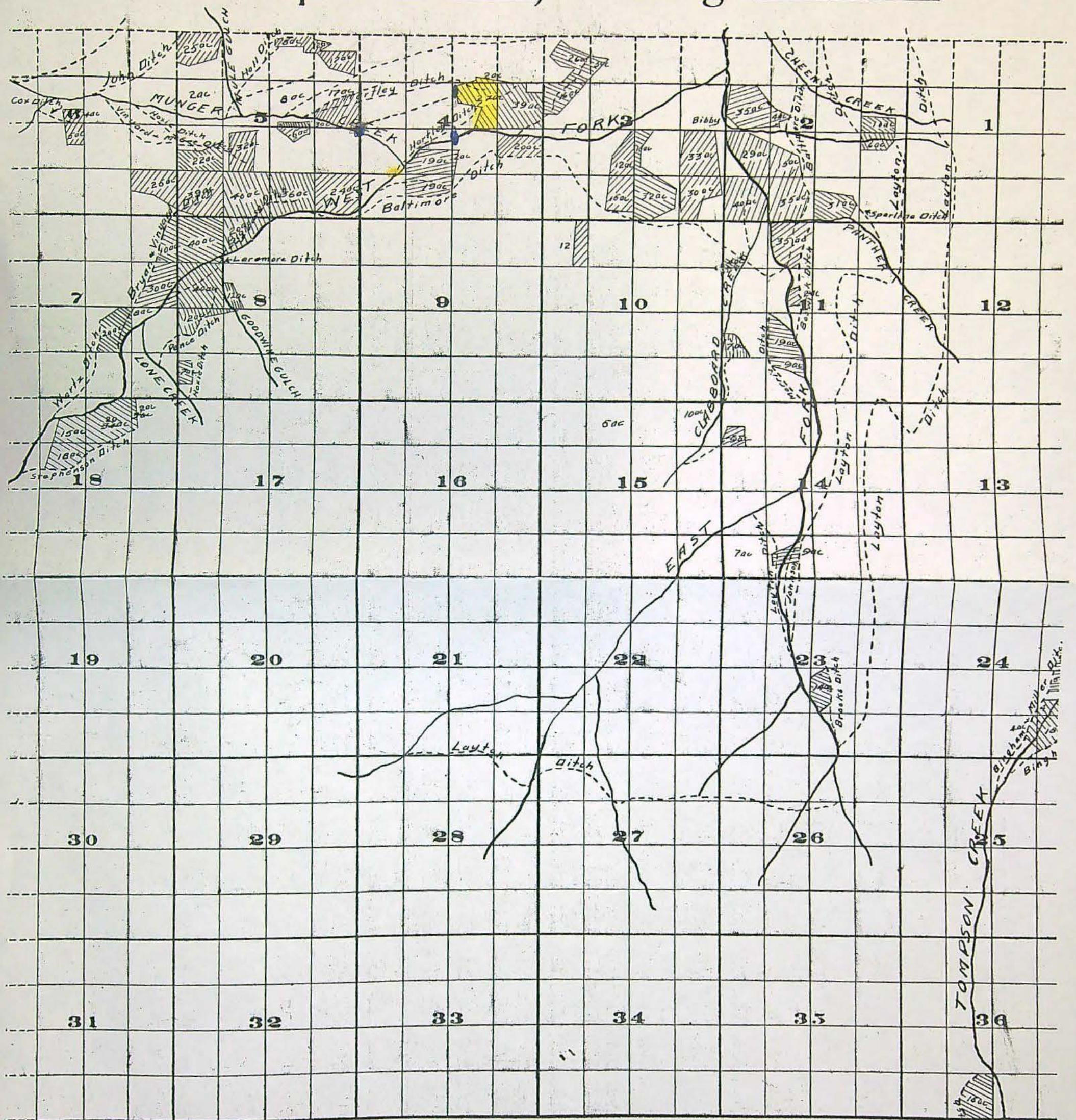
4. Water right certificates 2038 is cancelled. Certificate 85910 will be issued to confirm the change in points of diversion for the portion of the right included in T-10397. Certificate 85908 shall be issued to describe the portion of Certificate 2038 not modified by this order. Together, the new certificates shall supersede Certificate 2038.
5. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion from the sources of Munger Creek and Hartley Reservoir.
6. Prior to October 1, 2011 and prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. Prior to October 1, 2011, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to diverting water, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

Dated at Salem, Oregon this 9th day of November 2009.


Phillip C. Ward, Director *rw*

Mailing date: NOV 11 2009

Township 39S, Range 5W.



Survey by J.S. McMahon May 1910.
Scale of Feet.

FROM OFFICE OF THE STATE ENGINEER, SALEM, OREGON

Adjudication

Rogue River and Tributaries

Examined Sept. 18, 1911

John H. Lewis State

6-13-2010

Hi Teri -

Here is the final map that we discussed some time ago for T-10397. This is not a COBU map, just a final map to show only the water rights under C# 85918 and C# 85919. With all of the late rain the fish screen was only installed yesterday.

Thanks - Gordon

Water Right Map for C# 85918 & C# 85919 from T-10397

T 39 S, R 5 W, WM, JOSEPHINE COUNTY

Portions of Section 4

June 12, 2010

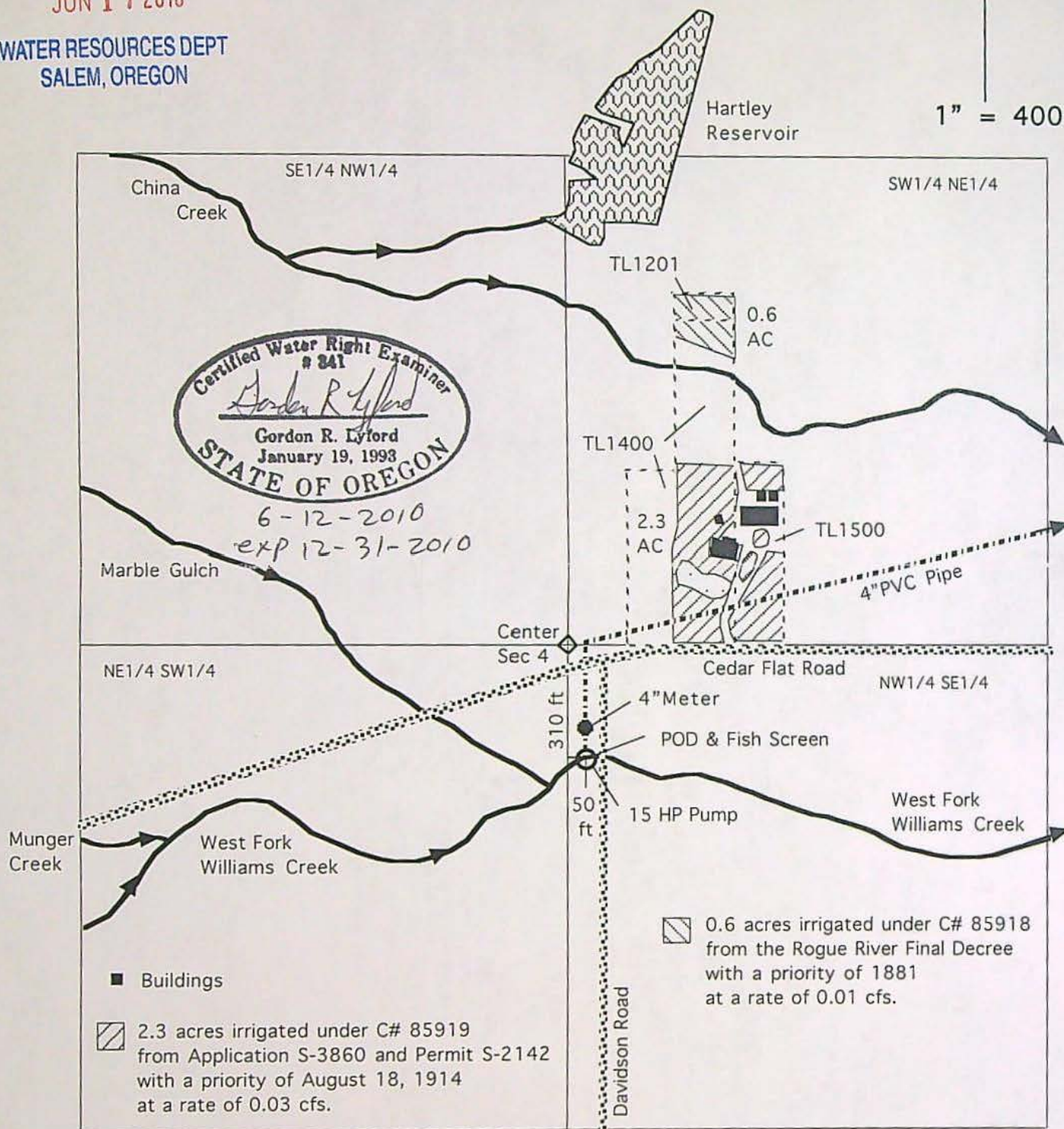
RECEIVED

JUN 17 2010

WATER RESOURCES DEPT
SALEM, OREGON



1" = 400'



This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to show the water rights under certificate # 85918 and certificate # 85919 from transfer # 10397. They own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

Water Right Transfer Checklist

Transfer T-10397

Transfer Specialist: Sw Region Drawer

Transfer Type: Regular

Applicant Name/Address: Otto Gaither, Patsy Busby-Gaither, Ace Weston; 1740 Cedar Flat Rd; Williams OR 97544

Agent Name/Address: NONE

CWRE Name/Number: Gordon Lyford #341

Rec Landowner Name/Address: NONE

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: Josephine County; 500 NW 6th Street; Grants Pass OR 97526

Commentors: Name/Address: NONE

Water Rights Affected

Records Marked	Records Copied	App File No. or Decree Name	Permit No.	Certificate No.	RR/CR Needed	RR/CR Nos.
☒	☒	S 3860	S 2142	2038	☒ Yes ☐ No	<u>85908</u>
☒	☒			16346	☒ Yes ☐ No	<u>85907</u>
☐	☐				☒ Yes ☐ No	

RR

Confirm.

85910

85909

Key Dates & Initial Actions

Rec'd: <u>05/29/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER: POD <u>Historic</u>	
Fees Pd: <u>350</u>	WM District: <u>14</u>	ODFW District: <u>Todd Confer</u>
Initial Notice: <u>06/05/07</u>	WM Review sent: <u>06/06/07</u>	ODFW Review sent: <u>06/06/07</u>
Acknowledgement Letter Sent ☒		GW Review sent: <u>NONE</u>

Processing Dates & Actions

Deficiency Contacts: _____

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)

Reviewer: NMTX
Date: 10-22-2009
Coordinator: _____
Date: _____

PD Review (Salem)

Reviewer: _____
Date: _____
Coordinator: _____
Date: _____

Final Order Review (Salem)

Reviewer: PKS
Date: 11/9/09
Coordinator: DPD
Date: 11/9/09

Comments/Special Issues:

Special Order Volume: Vol 79 Pages 167

Final Order Signature Date: 11-9-09

Notice of FO email'd to processors feri

Teri Hranac

From: pat gaither [opgoldsearchers@localnet.com]

Sent: Monday, March 15, 2010 10:38 AM

To: Teri Hranac

Subject: transfer # T-10397

Morning Teri:

I wanted to let you know that we have installed our Flo meter.on Feb. 16 2010.

It is:

McCrometer Flo Meter

Item # MO 304

Serial # 10-00879

ID. 4.026

It is a 4 inch PVC pipe that it is in.

We also have the Sure Flow Fish Screen; SCS VV4.

We are just waiting for the irrigation season to start before we install it in the creek.

Gordon Lyford is doing a final map. And when it is completed we will be forwarding it to you also.

Thank You for all your help, and if you have any further questions please don't hesitate to contact myself or Gordon.

Pat Gaither

Transfer # T-10397



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 10, 2009

OTTO C. GAITHER
PATSY L. BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

REFERENCE: Transfer Application T-10397

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

Also enclosed are certificates issued to confirm the historic change in point of diversion approved by the final order contained herein. Please read these documents carefully and abide by the requirements.

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@wrд.state.or.us.

Sincerely,

Sarah Henderson
Executive Support
Field Services Division

cc: Watermaster Dist. # 14
Gordon Lyford, CWRE

Enclosures

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A CHANGE
T-10397, Josephine County	)	IN POINTS OF DIVERSION TO REFLECT
	)	HISTORIC USE AND PARTIAL
	)	CANCELLATION OF WATER RIGHTS

Authority

ORS 540.505 to 540.580 establishes the process in which a water right holder may submit a request to transfer the point of diversion, place of use, or character of use authorized under an existing water right.

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

ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.

Applicant

OTTO C. GAITHER
PATSY L. BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

Findings of Fact

Background

1. On May 29, 2007, OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON filed a transfer application for authorization of historic points of diversion under Certificates 16346 and 2038. The Department assigned the application number T-10397.
2. The portion of the first right to be transferred is as follows:

Certificate:	16346 in the name of J. T. HARTLEY (confirmed by Rogue River Final Decree)
Use:	IRRIGATION OF 0.6 ACRE
Priority Date:	1881

This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

Rate: 0.01 CUBIC FOOT PER SECOND

Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

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

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)

Use: IRRIGATION OF 2.3 ACRES

Priority Date: AUGUST 18, 1914

Rate: 0.03 CUBIC FOOT PER SECOND

Source: MUNGER CREEK and HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

4. Transfer Application T-10397 proposes to move the points of diversion for these portions of the rights to reflect historic use of a point of diversion 0.5 mile downstream located on the West Fork of Williams Creek as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

5. Notice of the application for transfer was published on June 5, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
6. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

7. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water rights in question, as described in Finding of Fact #4, has been in use for more than 10 years.
8. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to her knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
9. Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.
10. Water has been used within the last five years according to the terms and conditions of the rights. There is no evidence available that would demonstrate that the rights are 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 are present.
12. The proposed change would not result in enlargement of the rights.
13. The proposed change would not result in injury to other water rights.

Partial Cancellation of Water Rights

14. On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 16346 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 16346 in the name of J. T. HARTLEY (confirmed by Rogue River Final Decree)
Use: IRRIGATION OF 0.5 ACRE
Priority Date: 1881
Rate: 0.008 CUBIC FOOT PER SECOND
Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.5

15. On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 2038 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)
Use: IRRIGATION OF 4.03 ACRES
Priority Date: AUGUST 18, 1914
Rate: 0.05 CUBIC FOOT PER SECOND
Source: MUNGER CREEK AND HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	4.03

Conclusions of Law

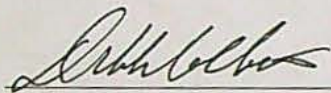
The proposed change in points of diversion to reflect historical use in application T-10397 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000 and the abandoned rights should be cancelled.

Now, therefore, it is ORDERED:

1. The change proposed in T-10397 is approved and effective immediately. The portion of the rights that have been abandoned are cancelled.
2. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 16346 and 2038, and any related decrees.
3. Water right certificate 16346 is cancelled. Certificate 85909 will be issued to confirm the change in point of diversion for the portion of the right included in T-10397. Certificate 85907 will be issued to describe that portion of Certificate 16346 not modified by this order. Together, the new certificates shall supersede Certificate 16346.

4. Water right certificates 2038 is cancelled. Certificate 85910 will be issued to confirm the change in points of diversion for the portion of the right included in T-10397. Certificate 85908 shall be issued to describe the portion of Certificate 2038 not modified by this order. Together, the new certificates shall supersede Certificate 2038.
5. The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion from the sources of Munger Creek and Hartley Reservoir.
6. Prior to October 1, 2011 and prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.
7. Prior to October 1, 2011, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to diverting water, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

Dated at Salem, Oregon this 9th day of November 2009.


Phillip C. Ward, Director *PCW*

Mailing date: NOV 11 2009

STATE OF OREGON
COUNTY OF JOSEPHINE
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J. T. HARTLEY
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK, a tributary to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 27.9 ACRES.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1881.

The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.472 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q
39 S	5 W	WM	4	NW SW

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

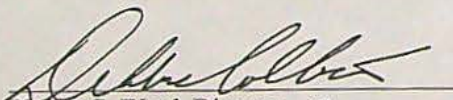
IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	NW NE	2.0
39 S	5 W	WM	4	SW NE	25.9

This certificate describes that portion of the water right confirmed by Certificate 16346, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397.

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

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.


Phillip C. Ward, Director *PCW*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

J. T. HARTLEY
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK AND HARTLEY RESERVOIR, AS DESCRIBED IN PERMIT R-296, CERTIFICATE 2065, tributaries to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 20.67 ACRES.

This right was perfected under Permit S-2142. The date of priority is AUGUST 18, 1914. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.26 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the points of diversion.

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

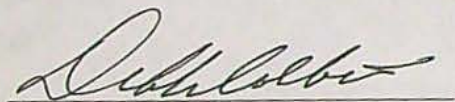
IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	NE NE	3.00
39 S	5 W	WM	4	NW NE	2.00
39 S	5 W	WM	4	SW NE	15.67

This certificate describes that portion of the water right confirmed by Certificate 2038, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397.

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

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.


Phillip C. Ward, Director *rw*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK, tributary to WEST FORK OF WILLIAMS CREEK for IRRIGATION of 0.6 ACRE.

This right was confirmed by decree of the Circuit Court of the State of Oregon for Josephine County. The decree is of record at Salem, in the Order Record of the Water Resources Director in Volume 4, at Page 1. The date of priority is 1881. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.01 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original point of diversion on Munger Creek located in the NWSW, Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

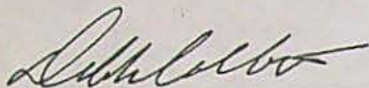
Prior to October 1, 2011, the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T- 10397, and together with Certificate 85907, supersedes Certificate 16346, State Record of Water Right Certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.



Phillip C. Ward, Director *PCW*

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

OTTO C. GAITHER
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

confirms the right to use the waters of MUNGER CREEK AND HARTLEY RESERVOIR, AS DESCRIBED IN PERMIT R-296, CERTIFICATE 2065, tributaries to the WEST FORK OF WILLIAMS CREEK for IRRIGATION of 2.3 ACRES.

This right was perfected under Permit S-2142. The date of priority is AUGUST 18, 1914. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.03 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion on Munger Creek and Hartley Reservoir, tributary to the West Fork William Creek located in the NWNE and SWNW OF Section 4, Township 39 South, Range 5 West, W.M. The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

Prior to October 1, 2011, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.

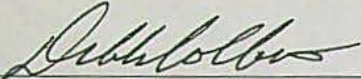
Prior to October 1, 2011 the water user shall install and maintain a fish screen or fish by-pass device, as appropriate, at the new point of diversion. The type and plans of the screen or by-pass device must be approved by the Oregon Department of Fish and Wildlife prior to beginning of construction, and shall be installed under the supervision of the Department of Fish and Wildlife.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, 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.

This certificate is issued to confirm an HISTORIC CHANGE IN POINT OF DIVERSION approved by an order of the Water Resources Director entered NOV 09 2009, approving Transfer Application T-10397, and together with Certificate 85908, supersedes Certificate 2038, State Record of Water Right Certificates.

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

WITNESS the signature of the Water Resources Director, affixed NOV 09 2009.



Phillip C. Ward, Director *th*

Contacts for Application T-10397

Applicant:

Otto Gaither

Patsy Busby-Gaither

Ace Weston

1740 Cedar Flat Road

Williams OR 97544

CWRE:

Gordon Lyford - CWRE #341

District #14 Watermaster – Kathy Smith

Local and Tribal Governments:

Josephine County Planning Dept.

500 NW 6th Street

Grants Pass, OR 97526

Commenters:

Irrigation Districts:

Application

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

Water right subject to transfer

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

Application Map

- ☒ The map has an original CWRE signature.
- ☒ The map size and scale accurate and appropriate per OAR 690-380-3100(1)(b)(c)&(d).
- ☒ All authorized and proposed POD's/POA's and POU's shown and clearly labeled.
- ☒ Metes and bounds for the POD's/POA's are properly described on the map.
- ☒ The POD/POA dimensions & 1/4 1/4 on map match the transfer application and certificate descriptions.
- ☒ Map acres match the tabulation on the certificate.
- ☐ Have final proof maps/deed maps for the rights. ☐ Application map matches certificate FPS.
- ☐ Have necessary aerial photos.

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

- ☒ Only the authorized POD's/POA's and POU's to be transferred are listed.
- ☒ Application & certificate tabulations match. (*Mark on appl. and cert. copies and note corrections needed*)
- ☒ Marked on certificate the acreage being transferred, cancelled and remaining by 1/4 1/4.

Ownership

Need

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

Evaluation (materials needed for peer reviewer in bold)

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

Reviews/comments/conditions received?

Headgate

Measuring Devices

Injury: Y N

Conditions to avoid enlargement/injury -

☐ When in the judgment

☐ When in the judgment

Enlargement: Y N

☒ Watermaster

☐ Prior to diverting

☒ Prior to diverting

☒ ODFW

☐ Existing and maintain

☐ Existing and maintain

☐ GW

STATE OF OREGON

COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

This Is to Certify, That J. T. Hartley

of Williams, State of Oregon, has a right to the use of
the waters of Munger Creek, a tributary of West Fork of Williams Creek
for the purpose of irrigation of 29 acres

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for
Jackson County, and the said decree entered of record at Salem, in the Order Record of
the STATE ENGINEER, in Volume 4, at page 1; that the priority of the right thereby
confirmed dates from 1881;

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an
amount actually beneficially used for said purposes, and shall not exceed 0.49 cubic foot per
second.

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

20 2 acres in NW $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
27 acres in SW $\frac{1}{4}$ NE $\frac{1}{4}$ ✓
Section 4,
T. 39 S., R. 5 W., W. M.

Partial
cancellation
see file G 1130
11-7-25 - cancelled

CF
-06 SWNE

.01

$$\frac{.49}{29} = .0169$$

$$\frac{20}{25.9} = \text{cancel } .5 \leftarrow \frac{20}{28.4}$$

$$CF = .4169$$

ir season = 4/1 to 10/31

dom/stock = year round but incidental during ir season

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

WITNESS the signature of the State Engineer, affixed

this 30 day of September, 1949.

CHAS. E. STRICKLIN

State Engineer

Recorded in State Record of Water Right Certificates, Volume 13, page 16346

T-10397

VOR

add Munger
2038

T-10397



First American

First American Title Insurance Company of Oregon

118 NE C Street

Grants Pass, OR 97526

Phone: (541)476-6884 / Fax: (866)637-1007

PR: NWest

Ofc: 7159 (1290)

Final Invoice

To: Patsy Busby
1740 Cedar Flat Rd
Williams, OR 97544

Invoice No.: 1290 - 71599387
Date: 10/28/2009
Our File No.: 7159-1491544
Title Officer: Dana Christensen / CHRISTENSE
Escrow Officer: /
Customer ID: 5198092

Attention:

Your Reference No.:

RE: Property:
1740 Cedar Flat Road, Williams, OR 97544

Liability Amounts
Owners:
Lenders:

Buyers: Otto C. Gaither, et al
Sellers:

Description of Charge	Invoice Amount
Guarantee: Lot Book	\$200.00
INVOICE TOTAL	
	\$200.00

Comments: Customer pay at pickup

Thank you for your business!

To assure proper credit, please send a copy of this Invoice and Payment to:

Attention: Accounts Receivable Department

118 NE C Street

Grants Pass, OR 97526

RECEIVED

NOV 05 2009

WATER RESOURCES DEPT
SALEM, OREGON

Transfer Application T-10397



First American

First American Title Insurance Company of Oregon
118 NE C Street
Grants Pass, OR 97526
Phn - (541)476-6884
Fax - (866)637-1007

JOSEPHINE COUNTY TITLE UNIT
FAX (866)637-1007

Title Officer: **Dana Christensen**
(541)476-6884
dchristensen@firstam.com

LOT BOOK SERVICE

Patsy Busby
1740 Cedar Flat Rd
Williams, OR 97544

Order No.: 7159-1491544
October 30, 2009

Attn:
Phone No.: (541)846-6255 - Fax No.:
Email:

Re:

Fee: \$200.00

We have searched our Tract Indices as to the following described property:

PARCEL I:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 SOUTH, RANGE 5 WEST, OF THE WILLAMETTE MERIDIAN, JOSEPHINE COUNTY, OREGON; THENCE EAST ALONG THE SOUTH LINE THEREOF, 457.43 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 954.80 FEET; THENCE WEST 158.67 FEET; THENCE SOUTH 476.29 FEET; THENCE WEST 140.09 FEET; THENCE SOUTH 478.51 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE EAST, ALONG SAID LINE, 298.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL II:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 SOUTH, RANGE 5 WEST, OF THE WILLAMETTE MERIDIAN, JOSEPHINE COUNTY, OREGON; THENCE NORTH 0°04'50" WEST ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 882.58 FEET; THENCE EAST 458.67 FEET; THENCE SOUTH 384.80 FEET TO THE TRUE POINT OF BEGINNING; THENCE EAST 128 FEET; THENCE SOUTH 500 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER 128 FEET, MORE OR LESS, TO A POINT 457.43 FEET FROM SAID SOUTHWEST CORNER OF THE NORTHEAST CORNER OF SECTION 4; THENCE NORTH 500 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

and as of October 22, 2009 at 8:00 a.m.

We find that the last deed of record runs to

First American Title

RECEIVED

NOV 05 2009

**WATER RESOURCES DEPT
SALEM, OREGON**

Otto C. Gaither, Patsy L. Busby & Ace Weston, not as tenants in common but with the right of survivorship

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the current fiscal year are reduced by reason of Veterans Exemption. If the exempt status is terminated under the statute prior to July 1, said property will be taxed at 100% of the assessed value.
2. Deed of Trust and the terms and conditions thereof.

Grantor/Trustor:	Otto C Gaither and Patsy L Busby and Ace Weston
Grantee/Beneficiary:	Key Bank USA, National Association
Trustee:	Josephine County Title
Amount:	\$92,000.00
Recorded:	November 01, 2000
Recording Information:	00-19247

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens: NONE

NOTE: Taxes for the year 2009-2010 PAID IN FULL

Tax Amount:	\$916.33
Map No.:	39 5 4A TL 1400
Property ID:	R328436
Tax Code No.:	06

NOTE: An application to Exempt Mobile Home from Registration and Titling was recorded November 17, 2000 as Document No. 00-20247 of Josephine County Official Records.

NOTE: An application to Exempt Mobile Home from Registration and Titling was recorded November 17, 2000 , 00-20248 of Josephine County Official Records.

NOTE: Taxes for the year 2009-2010 PAID IN FULL

Tax Amount:	\$551.14
Map No.:	39 5 4A TL 1500
Property ID:	R328438
Tax Code No.:	06

NOTE: Taxes for the year 2009-2010 PAID IN FULL

RECEIVED

NOV 05 2009

WATER RESOURCES DEPT
SALEM, OREGON

Tax Amount: \$3.99
Map No.: 39 5 4A TL 1201
Property ID: R328434
Tax Code No.: 06

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.

RECEIVED

NOV 05 2009

WATER RESOURCES DEPT
SALEM, OREGON



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

October 23, 2009

Otto C. Gaither
Patsy L. Busby-Gaither
Ace Weston
1740 Cedar Flat Road
Williams, OR 97544

SUBJECT: Water Right Transfer Application T-10397

Please find enclosed a Draft Final Order regarding Transfer Application T-10397. The document reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

At this time, you must submit a report of ownership. This is a document prepared by a title company within the last 3 months that includes ownership and a legal description of the land to which the water rights are appurtenant. Specifically, we need to have a report on the ownership of tax lots 1201, 1400, and 1500, in Township 39 South, Range 5 West, Willamette Meridian.

Issuance of the Final Order will occur shortly after we receive both your response and the report of ownership. If we do not receive your response and the report by **November 30, 2009**, a Preliminary Determination may be issued denying the application as incomplete. You may provide your response in writing or via e-mail.

Please do not hesitate to contact me at 503-986-0881 or teri.k.hranac@wrdd.state.or.us, if I may be of assistance.

Sincerely,

Teri Hranac
Transfer Specialist

Enclosures

cc: T-10397
Kathy Smith, District 14 Watermaster

BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON

In the Matter of Transfer Application)
T-10397, Josephine County)

[D R A F T]

) FINAL ORDER APPROVING A CHANGE
) IN POINTS OF DIVERSION TO REFLECT
) HISTORIC USE

Authority

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

Applicant

OTTO C. GAITHER
PATSY L. BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

Findings of Fact

Background

1. On May 29, 2007, OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON filed a transfer application for authorization of historic points of diversion under Certificates 16346 and 2038. The Department assigned the application number T-10397.

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

Certificate: 16346 in the name of J T HARTLEY (confirmed by Rogue River Final Decree)

Use: IRRIGATION of 0.6 ACRES

Priority Date: DECEMBER 31, 1881

Rate: 0.01 CUBIC FOOT PER SECOND

Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.6

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

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)

Use: IRRIGATION of 2.3 ACRES

Priority Date: AUGUST 18, 1914

Rate: 0.03 CUBIC FOOT PER SECOND

The use of water hereunder shall conform to any reasonable rotation system ordered by the proper state officer.

Source: MUNGER CREEK and HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	2.3

5. Transfer Application T-10397 proposes to move the points of diversion for a portion of the rights to reflect historic use of a point of diversion 1/2 mile downstream located on the West Fork of Williams Creek as follows:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SE	310 FEET SOUTH AND 50 FEET EAST FROM THE CENTER OF SECTION 4

6. Notice of the application for transfer was published on June 5, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
7. The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. This diversion may be eligible for screening cost share funds.

Transfer Review Criteria (ORS 540.532 and OAR 690-380-2120)

9. Pursuant to OAR 690-380-2120(2)(a), evidence has been submitted that the actual, current point of diversion for the water rights in question, as described in Finding No. 5, has been in use for more than 10 years.
10. Pursuant to OAR 690-380-2120(2)(c), the Watermaster provided a statement that to her knowledge there has been no complaint of injury due to the use of water at the actual, current point of diversion, prior to the transfer request.
11. Pursuant to OAR 690-380-2120(3), the Department provided the applicant a list of the affected water rights and a copy of the notice to be provided to each affected water right holder. The applicant has provided written proof of service of notice of the proposed transfer on all affected water right holders.
12. Water has been used within the last five years according to the terms and conditions of the right. There is no evidence available that would demonstrate that the right is subject to forfeiture under ORS 540.610.
13. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right are present.
14. The proposed change would not result in enlargement of the right(s).
15. The proposed change would not result in injury to other water rights.

Partial Cancellation of a Water Right

16. ORS 540.621 establishes the process for the owner of land to which a water right is appurtenant to certify under oath that the water right, or a portion thereof, has been abandoned and to voluntarily request that it be cancelled.
17. On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 16346 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 16346 in the name of J T HARTLEY (confirmed by Rogue River Final Decree)
Use: IRRIGATION of 0.5 ACRE
Priority Date: DECEMBER 31, 1881
Rate: 0.008 CUBIC FOOT PER SECOND
Source: MUNGER CREEK, tributary to the WEST FORK WILLIAMS CREEK

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW SW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	0.50

- On May 29, 2007, an affidavit certifying that a portion of the water right under Certificate 2038 has been abandoned and requesting cancellation of the right was received from OTTO C. GAITHER, PATSY L. BUSBY-GAITHER, and ACE WESTON. The right to be cancelled is as follows:

Certificate: 2038 in the name of J T HARTLEY (perfected under Permit S-2142)
Use: IRRIGATION of 4.03 ACRES
Priority Date: AUGUST 18, 1914
Rate: 0.05 CUBIC FOOT PER SECOND
Source: MUNGER CREEK and HARTLEY RESERVOIR, tributary to the WEST FORK WILLIAMS CREEK

Authorized Points of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
39 S	5 W	WM	4	NW NE	NONE GIVEN
39 S	5 W	WM	4	SW NW	NONE GIVEN

Authorized Place of Use to be Cancelled:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
39 S	5 W	WM	4	SW NE	4.03

Conclusions of Law

The proposed change in points of diversion to reflect historical use in application T-10397 is consistent with the requirements of ORS 540.505 to 540.580, and OAR 690-380-5000 and the abandoned rights are cancelled.

If application T-10397 is approved, the final order will include the following:

- The change proposed in T-10397 is approved and effective immediately. The portion of the right that has been abandoned is cancelled.*
- The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificates 16346, 2038, and any related decrees.*

3. *Water right certificate 16346 is cancelled. A new confirming certificate will be issued to describe the change in point of diversion for the portion of the right included in T-10397. Certificate _____ shall be issued to describe the portion of Certificate 16346 not modified by this order. Together, the new Certificates shall supersede Certificate 16346.*
4. *Water right certificates 2038 is cancelled. A new confirming certificate will be issued to describe the change in points of diversion for the portion of the right included in T-10397. Certificate _____ shall be issued to describe the portion of Certificate 2038 not modified by this order. Together, the new Certificates shall supersede Certificate 2038.*
5. *The quantity of water diverted at the new point of diversion shall not exceed the quantity of water lawfully available at the original points of diversion from the sources of Munger Creek and Hartley Reservoir.*
6. *Prior to diverting water, the water user shall install and maintain a headgate, an in-line flow meter, weir, or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the headgate and measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department.*
7. *Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

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

DRAFT

Phillip C. Ward, Director

Mailing date: _____

Teri Hranac

From: Wild Rivers Water Rights [wrrw@frontiernet.net]

Sent: Wednesday, October 28, 2009 7:07 PM

To: Teri Hranac

Cc: Pat & Otto Gaither

Subject: Re: T-10397

Hi Teri-

That looks good.

However, I found more typos. The Findings of Fact are numbered wrong. They go 1, 3-7, 9-17, then back to 1.

Under Conclusion of Law items 3 and 4 speak to the remaining right certificates. I am wondering if item 7 or a new item 8 should mention the confirming right certificate? Also I'm wondering if it would be good to have a Claim map which would show only the confirmed water rights, meter, screen, POD, POU which would be less confusing and better proof than the two transfer maps? Also, is written proof of the fish screen and meter needed prior to the confirming right certificate being issued?

I will be gone to California for a few days, so I will read my emails again on Sunday.

Thanks-

Gordon R. Lyford
CWRE #341

On Oct 28, 2009, at 4:37 PM, Teri Hranac wrote:

Thanks for working with me on this, Gordon. How does this work for paragraph #7.

7. *Prior to October 1, 2011, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to diverting water, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.*

Teri Hranac

(503) 986-0881

10/29/2009

teri.k.hranac@wrd.state.or.us

From: Wild Rivers Water Rights [<mailto:wrrwr@frontiernet.net>]
Sent: Wednesday, October 28, 2009 4:25 PM
To: Teri Hranac
Cc: Pat & Otto Gaither
Subject: Re: T-10397

Hi Teri-

That will work for me. So will the language in #7 about a Claim of Beneficial Use will be removed?

That is cool that a historic POD change can be done so fast with certificates and all.

Thanks

Gordon R. Lyford
CWRE #341

On Oct 28, 2009, at 2:37 PM, Teri Hranac wrote:

Gordon:

There is no claim of beneficial use due on Historic transfers. I am modifying the wording on #6 and #7 on page 5 (the first sentence of each to begin) *Prior to October 1, 2011 and prior to diverting water . . .*

In essence what will happen (when we get the ownership report), is that the Final Order and confirming and remaining right Certificates will be issued simultaneously.

Does that work for you?

Teri Hranac
(503) 986-0881
teri.k.hranac@wrd.state.or.us

10/29/2009

2038'
pool

Units: CFS

Xfer Filed: T 10397 CF (REG)
Loc/Use Max Primary Supplmntl

Xfer Filed: T 10397 RR (REG)
Loc/Use Max Primary Supplmntl

Unavailable:

Use: IR

Pod #1: 39.00 S 5.00W 4 NWSE

0.030000 | 0.030000

0.02

Priority: 08/18/1914

Use: IR

Pod #1: 39.00 S 5.00W 4 SWNW

0.260000 | 0.260000

0.26

Pod #2: 39.00 S 5.00W 4 NWNE

0.260000 | 0.260000

Pod #2: 39.00 S 5.00W 4 NWSE

0.030000 | 0.030000

0.02

Column Totals:

0.03

0.26

Primary + Supplemental:

0.03

0.26

Parent - Children (Primary)

0.00

Parent - Children (Supplemental)

0.00

Parent - Children (Primary + Supplemental)

0.00

Xfer Workarea: T 10397 (REG)[WKC]

Row Totals

Cert:2038 OR *

Loc/Use Max

Primary

Supplmntl

Primary

Supplmntl

Loc/Use Max

Primary

Supplmntl

0.02

0.050000 | 0.050000
0.050000 | 0.050000

0.05

0.31

0.340000 | 0.340000
0.340000 | 0.340000

0.34

0.02

0.05

0.34

0.34

0.05

0.34

0.34

2038
pau

Priority: 08/18/1914

Xfer Filed: T 10397 CF (REG)

Xfer Filed: T 10397 RR (REG)

Xfer Workarea: T 1

Primary

Supplmntl

Primary

Supplmntl

Primary

Use: IR

39.00 S 5.00W 4 NENE

3.00

39.00 S 5.00W 4 NWNE

2.00

39.00 S 5.00W 4 SWNE

2.30

15.67

4.03

Column Totals:

2.30

20.67

4.03

Primary + Supplemental:

2.30

20.67

4.03

Parent - Children (Primary)

0.00

Parent - Children (Supplemental)

0.00

Parent - Children (Primary + Supplemental)

0.00

10397 (REG)[WKC]
Supplmntl

Totals
Primary Supplmntl

3.00
2.00
22.00

27.00

03

27.00

Cert:2038 OR *

Primary Supplmntl

3.00
2.00
22.00

27.00

27.00

14346
pau

Priority: 12/31/1881

Xfer Filed: T 10397 CF (REG)
Primary Supplmntl

Xfer Filed: T 10397 RR (REG)
Primary Supplmntl

Xfer Workarea: T 1
Primary

Use: IR

39.00 S 5.00W 4 NWNE

2.00

39.00 S 5.00W 4 SWNE

0.60

25.90

0.50

Column Totals:

0.60

27.90

0.50

Primary + Supplemental:

0.60

27.90

0.50

Parent - Children (Primary) 0.00

Parent - Children (Supplemental) 0.00

Parent - Children (Primary + Supplemental) 0.00

10397 (REG)[WKC]
Supplmntl

Totals
Primary Supplmntl

2.00
27.00
29.00

50

29.00

Cert:16346 OR *

Primary Supplmntl

2.00
27.00
29.00

29.00

16346
pod

Units: CFS

Priority: 12/31/1881

Use: IR

Pod #1: 39.00 S 5.00W 4 NWSW

Pod #1: 39.00 S 5.00W 4 NWSE

Xfer Filed: T 10397 CF (REG)
Loc/Use Max Primary Supplmntl

Xfer Filed: T 10397 RR (REG)
Loc/Use Max Primary Supplmntl

0.010000 | 0.010000

0.01

0.471200 | 0.471200

0.47

Column Totals:

0.01

0.47

Primary + Supplemental:

0.01

0.47

Parent - Children (Primary)

0.00

Parent - Children (Supplemental)

0.00

Parent - Children (Primary + Supplemental)

0.00

Xfer Workarea: T 10397 (REG)[WKC]

Row Totals

Cert:16346 OR *

Loc/Use Max

Primary

Supplmntl

Primary

Supplmntl

Loc/Use Max

Primary

Supplmntl

0.008000 | 0.008000

0.01

0.48

0.01

0.490000 | 0.490000

0.49

0.01

0.49

0.49

0.01

0.49

0.49

✓ ~~RECEIVED~~ 53860

STATE OF OREGON

WATER DIVISION NO. 1 COUNTY OF JOSEPHINE

CERTIFICATE OF WATER RIGHT

(For rights perfected under original, enlargement or secondary permits)

This is to Certify, That J. T. HARTLEY

of Williams, State of Oregon 91544, has made proof to the satisfaction of the STATE WATER BOARD of Oregon, of a right to the use of the waters of Munger Creek and Hartley Reservoir, as described in Reservoir Permit No. 296, certificate of water right recorded in Vol. 3, Page 2065; State Record of Water right certificates, for the purpose of the irrigation of 27 acres of land under Permit No. 2142 of the State Engineer, and that said right to the use of said waters has been perfected in accordance with the laws of Oregon and duly confirmed by order of the STATE WATER BOARD of Oregon, made and entered of record in the Record of Proceedings of said Board, at Salem, in Volume 1, at page 284, on the 10th day of April, 1918; that the priority of the right hereby confirmed dates from August 18, 1914; 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 0.34 cubic feet per second, or its equivalent in case of rotation. The use hereunder shall conform to any reasonable rotation system ordered by the proper State Officer.

A description of the lands under such right, and to which the water hereby confirmed is appurtenant, or, if for other purposes, the place where such water is put to beneficial use, is as follows: Twenty-two acres in the Southwest quarter of Northeast quarter; two acres in the Northwest quarter of Northeast quarter and three acres in the Northeast quarter of Northeast quarter of Section Four, Township Thirty-nine South, Range Five West of Willamette Meridian, in Josephine County, Oregon.

DR 14
22.0 S.W.N.E. - 2.3 = 19.7 → - 4.03 = 15.67 a
2.0 N.W.N.E. .0340 2.0 = 2.0
3.0 N.E.N.E. 3.0
24.7
20.67 = 2.0675
T-95, R-5W sec 4

.34
21 = .0126

The right to the use of the water aforesaid hereby confirmed is restricted to the lands or place of use herein described.

Rights to the use of water for power purposes are limited to a period of forty years from the date of priority of the right, as herein set forth, subject to a preference right of renewal under the laws existing at the date of the expiration of the right for power purposes, as hereby confirmed and limited.

Witness the seal and signature of the STATE

WATER BOARD affixed this 7th day of May, 1918.

STATE WATER BOARD

(SEAL OF STATE WATER BOARD)

By JOHN H. LEWIS
State Engineer, President

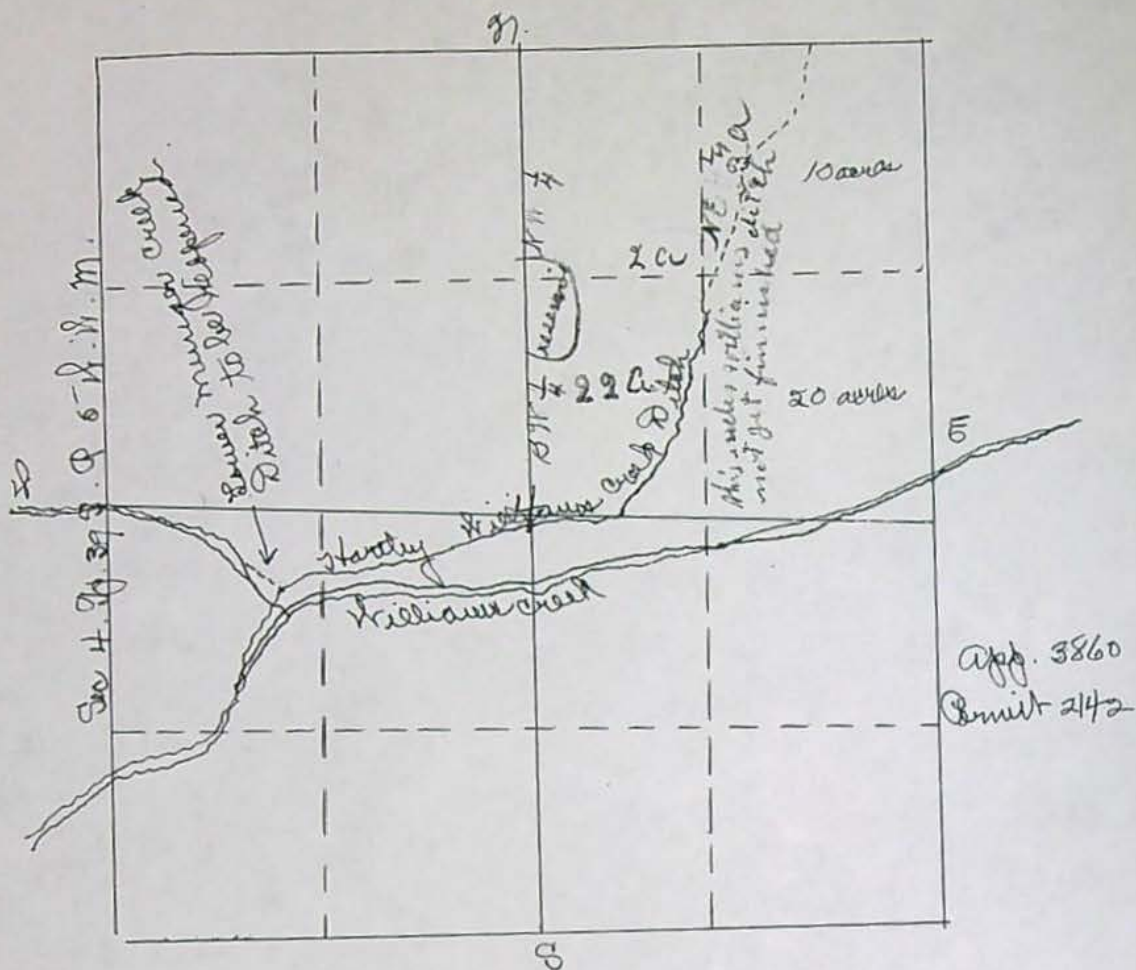
Attest: R. W. POTTER
Secretary

Recorded in State Record of Water Right Certificates, Volume 3, Page 2038.

20.67 rr
2.3 T
22.97
4.03 cancel
27.00

✓
OK

T-10397



Permit No. 2142

Application No. 3860

(In accordance with the provisions of Chapter 216, Laws of Oregon for 1909, and the regulations of the State Water Board thereunder.)

1. Name J. G. Hartless

2. Postoffice address Williams, Oregon

3. For what purpose is water used? irrigation

4. Did you begin the actual construction of the Lower Mungers Creek Ditch,
(or other distributing works described in said permit), on or before Sept 17, 1915?

Yes

5. Give the date of completion of such construction work Summer of 1917

6. When was all the water completely applied to the proposed use? Summer of 1911

7. The description of land given below corresponds to that found in your permit covering land to be irrigated, or, if for other purposes, the place of use. In the blank column on the right, headed "No. acres actually irrigated," fill in the number of acres you have irrigated in each of the tracts described.

Township	Range	Section	Forty-acre Tract	No. Acres Described in Permit	No. Acres Actually Irrigated
39 S	5 W.	4	SE NE NE NE	30	SW $\frac{1}{4}$ NE 2 a. 22 N.W. $\frac{1}{4}$ NE 2 a. 2 NE $\frac{1}{4}$ NE 3 a. 3
(Note. The number of acres irrigated within each 40 acre tract should be set out in the columns to the right.)					

8. During what months is water beneficially used? May, June, July and August
9. State the character of the soil and kind of crops raised Two thirds clay and one third gravel soil; clover and corn
10. Does the accompanying blue print of the map filed with your permit show correctly the location of diverting works and area of land where water is used? yes
11. If not, state wherein such map is in error
12. If the dimensions of your ditch or dam do not correspond to those described in your permit, state what changes have been made, giving dimensions of ditch (or other distributing works)
13. If water is used for power, mining, domestic, municipal, storage, manufacturing, or any other purpose than irrigation, give the extent and method of such use
- Number of acres submerged 2 a. at average depth 4 ft. or 377,640 cu. ft.

STATE OF OREGON,

County of Josephine } ss.

I, J. J. Hartley, being first duly sworn, depose and say that I have read the above and foregoing proof of appropriation of water; that I know the contents thereof; and that the facts therein stated are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 26th day of March, 1918.

Subscribed and sworn to before me this 26th day of March, 1918.

(Notarial Seal)

Fred O'Kelly
Notary Public for Oregon.

My commission expires March 19, 1920

AFFIDAVIT OF WITNESSES

We, J. C. Kincaid, and Lester Lee Sparlin,
of Williams, Oregon, being first duly sworn, depose and say that
we are well acquainted with the facts and conditions set forth in the foregoing statement relative
to proof of appropriation of water under Permit No. 2142; that we and each of us have
been over and upon each tract described in said proof, and from such personal inspection have
knowledge that all necessary ditches, dams and other diversion and distributing works have been
constructed, and water used as stated therein; that we have carefully read such proof of
appropriation, and that each and every statement contained therein is true to the best of our
knowledge and belief.

J. C. Kincaid
Lester Lee Sparlin

Subscribed and sworn to before me this 29th day of March, 1918.

(Notarial Seal)

Fred O'Kelly

Notary Public for Oregon.

My commission expires March 14, 1920

Teri Hranac

From: Kathy Smith
Sent: Friday, August 28, 2009 2:11 PM
To: Teri Hranac
Subject: RE: Transfer 10397

Hi Teri,

There have been no complaints of injury due to the use of water at the actual point of diversion on the West Fork of Williams Creek, pertaining to T10397, during the 3 and a half years I have been watermaster in Josephine County. In addition, there are no complaints filed in our office regarding injury due to the use of water at the actual diversion on the West Fork of Williams Creek, as described in T10397.

Kathy Smith

From: Teri Hranac
Sent: Friday, August 28, 2009 1:52 PM
To: Kathy Smith
Subject: Transfer 10397

Hi, Kathy:

I'm the new transfer specialist working in the Southwest Region. I'm working on Transfer 10397 for a change for a historic point of diversion. You completed a Watermaster Review Form on June 8, 2007. However, we need an additional statement in the file under OAR 690-380-2120 (2)(c) that based upon your knowledge and Department records, that no complaint of injury has been made due to the use of water at the actual current point of diversion.

Could you please provide me a memo to that effect? If you need me to send you copies of any of the documents, please let me know.

Thanks so much. I look forward to working with you in the future.

Teri Hranac
Water Right Transfer Specialist
Oregon Water Resources Dept.
725 Summer Street NE, Suite A
Salem, OR 97301
(503) 986-0881
Fax: (503) 986-0904
www.wrd.state.or.us

8/28/2009

Oct-6-2009

Transfer Application T-10397

I have enclosed a letter from Pacific Power that the 10 hp pump was put in and the power meter has been in use since May 31, 1977.

Clause 5. the easement on the property for the irrigation pipeline dated May 17, 1974.

Also there are two letters from the oldest property owners that are using the C.H. Hennings Certificate 41786.

I'm also enclosing copies of my canceled checks for the pump usage and maintenance for the pipe line.

I have contacted Rich Kilbone at ODF&W in Central Point, Or. and he is putting the application together for the fish screen.

Thank you
Sincerely

Patsy L. Gaither

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON

Oct 3-2009

I Don Kucera who live at
1700 Cedar Flat Rd Williams, Or.

I'm the oldest property owner
who has been using the current
point of diversion since 1980.

The property at 1740 Cedar Flat
Rd. has been using the same
point of diversion.

The system has been in use
since the late 1970's.

Don L. Kucera

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON

OCT 5-2009

I Bill Cushman have lived
AT 1582 cedar FLAT Rd. Williams
OREGON since 1990. I have been
using The current point of diversion
since 1990. The system was
PUT in AND used since LATE
1970s

Bill Cushman

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON



P.O. Box 400
Portland, Oregon 97207-0400
1-888-221-7070
fax 1-888-800-2851

CEDAR FLAT WATER ACCT

PAT GAITHER

1740 CEDAR FLAT RD

WILLIAMS OR 97544-9657



September 8, 2009

Customer Account # [REDACTED]

Dear Pat Gaither:

Thank you for contacting us in regards to the meter here at Cedar and Davidson 10hp, Williams, Oregon. Per our conversation the pump has been at this site since May 31, 1977.

If you would like more information or have any questions, please call us anytime toll-free at 1-888-221-7070. Any of our customer service representatives are available to take your call.

Sincerely,

Customer Service

Para más información, llame al 1-888-225-2611 y podrá hablar con un representante que hable español.

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON



1. The 1999-00 Real Property Taxes in the amount of \$3.29 are due plus interest.
Map No 39-05-04-10 TL 1201 Acct. No. R328434 Code 5
The 1999-00 Real Property Taxes in the amount of \$433.98 are due plus interest.
Map No. 39-05-04-10 TL 1400 Acct. R328436 Code 6
The 1999-00 Real Property Taxes in the amount of \$382.61 are due plus interest.
Map No. 39-05-04-10 TL 1500 Acct. R328438 Code 6
The 1999-00 Mobile Home Taxes in the amount of \$204.65, are due plus interest.
Account No.: M203501
The 1999-00 Mobile Home Taxes in the amount of \$89.66, are due plus interest.
Account No.: M203502
2. Subject to the requirements and provisions of ORS Chapter 820, pertaining to the registration and transfer of ownership of mobile homes and any interest or liens disclosed thereby.
3. Right of way, including the terms and provisions thereof, granted the California Oregon Power Company, set forth in Volume 89, Page 515, Josephine County Deed Records.
4. Right of way, including the terms and provisions thereof, granted the Pacific Power and Light Company set forth in Volume 283, Page 883, Josephine County Deed Records.
5. Reservation of an easement, 10 feet in width, for an irrigation pipeline and maintenance of said pipeline, set forth in instrument recorded May 17, 1974, in Volume 334, Page 563, Josephine County Deed Records, and in Document No. 87-17696, Official Records of Josephine County, Oregon.
6. An easement for the installation, maintenance and repair of a septic tank and drainfield, including the terms and provisions thereof, as set forth in Volume 333, Page 1257, Josephine County Deed Records.
7. Right of way, 10 feet in width, including the terms and provisions thereof, granted the Pacific Power and Light Company set forth in Volume 334, Page 900, Josephine County Deed Records.
8. Right of way for ditches and any rights in connection therewith.
9. Unrecorded leases and/or rental agreements, if any, including the terms, provisions, and obligations thereof. (Affects Mobile Homes)
10. A Trust Deed, including the terms and provisions thereof, executed by Michael D. Craft, grantor, to Josephine-Crater Title Companies, Inc., an Oregon corporation, trustee, and William Sherman Hall, Jr. and Barbara L. Hall, or the survivor, beneficiary, dated February 23, 1999, recorded February 26, 1999, as Document No. 99-4788, Official Records of Josephine County, Oregon, given to secure payment of a note for \$70,000.00, with interest thereon.
11. Judgment in favor of Oregon State vs. Michael David Craft, entered November 15, 1999, filed November 15, 1999, Judgment Lien Docket, Josephine County, Oregon. Case No. 991073M, in the amount of \$60.00.

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON

Proof of Service

I, Patsy L. Haithes hereby certify that I delivered the attached notice, either by prepaid first-class mail or by hand delivery, a notice of my intent to change the point of diversion to reflect historic use to the following:

Name: DON KUCERCA Check One
Street: 1700 Cedar FLAT Rd ☒ Hand delivered
City, State, Zip: Williams, OR. 97544 ☐ Mailed
Don L Kucera 10-3-09
Date mailed or delivered

Name: Bill Gushman ☒ Hand delivered
Street: 1582 Cedar FLAT Rd ☐ Mailed
City, State, Zip: Williams OR 97547 10-5-09
Date mailed or delivered

Name: Eugene DOWNES ☐ Hand delivered
Street: 1392 Cedar FLAT Rd ☒ Mailed
City, State, Zip: Williams, OR. 97544 10-6-09
Date mailed or delivered

Name: Dennis James ☐ Hand delivered
Street: 1190 Cedar FLAT Rd ☒ Mailed
City, State, Zip: Williams, OR 97544 10-6-09
Date mailed or delivered

Patsy L. Haithes
(signature)

10-6-09
Date

RECEIVED

OCT 09 2009

WATER RESOURCES DEPT
SALEM, OREGON

Transfer 10397

Return this completed form to:
Oregon Water Resources Department,
725 Summer St. NE, Suite A
Salem, OR 97301-1266



Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: _____ Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston
Mailing Address: _____ 1740 Cedar Flat Road
City: _____ Williams _____ OR Zip: _____ 97544 Day Phone: _____ (541)846-6255

This application is related to a Measure 37 claim. ☐ Yes ☒ No

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	1/4 1/4	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
39S	5W	4	swne	1201		☐ Diverted ☒ Conveyed ☒ Used	
39S	5W	4	swne	1400		☐ Diverted ☒ Conveyed ☒ Used	
39S	5W	4	swne	1500		☐ Diverted ☒ Conveyed ☒ Used	
39S	5W	4	nwse	1302		☒ Diverted ☒ Conveyed ☐ Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. _____ Josephine

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☐ Permit to Use or Store Water ☒ Water-Right Transfer ☐ Exchange of Water
☐ Allocation of Conserved Water ☐ Limited Water Use License
☐ Permit Amendment or Ground Water Registration Modification

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) _____ West Fork Williams Ck.

Estimated quantity of water needed: _____ 9 _____ ☐ cubic feet per second ☐ gallons per minute ☒ acre-feet

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

Briefly describe: The water right transfer proposes to change the authorized points of diversion on Munger Ck and from Hartley Reservoir downstream to the historic POD on the West Fork Williams Ck. A 15 HP pump is used to divert the water into a 4" PVC pipe to irrigate lawns, landscape, pasture, and a garden.

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

Receipt for Request for Land Use Information

Post-it® Fax Note	7671	Date	9/25	# of pages	2
To	Teri	From	Valerie		
Co./Dept.	OWRD	Co.	Joco Plan		
Phone #		Phone #	541 474 5427		
Fax #	503 986 0904	Fax #			

_____ of Oregon
 Water Resources Department
 Street NE, Suite A
 OR 97301-1266

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

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

☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued

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

Name: Valerie Montague Title: Planner
Signature: Valerie Montague Phone: 541 474 5437 Date: 5-30-2007
Government Entity: Josephine County Planning Office

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____



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

*Re sent
7-28-09*

September 2, 2009

Valerie Montague, Planner
Josephine County Planning Office
500 NW 6th Street
Grants Pass, OR 97526

Re: Water Right Transfer Application T-10397

Good Morning, Valerie:

We received page 3 of the Land Use Information Form for the above water right transfer application in May 2007 (copy enclosed). However, we require that all three pages of the form be returned to us. I am also enclosing a copy of your receipt #44066 from the original request.

I have taken the liberty of completing a new form and am enclosing a copy for your use. Please return the completed (3 page) form to me in the enclosed, stamped, self-addressed envelope. I appreciate your assistance in the matter. Please do not hesitate to contact me at (503) 986-0881 or teri.k.hranac@wrds.state.or.us if you should have any questions.

Warm regards,

Teri Hranac
Water Right Transfer Specialist
Field Services Division

Enclosures

cc: Gaither, Busby-Gaither, Weston
Transfer File # 10397



JOSEPHINE COUNTY PLANNING

Name: _____ Date: 5-18-07 Receipt #: 44066
Address: 1740 Cedar Flat Rd 846-6255
Legal: T 39R 5 Sec 4 Tax Lots: 201/1400/1500 Amount: \$ 75.00

ADMINISTRATIVE

38220 Conditional Use
38200 Development Permit
39801 Aggregate Mining Permit
38240 Farm Dwelling
38250 Forest Dwelling
38260 Medical Hardship
38210 Medical Hardship Renewal
38270 Home Occ / No Hearing
38271 Home Occ / Hearing
38272 Home Occ / Renewal
38280 Manufactured Dwelling
Storage
39812 Measure 37 Claim
38290 Non-Conforming Use-
Verification
39810 Non-Conforming Use-
Expansion

39803 Pre-App. Aggregate Mining
39804 Pre-App. Comp Plan/ZC
39100 Pre-App. - Others
39050 Pre-App. - PUD
39806 Pre-App. Subdivision
39250 Road Naming
39450 Variance w/o Hearing
39451 Variance w/Hearing
39813 Violation Surcharge

HEARING REQUESTS

38000 Appeal after Hearing
38010 Appeal w/o Hearing
39200 Remand Hearing
39650 Re-noticing Fee

LAND DIVISION

38300 Final Plat
39000 Partition/Tentative Approval
39001 Partition/Easement/Public
Usage Access

39802 PUD / Tentative Approval
39150 Property Line Adjustment
39700 Replat
39400 Subdivision/Tentative Approval

ORDINANCE CHANGES

38100 Comp Plan/Zone Change
39002 Comp Plan/Zone Change w/
exception to Statewide Goals
39800 Text Amend.

SITE REVIEW

39350 Half Acre or Less
39360 Half Acre → Two Acres
39380 Over Two Acres
39340 Standards Only

ANALYSIS

38050 Auth Lot/Dwelling Determination
38235 Determination of Dvlp/Extension
38350 Flood Review/FEMA Map Info
39805 Flood Review - Substantial
Improvement
39809 Flood Review - Elevation
Determination
39550 Land Use Statement
39807 Technical Plan Review/Flood,
Fire, Erosion, etc.

MISCELLANEOUS

39600 Copies/Maps/Ordinances
39750 Transcript Deposit
39808 Preparation of LUBA Record

T 10397

CASH _____ CHECK # 3308 BY: VIM

Account Code _____

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALT LAKE COUNTY

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- ☒ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____
- ☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued

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

RECEIVED

JUN 13 2007

WATER RESOURCES DEPT
SALEM, OREGON

Name: Valerie Montague Title: Planner
 Signature: Valerie Montague Phone: 541 474 5437 Date: 5-30-2007
 Government Entity: Josephine County Planning Office

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Water Right Transfer Map from C# 16346

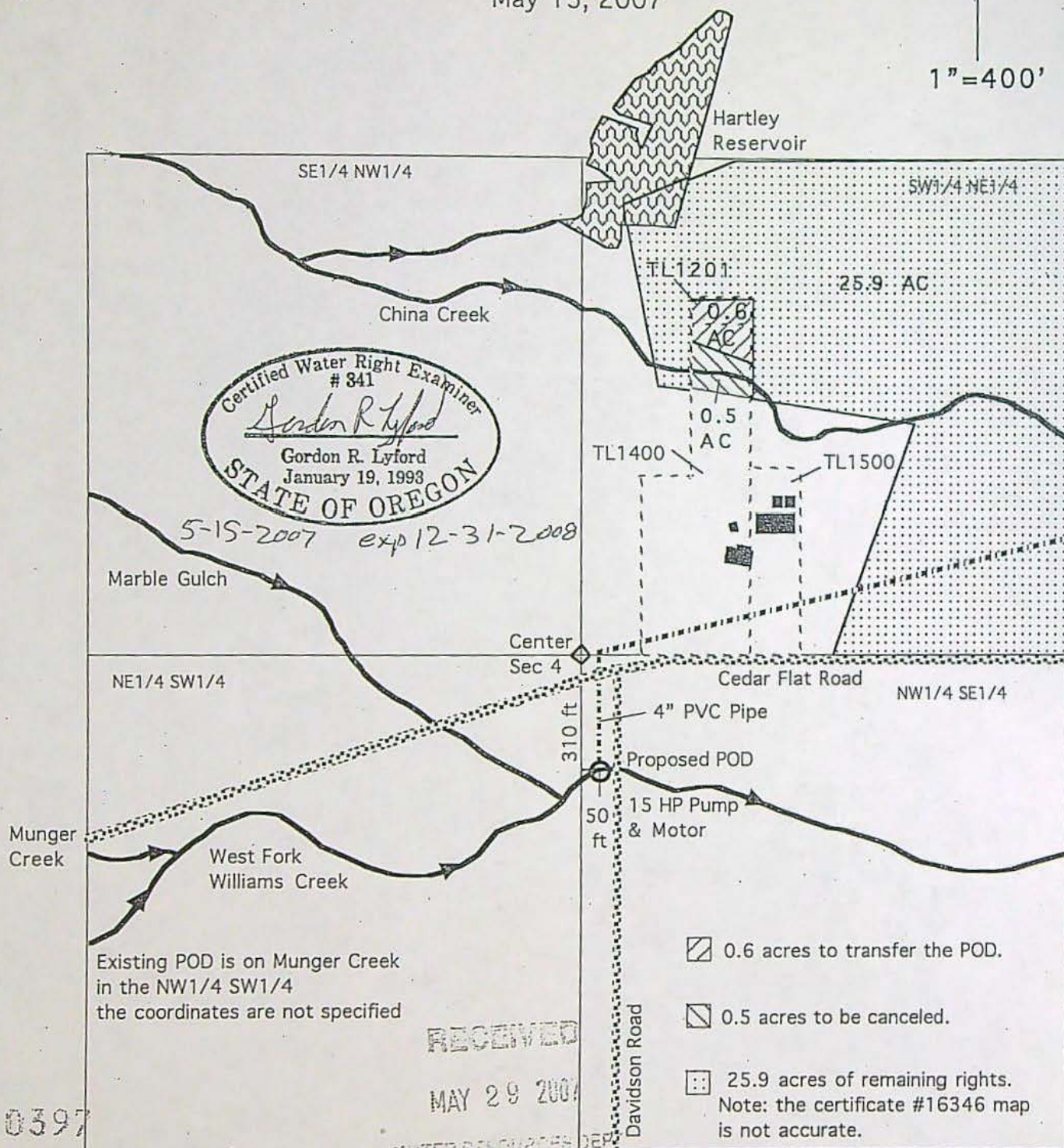
T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

N

1"=400'



Rogue River Final Decree, certificate #16346 with a priority of 1881.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the point of diversion from Munger Creek to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

Water Right Transfer Map from C# 2038

T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

RECEIVED

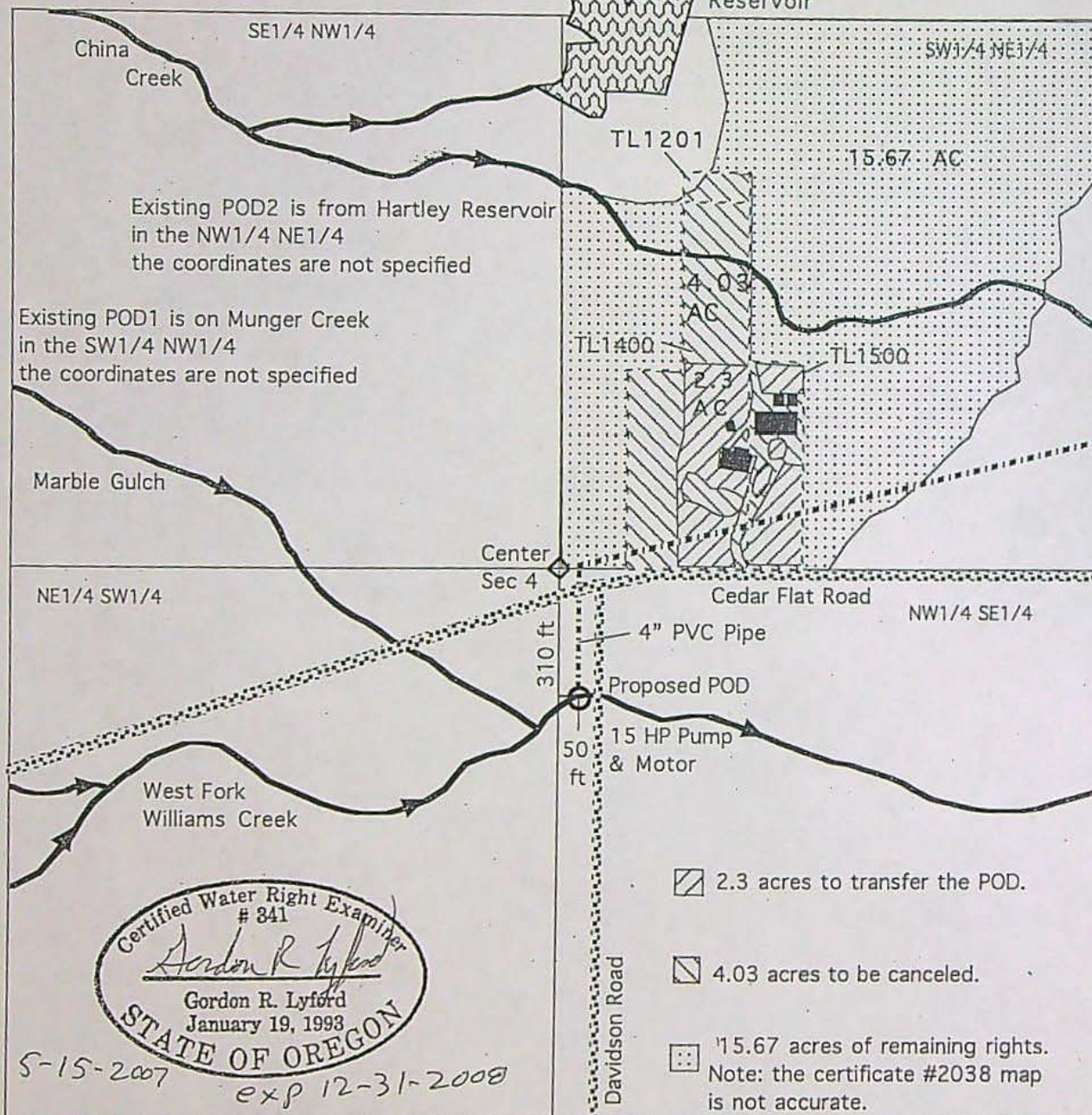
MAY 29 2007

N

T 10397

WATER RESOURCES DEPT. = 400'
SALEM, OREGON

Hartley
Reservoir



Application S-3860, Permit S-2142, Certificate #2038 with a priority of August 18, 1914.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the points of diversion from Munger Creek and Hartley Res. to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

T-10397



Oregon Water Resources Department Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Otto Gaither, Patsy Busby-Gaither, Ace Weston

Mailing Address: 1740 Cedar Flat Road

Williams OR 97544 Daytime Phone: 541-846-6255

City State Zip

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
39 S	5 W	4	SWNE	1201		☐ Diverted ☐ Conveyed ☒ Used	
39 S	5 W	4	SWNE	1400		☐ Diverted ☐ Conveyed ☒ Used	
39 S	5 W	4	SWNE	1500		☐ Diverted ☐ Conveyed ☒ Used	
39 S	5 W	4	SWNE	1302		☐ Diverted ☐ Conveyed ☒ Used	

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

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- ☐ Permit to Use or Store Water ☒ Water-Right Transfer ☐ Exchange of Water
☐ Allocation of Conserved Water ☐ Limited Water Use License
☐ Permit Amendment of Ground Water Registration Modification

Source of water: ☐ Reservoir/Pond ☐ Ground Water ☒ Surface Water (name) W Fk Williams C

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

Intended use of water: ☒ Irrigation ☐ Commercial ☐ Industrial ☐ Domestic for _____ household(s)

☐ Municipal ☐ Quasi-municipal ☐ Instream ☐ Other _____

Briefly describe:

Requesting change in point of diversion for portion (0.6 acres) of Certificate 16346 and a portion (2.3 acres) under Certificate 2038 from Munger Creek and Harley Reservoir to West Fork of Williams Creek.

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

Receipt for Request for Land Use Information

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

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

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If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued

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

Name: Valerie Montague Title: Planner

Signature: _____ Phone: 541-474-5427 Date: _____

Government Entity: Josephine County Planning Office

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

Receipt for Request for Land Use Information

Applicant Name: _____

City or County: _____ Staff Contact: _____

Signature: _____ Phone: _____ Date: _____

June-11-2007

RECEIVED

JUN 13 2007

WATER RESOURCES DEPT
SALEM OREGON

Reference Transfer T10397

Enclosed is the land use form
from Josephine County. Please put
it with our water transfer
package.

Thank you very much.

Patsy Busby-Daither

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form.

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If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

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		☐ Obtained	☐ Being pursued
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		☐ Denied	☐ Not being pursued
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Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

RECEIVED

JUN 13 2007

WATER RESOURCES DEPT
SALEM, OREGON

Name: Valerie Montague Title: Planner
Signature: Valerie Montague Phone: 541 474 5427 Date: 5-30-2007
Government Entity: Josephine County Planning Office

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

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Teri Hranac

From: Teri Hranac
Sent: Friday, August 28, 2009 1:52 PM
To: Kathy Smith
Subject: Transfer 10397

Hi, Kathy:

I'm the new transfer specialist working in the Southwest Region. I'm working on Transfer 10397 for a change for a historic point of diversion. You completed a Watermaster Review Form on June 8, 2007. However, we need an additional statement in the file under OAR 690-380-2120 (2)(c) that based upon your knowledge and Department records, that no complaint of injury has been made due to the use of water at the actual current point of diversion.

Could you please provide me a memo to that effect? If you need me to send you copies of any of the documents, please let me know.

Thanks so much. I look forward to working with you in the future.

Teri Hranac
Water Right Transfer Specialist
Oregon Water Resources Dept.
725 Summer Street NE, Suite A
Salem, OR 97301
(503) 986-0881
Fax: (503) 986-0904
www.wrd.state.or.us

8/28/2009

ORIGINALS

Transfer Application and Map

Amendments/Revisions to Appl & Map

Receipt

Deed or Lot Book Report

Notarized Consent

Evidence of Use Affidavit

Land Use Information Form

Lien Holder Notification *(if applicable)*

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

&

Other Supporting Documentation



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 5, 2007

OTTO C. GAITHER
PATSY L BUSBY-GAITHER
ACE WESTON
1740 CEDAR FLAT ROAD
WILLIAMS OR 97544

Reference: Transfer 10397

On May 29, 2007 we received your water right transfer application. The application was accompanied by \$350.00. Our receipt 87816 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. A number of other transfer applications are also awaiting review. As a result, it may be some time before we are able to process your application. If you wish to have your application processed more quickly, you may want to consider use of the Department's reimbursement authority. Under this authority an applicant may receive expedited review by paying the full cost for a pre-qualified contractor to process the applications. For more information on the Reimbursement Authority program, see our website at http://www.wrd.state.or.us/OWRD/mgmt_reimbursement.shtml or call the transfer section.

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 #14
Gordon Lyford, CWRE
Todd Confer, ODFW

enclosure





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

Notice of Application for Water Right Transfer, Temporary Transfer, or Permit Amendment 06/05/07

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: Josephine
Transfer: T -10397
Water Right: Cert:16346 OR *, Cert:2038 OR *
Priority Date: 1881, 1914
Name: OTTO C. GAITHER
Address: 1740 CEDAR FLAT ROAD; WILLIAMS OR 97544
Change: POD
Source: MUNGER CREEK > WEST FORK WILLIAMS CREEK
Authorized POD: T39S R5W 4
Proposed POD: T39S R5W 4

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.

Sw Ren



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

Watermaster Review Form: Water Right Transfer

Transfer Application: T- 10397

Review Due Date: _____

Applicant Name: Otto Gaither, Patsy Busby-Gaither, Ace WestonProposed Changes: ☐ POU ☒ POD ☐ POA ☐ USE ☐ OTHERReviewer(s): Kathy SmithDate of Review: 6-8-07

- Do you have information suggesting that the water rights may be subject to forfeiture?
☐ Yes ☒ No If "Yes", describe the information and indicate if you intend to file a cancellation affidavit or if you need additional time to determine if a cancellation affidavit should be filed: _____
- Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights? ☒ Yes ☐ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
Yes, Williams Creek is usually regulated for the 1858 water rig
- Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right? ☐ If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

- Are there upstream water rights that would be affected by the proposed change?
☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected: _____
- For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? ☐ If you check the box, describe and, if possible, estimate the losses: Don't know
- Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
☐ Yes ☒ No If "Yes", explain: _____
- For POU changes, would the original place of use continue to receive water from the same source? ☐ Yes ☐ No ☒ N/A If "Yes", explain: _____
- For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☐ No If "Yes", explain: _____
- Are there other issues not identified through the above questions? ☐ Yes ☒ No If "Yes", explain: _____
- What alternatives may be available for addressing any issues identified above: _____

770397

Watermaster Review Form

Transfer Application: T-0

11. Have headgate notices been issued for the source that serves the right? ☒ Yes ☒ No
12. What water control and measurement conditions should be included in the transfer:

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

Please Return by 7-5-07
SW Reg

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JUL 05 2007

Oregon Department of Fish and Wildlife
Water Right and Diversion Transfer Comment Form

(ODFW provides to WRD so that WRD can make findings according to statutory requirements) WATER RESOURCES DEPT
SALEM, OREGON

Reference Transfer #: 10397

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

- ☐ The Oregon Department of Fish and Wildlife (ODFW) believes this proposed transfer may injure an instream water right(s) on _____, tributary to _____. Because, _____
(Stream) _____

(Please attach any available supporting information.)

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

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

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

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is currently equipped with an appropriate fish screening and/or by-pass device.

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

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

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

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

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

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

Note: This option will yield the following:

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

Condition: Prior to diverting water, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

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

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

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife (ODFW) has determined that a fish screening and/or by-pass device is necessary at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device. Listed fish species are not present at the point of diversion, the originating water right diversion is not screened, cost-share funds are not currently available, and the proposed diversion may be eligible for ODFW's cost-share program. A grace period of two years is appropriate until such time as cost share funds become available to assist in the construction of a fish screening and/or by-pass device. If cost share funds do not become available, the water user must screen within the indicated time period regardless of the availability of cost share funding.

Condition: Within two years after the date of this order, the water user shall install a fish screening and/or by-pass device, as appropriate, at the new point of diversion consistent with the Oregon Department of Fish and Wildlife's (ODFW) design and construction standards. Prior to installation, the water user shall obtain written approval from ODFW that the required screen and/or by-pass device meets ODFW's criteria. The water user may withdraw water at the new point of diversion without screening or by-pass devices until two years after the date of this order. Prior to submitting a Claim of Beneficial Use, the water user must obtain written approval from ODFW that the required screening and/or by-pass device was installed to the state's criteria. The water user shall maintain and operate the fish screen and/or by-pass device, as appropriate, at the point of diversion consistent with ODFW's operational and maintenance standards.

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

Transfer # 10397

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

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

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

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

ODFW staff name: Rich Kilbane
Address: 1495 East Gregory Road
City/State/Zip: Central Point OR 97502
Phone: (541) 826-8224

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

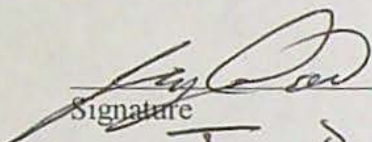
ODFW staff name: _____
Address: _____
City/State/Zip: _____
Phone: (____) _____

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

Note: This option will yield the following:

Finding of Fact: The Oregon Department of Fish and Wildlife has determined that a fish screening and/or by-pass device may be required in the future at the new point of diversion to prevent fish from entering the diversion and/or safely transport fish back to the body of water from which the fish were diverted and that the diversion is not currently equipped with an appropriate fish screening and/or by-pass device.

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


Signature

Jay Deriso
Printed Name

ODFW
Title

(541) 826-8774
Phone

RECEIVED

JUL 05 2007

WATER RESOURCES DEPT
SALEM, OREGON

Water Right Transfer Supplemental Form B **AFFIDAVIT ATTESTING TO THE USE OF WATER**

State of Oregon)
) ss
 County of Josephine)

I, Otto C. Gaither, in my capacity as property owner,
 mailing address 1740 Cedar Flat Road, Williams, Oregon 97544
 telephone number (541)846-6255, being first duly sworn depose and say:

1. I attest that:

- ☒ Water was used during the previous five years on the entire authorized place of use of the water right proposed for transfer as described on the accompanying transfer application; **or**
- ☐ The water right was leased instream at some time within the last five years. The instream lease number is as follows: _____; **or**
- ☐ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use would be rebutted under ORS 540.610(2) is attached.

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

- ☒ Personal observation ☐ Professional expertise

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

Township		Range		Mer	Sec	¼ ¼ Section	Gov't Lot or DLC	Acres (if applicable)
39	S	5	W	Will	4	SW NE		0.6
39	S	5	W	Will	4	SW NE		2.3

(continues on reverse side)

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

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

4. The water right was exercised for the authorized purpose described below (e.g., crops grown):
Irrigation of lawn, landscape, pasture, and garden.

5. The water delivery system used to apply water as authorized by the right is described below:
Water is pumped from the West Fork Williams Creek with a 15 HP Berkeley centrifugal pump
and Century motor into a 4 inch diameter underground PVC pipe shared with other water users.
From the 4 inch mainline water is distributed to solid set impact sprinklers through underground
3 inch, 1.25 inch, and 0.5 inch diameter PVC pipe laterals.

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

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

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MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

[Signature]
Signature of Affiant

5-16-07
Date

10397

Signed and sworn to (or affirmed) before me this 16 day of May, 2007.

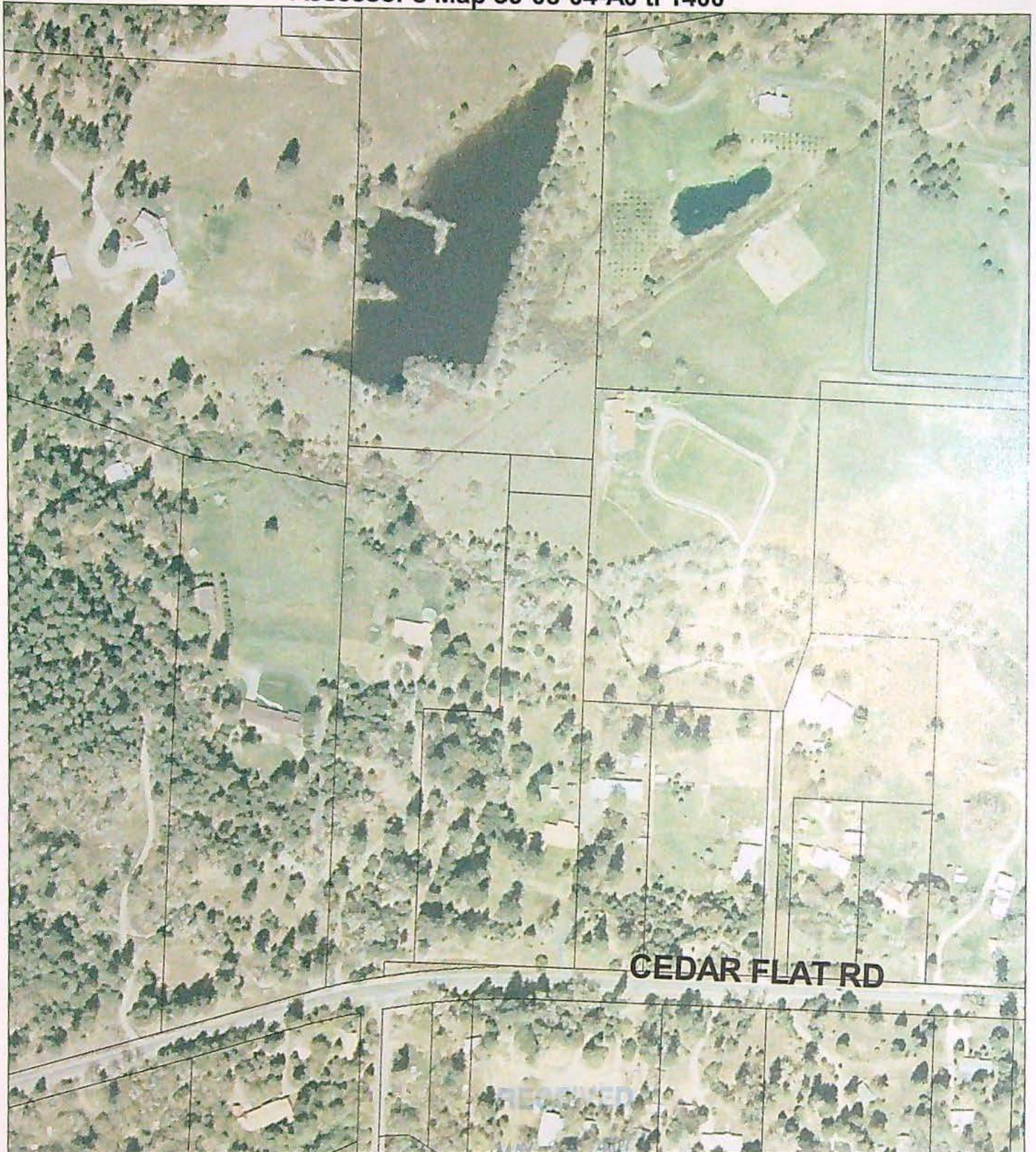


[Signature]
Notary Public for Oregon

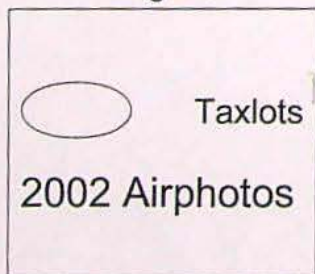
My Commission Expires: 4/26/09

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

Assessor's Map 39-05-04-A0 tl 1400



Legend



300 0 300 600 Feet

10397

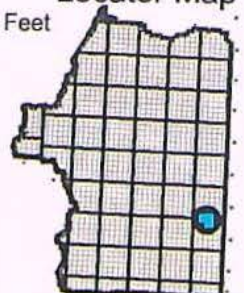
The information on this map is furnished for general interest purposes only. This information is provided without warranties of any kind, express or implied, and it should not be used to support any purchase or other investment. Neither Josephine County, Cave Junction, nor Grants Pass will accept responsibility for any errors or inaccuracies in the depicted information.



Scale
1:3000



Locator Map



**AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A
WATER RIGHT CERTIFICATE**

State of Oregon)

County of Josephine) ss

We (or authorized agent), Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston,
residing at 1740 Cedar Flat Road, Williams, Oregon 97544,
telephone (541)846-6255, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 5 1201,1400,1500, within the
SW 1/4 NE 1/4, Section 4, Township 39 S, Range 5 W, of the Willamette
Meridian, in Josephine County, Oregon, as shown on the attached
map and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right certificate number 2038 issued to J. T. Hartley
with a date of priority of August 18, 1914 for use of 0.34 cubic foot per second of water
from Munger Creek and Hartley Reservoir (source) for the purpose of
Irrigation (use) is appurtenant to our property;
3. The appurtenant water right is not located within the boundaries of an irrigation, drainage, water improvement,
or water control district, or federal reclamation project (if the right is located within a district or reclamation
project, name it here: N/A); and
4. We have abandoned any and all interest in the portion of this water right shown on the attached map and
described as follows:
The right to the use of 0.051 cubic foot per second from Munger Creek and Hartley Reservoir
for Irrigation (use), and irrigation of 4.03 acres located:
(if applicable)

SW 1/4	NE 1/4	<u>4.03</u> Acres
<u>1/4</u>	<u>1/4</u>	Acres
<u>1/4</u>	<u>1/4</u>	Acres

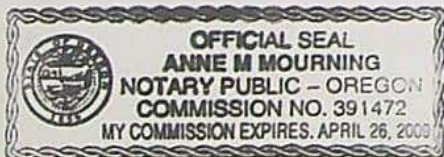
Section 4
Township 39 S, Range 5 W, WM; and
5. We request the portion of the water right described above be canceled.

Otto C. Gaither
Signature of legal owner as listed on deed, or authorized agent

Patsy L. Busby Gaither
Signature of legal co-owner as listed on deed
(if applicable)

Ace Weston

Subscribed and Sworn to Before Me this 16th day of May, 2007.



RECEIVED
MAY 29 2007
WATER RESOURCES DEPT
SALEM, OREGON
5-16-07
Date
5-16-07
Date
5-16-07
Date
[Signature]
Notary Public for Oregon
My Commission Expires 4/26/09

PLEASE ATTACH A LEGIBLE COPY OF : 1) A DEED WHICH LISTS LAND OWNERS AND INCLUDES A LEGAL DESCRIPTION
OF AFFECTED LANDS, AND 2) AN ADJUDICATION MAP, WATER RIGHT FINAL PROOF MAP, OR A TAX LOT MAP WITH THE
PORTION OF THE ABANDONED RIGHT CLEARLY DRAWN AND IDENTIFIED. IF ACTING AS AN AUTHORIZED AGENT,
INCLUDE COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTS GRANTING AUTHORITY TO ACT ON BEHALF OF
LEGAL OWNER(S).

Water Right Transfer Map from C# 2038

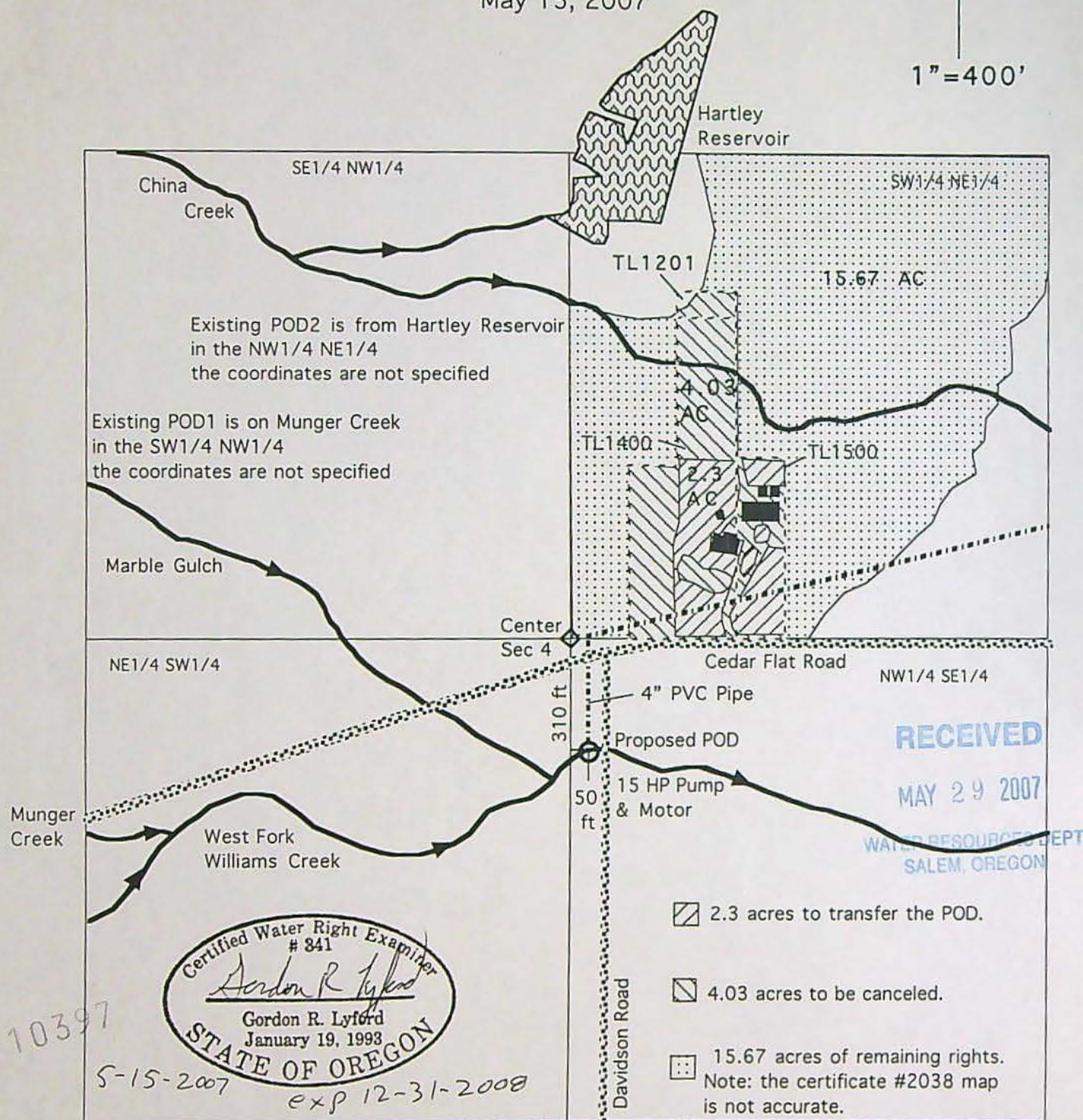
T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

N

1"=400'



Application S-3860, Permit S-2142, Certificate #2038 with a priority of August 18, 1914.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the points of diversion from Munger Creek and Hartley Res. to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

INSTRUMENT 00-19246

Date: 11/1/00

Pages: 2 GON,

County of _____ ss.

William A. Mansfield

PO Box 1721

Medford, Or 97501

First Party's Name and Address

GAITHER, BUSBY & WESTON

1740 Cedar Flat Rd.

Williams, Or 97544

Second Party's Name and Address

After recording, return to (Name, Address, Zip):

JCTC-#10001533KF

Until requested otherwise, send all tax statements to (Name, Address, Zip):

GAITHER, BUSBY & WESTON

1740 Cedar Flat Rd.

Williams, Or 97544

SPACE RESERVED
FOR
RECORDER'S USE

I certify that the within instrument was received for recording on _____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ and/or as fee/file/instrument/microfilm/reception No. _____, Records of this County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy.

PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE dated October 27, 2000

by and between WILLIAM A. MANSFIELD

the duly appointed, qualified and acting personal representative of the estate of MICHAEL D. CRAFT

and OTTO C. GAITHER, PATSY L. BUSBY & ACE WESTON, deceased, hereinafter called the first party, and _____, right of survivorship, not as tenants in common but with the hereinafter called the second party; WITNESSETH:

For value received and the consideration hereinafter stated, the first party has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the second party and second party's heirs, successors and assigns all the estate, right and interest of the estate of the deceased, whether acquired by operation of the law or otherwise, in that certain real property situated in the County of JOSEPHINE, State of Oregon, described as follows, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

TO HAVE AND TO HOLD the same unto the second party, and second party's heirs, successors-in-interest and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 115,000.00. However, the actual consideration consists of or includes other property or value given or promised which is ☐ part of the ☐ the whole (indicate which) consideration. (The sentence between the symbols ^o, if not applicable, should be deleted. See ORS 93.030.)

IN WITNESS WHEREOF, the first party has executed this instrument; if first party is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

William A. Mansfield
William A. Mansfield, Personal Representative

STATE OF OREGON, County of Josephine) ss.

This instrument was acknowledged before me on _____

by _____

This instrument was acknowledged before me on October 30, 2000

by William A. Mansfield

as Personal Representative

of the Estate of Michael D. Craft, deceased



OFFICIAL SEAL
DIANA L. BURKE
NOTARY PUBLIC-OREGON
COMMISSION NO. 304390
MY COMMISSION EXPIRES SEPT. 01, 2001

Notary Public for Oregon

My commission expires 9-1-01

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MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

T 10397

EXHIBIT "A"

PARCEL I:

Commencing at the Southwest corner of the Northeast Quarter of Section 4, Township 39 South, Range 5 West, of the Willamette Meridian, Josephine County, Oregon; thence East along the South line thereof, 457.43 feet to the true point of beginning; thence North 954.80 feet; thence West 158.67 feet; thence South 476.29 feet; thence West 140.09 feet; thence South 478.51 feet, more or less, to the South line of said Northeast Quarter; thence East, along said line, 298.76 feet to the true point of beginning.

PARCEL II:

Commencing at the Southwest corner of the Northeast Quarter of Section 4, Township 39 South, Range 5 West, of the Willamette Meridian, Josephine County, Oregon; thence North 0°04'50" West along the North-South centerline of said Section, 882.58 feet; thence East 458.67 feet; thence South 384.80 feet to the true point of beginning; thence East 128 feet; thence South 500 feet to the South line of said Northeast Quarter; thence West along the South line of said Northeast Quarter 128 feet, more or less, to a point 457.43 feet from said Southwest corner of the Northeast corner of Section 4; thence North 500 feet to the true point of beginning.

1 10397

INSTRUMENT 00-19246
STATE OF OREGON
COUNTY OF JOSEPHINE

I, County Clerk and ex-officio Recorder of Conveyances, in and for said County, do hereby certify that the within instrument was received for record and recorded at

Date: 11/1/00 Time: 3:00 PM

In the Josephine County Book of Records.
GEORGETTE BROWN, COUNTY CLERK

By Deputy: *[Signature]*

Pages: 2 Fee: \$21.00

Hand Returned ☒ Mailed ☐ Hold ☐

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALEM, OR 97331

21-

**AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A
WATER RIGHT CERTIFICATE**

State of Oregon)
County of Josephine) ss

We (or authorized agent), Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston,
residing at 1740 Cedar Flat Road, Williams, Oregon 97544,
telephone (541)846-6255, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 1400, within the
SW 1/4 NE 1/4, Section 4, Township 39 S, Range 5 W, of the Willamette
Meridian, in Josephine County, Oregon, as shown on the attached
map and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right certificate number 16346 issued to J. T. Hartley,
with a date of priority of 1881 for use of 0.49 cubic foot per second of water
from Munger Creek (source) for the purpose of
Irrigation (use) is appurtenant to our property;
3. The appurtenant water right is not located within the boundaries of an irrigation, drainage, water improvement,
or water control district, or federal reclamation project (if the right is located within a district or reclamation
project, name it here: N/A); and
4. We have abandoned any and all interest in the portion of this water right shown on the attached map and
described as follows:
The right to the use of 0.008 cubic foot per second from Munger Creek
for Irrigation (use), and irrigation of 0.5 acres located:
(if applicable)

SW 1/4 NE 1/4	<u>0.5</u>	Acres
1/4 1/4		Acres
1/4 1/4		Acres

Section 4
Township 39 S, Range 5 W, WM; and
5. We request the portion of the water right described above be canceled.

RECEIVED
MAY 29 2007

Otto C. Gaither
Signature of legal owner as listed on deed, or authorized agent

5-16-07 **WATER RESOURCES DEPT**
SALEM, OREGON
Date

Patsy L. Busby-Gaither
Signature of legal co-owner as listed on deed
(if applicable)
Ace Weston

5-16-07
Date
5-16-07

Subscribed and Sworn to Before Me this 16 day of May, 2007.



[Signature]
Notary Public for Oregon

My Commission Expires 4/26/09

PLEASE ATTACH A LEGIBLE COPY OF : 1) A DEED WHICH LISTS LAND OWNERS AND INCLUDES A LEGAL DESCRIPTION OF AFFECTED LANDS, AND 2) AN ADJUDICATION MAP, WATER RIGHT FINAL PROOF MAP, OR A TAX LOT MAP WITH THE PORTION OF THE ABANDONED RIGHT CLEARLY DRAWN AND IDENTIFIED. IF ACTING AS AN AUTHORIZED AGENT, INCLUDE COPY OF POWER OF ATTORNEY OR OTHER DOCUMENTS GRANTING AUTHORITY TO ACT ON BEHALF OF LEGAL OWNER(S).

Water Right Transfer Map from C# 16346

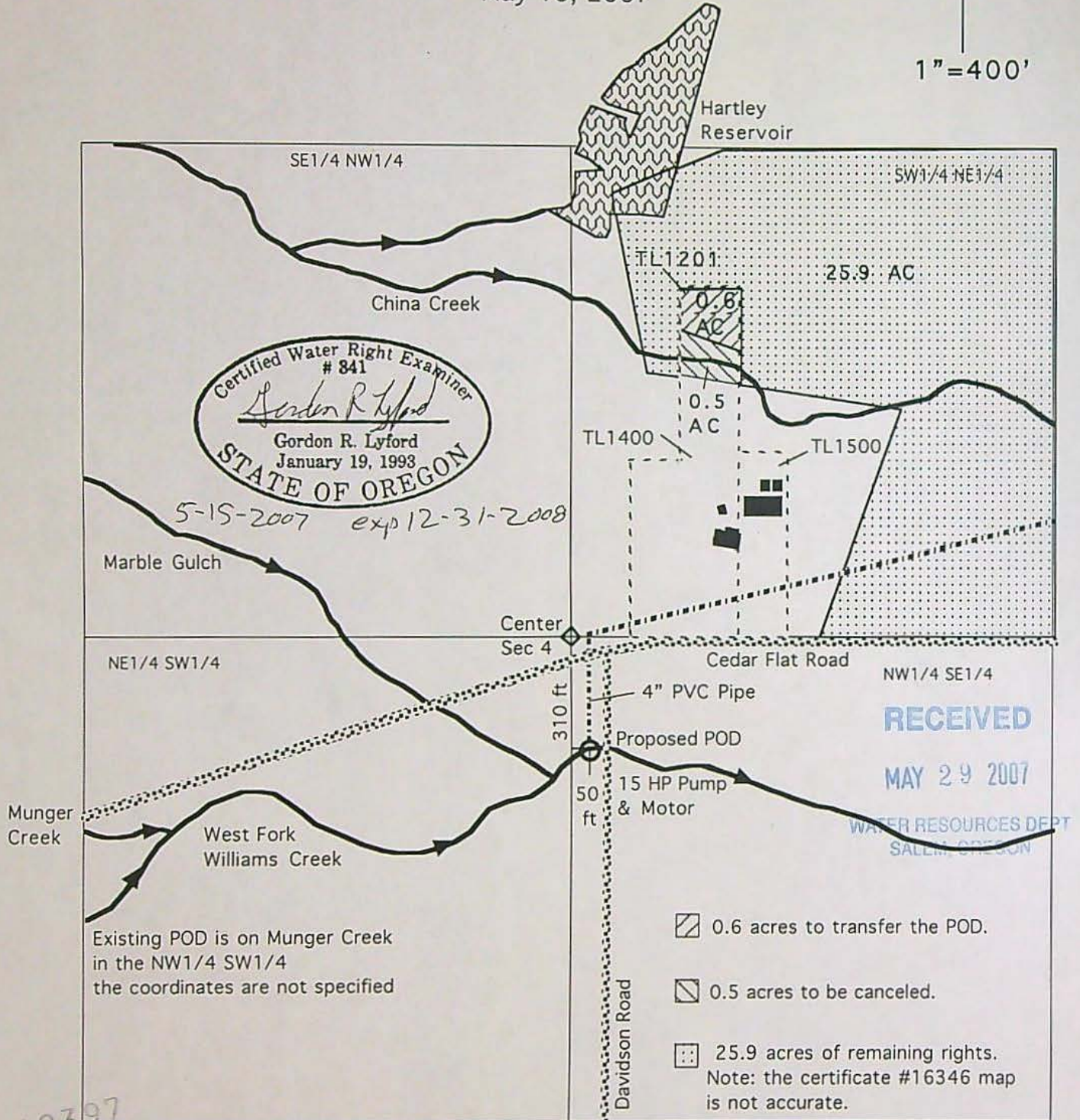
T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

N

1"=400'



Rogue River Final Decree, certificate #16346 with a priority of 1881.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the point of diversion from Munger Creek to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

INSTRUMENT 00 - 19246

Date: 11/1/00

Pages: 2 GON,

County of _____ } ss.

William A. Mansfield

PO Box 1721

Medford, Or 97501

First Party's Name and Address

GAITHER, BUSBY & WESTON

1740 Cedar Flat Rd.

Williams, Or 97544

Second Party's Name and Address

After recording, return to (Name, Address, Zip):

JCTC-#10001533KF

Until requested otherwise, send all tax statements to (Name, Address, Zip):

GAITHER, BUSBY & WESTON

1740 Cedar Flat Rd.

Williams, Or 97544

SPACE RESERVED
FOR
RECORDER'S USE

I certify that the within instrument was received for recording on _____, at _____ o'clock _____ M., and recorded in book/reel/volume No. _____ on page _____ and/or as fee/file/instrument/microfilm/reception No. _____, Records of this County.

Witness my hand and seal of County affixed.

NAME

TITLE

By _____, Deputy.

10003184-CH
36-05-20-41 1400 PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE dated October 27, 2000, by and between WILLIAM A. MANSFIELD, the duly appointed, qualified and acting personal representative of the estate of MICHAEL D. CRAFT, deceased, hereinafter called the first party, and OTTO C. GAITHER, PATSY L. BUSBY & ACE WESTON, not as tenants in common but with the right of survivorship hereinafter called the second party; WITNESSETH:

For value received and the consideration hereinafter stated, the first party has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey unto the second party and second party's heirs, successors and assigns all the estate, right and interest of the estate of the deceased, whether acquired by operation of the law or otherwise, in that certain real property situated in the County of JOSEPHINE, State of Oregon, described as follows, to-wit:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE)

TO HAVE AND TO HOLD the same unto the second party, and second party's heirs, successors-in-interest and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 115,000.00. However, the actual consideration consists of or includes other property or value given or promised which is ☐ part of the ☐ the whole (indicate which) consideration. (The sentence between the symbols ^o, if not applicable, should be deleted. See ORS 93.030.)

IN WITNESS WHEREOF, the first party has executed this instrument; if first party is a corporation, it has caused its name to be signed and its seal, if any, affixed by an officer or other person duly authorized to do so by order of its board of directors.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

William A. Mansfield
William A. Mansfield, Personal Representative

STATE OF OREGON, County of Josephine) ss.

This instrument was acknowledged before me on _____

by _____

This instrument was acknowledged before me on October 30, 2000

by William A. Mansfield

as Personal Representative

of the Estate of Michael D. Craft, deceased



OFFICIAL SEAL
DIANA L. BURKE
NOTARY PUBLIC-OREGON
COMMISSION NO. 304390
MY COMMISSION EXPIRES SEPT. 01, 2001

Diana L. Burke
Notary Public for Oregon
My commission expires 9-1-01

T 10397

EXHIBIT "A"

PARCEL I:

Commencing at the Southwest corner of the Northeast Quarter of Section 4, Township 39 South, Range 5 West, of the Willamette Meridian, Josephine County, Oregon; thence East along the South line thereof, 457.43 feet to the true point of beginning; thence North 954.80 feet; thence West 158.67 feet; thence South 476.29 feet; thence West 140.09 feet; thence South 478.51 feet, more or less, to the South line of said Northeast Quarter; thence East, along said line, 298.76 feet to the true point of beginning.

PARCEL II:

Commencing at the Southwest corner of the Northeast Quarter of Section 4, Township 39 South, Range 5 West, of the Willamette Meridian, Josephine County, Oregon; thence North 0°04'50" West along the North-South centerline of said Section, 882.58 feet; thence East 458.67 feet; thence South 384.80 feet to the true point of beginning; thence East 128 feet; thence South 500 feet to the South line of said Northeast Quarter; thence West along the South line of said Northeast Quarter 128 feet, more or less, to a point 457.43 feet from said Southwest corner of the Northeast corner of Section 4; thence North 500 feet to the true point of beginning.

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

INSTRUMENT 00 - 19246
STATE OF OREGON
COUNTY OF JOSEPHINE

I, County Clerk and ex-officio Recorder of Conveyances, in and for said County, do hereby certify that the within instrument was received for record and recorded at

Date: 11/1/00 Time: 3:00 PM
in the Josephine County Book of Records,
GEORGETTE BROWN, COUNTY CLERK

By Deputy: *J. H. Long*
Pages: 2 Fee: \$21.00

Hand Returned ☒ Mailed ☐ Hold ☐

21-

Indicate in this column whether or not the item is satisfied.

Permanent Transfer Application – OAR 690-380 3000 & 3100

Completeness Checklist

Applicant's Name: Otto & Patsy Gauthier/Weston (Form last revised: March 13, 2007)

Section A – Status of Right

Is this a Water Right that can be transferred?

[OAR 690-380-0100(14)]

NOTE: The Department can accept a Transfer application for any right that is:

- ☒ 1) an adjudication with a court decree; *or*
- ☒ 2) a certificate that is not cancelled; *or*
- ☒ 3) a transfer that's been approved & A COBU has been received by the Department

If the subject right does not fall into any of the above categories, **RETURN** the application & fee to the applicant.

Section B – Type of Change

Is the proposed change(s) allowed under the Transfer process?

[ORS 540.510]

NOTE: Only **POD, POA or POU or USE** changes are allowed on Transfers.

If the application proposes a change other than those listed above, **RETURN** the application & fee to the applicant.

Section C - Fees

Have the appropriate fees been paid?

Total Required Fees: 350

Fee Schedule – ORS 536.050(1)(h)

Total Fees Paid: 350

\$350 - Base fee (1st change and 1st CFS of water)

Fees Due (if any): 0

+ \$350 - Each additional type of change requested

+ \$175 - For each CFS, or fraction thereof, requested beyond 1st CFS
(for POU, Type of Use, or Exchange)

Refund Due (if any): 0

If the applicant has **NOT** submitted the total fees required, **RETURN** the application & deficient fee to the applicant.

Section D – Completeness

Indicate in this column whether an item is incomplete, and if so, identify the deficiency.

Is the Transfer application complete?

All required elements necessary for a complete transfer application are listed below.

Indicate whether or not the applicant has answered and/or supplied attachments to adequately address each of the following items. If any one of the items is deficient, then the application is incomplete.

NOTE: For reference, the application page number upon which each item is requested is identified.

If the application is **NOT** complete, **RETURN** the application & fee to the applicant.

- Type of transfer application

(Page 1)

- Applicant's name, mailing address and contact information.

(Page 1)

- Agent's name, mailing address and contact information, if applicable.

(Page 1)

- Are the water rights to be affected by this transfer listed? yes

(Page 2)

If there are multiple water rights listed..... The applicant must supply a separate "set" of Supplemental Form A for each water right to be transferred.

		Checklist for Supplemental Form A – (Attachments)	
OK	OK	• Certificate # filled in on each page?	(Page 1)
OK	OK	• Type of change(s) proposed clear?	(Page 1)
OK	OK	• Current Water Right information is complete?	(Page 2)
N/A	N/A	• If for a change in POU or USE..... (Page 2) Are there any “layered” irrigation rights, permits, or GR registrations appurtenant to the same place of use as the water right proposed to be transferred? YES NO If YES..... the other “layered” water uses subject to transfer must either change concurrently or be cancelled, except as provided in OAR 690-380-2240(5). If layered with GR, must submit a GR Modification application as well as this application. Are they included in application? If not, contact applicant or agent.	
OK	OK	• Location description of the authorized POA/POD to be changed. (Page 3) NOTE: Ensure that the location coordinates listed in the application match the point and location coordinates illustrated on the application map. Additionally, if the existing authorized source is ground water (POA), the applicant must either: <u>N/A</u> 1) supply a copy of the well log(s), <u>or</u> 2) if well logs are not available, describe the construction of the well(s) in the table provided on page 3 of the supplemental form A application.	
OK	OK	• Location description of the existing authorized POU and associated acres (if applicable). (Page 4) NOTE: Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.	
OK	OK	• Location description of the proposed POA/POD. (Page 5) NOTE: Ensure that the proposed location coordinates listed in the application match the proposed point and location coordinates illustrated on the application map. Additionally, if the proposed source is ground water (POA), the applicant must either: <u>N/A</u> 1) supply a copy of the well log(s), <u>or</u> 2) if well logs are not available or the well is not yet constructed, describe the construction of the well(s) in the table provided on page 5 of the application.	
N/A	N/A	• Location description of the proposed POU and associated acres (if applicable). (Page 6) NOTE: Ensure that the location and number of acres listed per ¼ ¼ in the application match those illustrated on the application map.	
Return back to Page 2 of transfer application			
OK		• The type of changes being proposed.	(Page 2)
OK		• Reason for the transfer.	(Page 2)
OK		• Description of current water delivery system.	(Page 2)
OK		• System Capacity.	(Page 2)

	Checklist for Supplemental Form B – (Attachments)	
OK	• Is there a box checked in #1?	(Page 1)
OK	• Is there a box checked in #2?	(Page 1)
OK	• Does the description of POU on page 4 of the supplemental form A application, match authorized POU in question #3?	(Page 1)
OK	• In question #4 and #5 are they filled out. 2)	(Page 2)
OK	• Is there a box checked in #6?	(Page 2)
OK	• Is the #6 supporting documentation included with application? 2)	(Page 2)
OK	• Is there an original signature of the notary and notary stamp? 2)	(Page 2)
Return back to Page 3 of transfer application		
OK	• Affected districts and local governments. If within a district/local government jurisdiction, ensure that name & mailing address is provided.	(Page 3)
OK	• Is the applicant the Landowner of the “from” and “to” Lands? <u>YES</u> NO If NO..... The applicant must list current landowner name & address.	(Page 4)
OK	• Who will be responsible for completion of the changes? Is a box checked? If no box is checked the applicant or agent must be contacted.	(Page 4)
OK	• Map..... (Required to be prepared by a CWRE) unless... 1. Map Waiver included with application 2. FP map with advance email or written approval 3. POD/POA without POU change and for entire right with FP map for “from” map if more than 3 rights are included in transfer, is there a separate map for each water right? If larger than 8 1/2 X 14 than 3 copies of map is needed & an electronic pdf file of map north arrow size & scale other: _____ authorized acreage per 1/4 1/4 matches the water right authorized POD/POA and POU (clearly shown, labeled & matches application listing) point plotted for the authorized POD/POA agrees with location coordinates on supplemental form A and WR proposed POD/POA and/or POU (clearly shown, labeled & matches application “proposed” listing) location coordinates accurately describe the point identified as the proposed POD/POA	(Page 5)
being sent have review	• Land Use form, if applicable. Is the form signed by the local planning department staff? May be needed if the POD/POA or POU is moving a great distance <u>and</u> off of land originally involved in WR.	(Page 5)
N/A	• If a groundwater right is involved, are the well logs or a description included.	(Page 5)
N/A	• If this is an instream water right transfer, is there a form C included and filled out.	(Page 5)

OK	• Signature(s) of applicant(s): (Page 6) - Are one of the boxes checked? <u>All</u> applicants listed on page 1 of the application <u>must</u> sign the application.
WRD Completeness Reviewer's Name: <u>S. Henderson</u> Date: <u>5-30-07</u>	

JOSEPHINE COUNTY PLANNING

Name: _____ Date: 5-18-07 Receipt #: 44066
Address: 1740 Cedar Flat Rd 846-6255
Legal: T 39 R 5 Sec 4 Tax Lots: 1207/1400/1500 Amount: \$ 7500

ADMINISTRATIVE

38220 Conditional Use
38200 Development Permit
39801 Aggregate Mining Permit
38240 Farm Dwelling
38250 Forest Dwelling
38260 Medical Hardship
38210 Medical Hardship Renewal
38270 Home Occ / No Hearing
38271 Home Occ / Hearing
38272 Home Occ / Renewal
38280 Manufactured Dwelling
Storage
39812 Measure 37 Claim
38290 Non-Conforming Use-
Verification
39810 Non-Conforming Use-
Expansion

39803 Pre-App. Aggregate Mining
39804 Pre-App. Comp Plan / ZC
39100 Pre-App. - Others
39050 Pre-App. - PUD
39806 Pre-App. Subdivision
39250 Road Naming
39450 Variance w/o Hearing
39451 Variance w/ Hearing
39813 Violation Surcharge

HEARING REQUESTS

38000 Appeal after Hearing
38010 Appeal w/o Hearing
39200 Remand Hearing
39650 Re-noticing Fee

LAND DIVISION

38300 Final Plat
39000 Partition / Tentative Approval
39001 Partition / Easement / Public
Usage Access

39802 PUD / Tentative Approval
39150 Property Line Adjustment
39700 Replat
39400 Subdivision / Tentative Approval

ORDINANCE CHANGES

38100 Comp Plan / Zone Change
39002 Comp Plan / Zone Change w/
exception to Statewide Goals
39800 Text Amend.

SITE REVIEW

39350 Half Acre or Less
39360 Half Acre → Two Acres
39380 Over Two Acres
39340 Standards Only

ANALYSIS

38050 Auth Lot / Dwelling Determination
38235 Determination of Dvlp / Extension
38350 Flood Review / FEMA Map Info
39805 Flood Review - Substantial
Improvement
39809 Flood Review - Elevation
Determination
39550 Land Use Statement
39807 Technical Plan Review / Flood,
Fire, Erosion, etc.

MISCELLANEOUS

39600 Copies / Maps / Ordinances
39750 Transcript Deposit
39808 Preparation of LUBA Record

T 10397

CASH _____ CHECK # 2338 BY: VM

Account Code _____

RECEIVED

MAY 29 2007

WATER RESOURCES DEPT
SALEM, OREGON

Teri Hranac

From: fast@etitledocs.com on behalf of dchristensen@firstam.com
Sent: Tuesday, November 03, 2009 9:12 AM
To: Teri Hranac
Subject: (Email Ref=635327793)

Attachments: (OR) Lot Book Service.pdf; Map-Assessor.TIF



(OR) Lot Book
Service.pdf (58 ...



Map-Assessor.TIF
(23 KB)

File No.: 7159 1491544

Buyer: Otto C. Gaither

Seller: Otto

Property Address: 1740 Cedar Flat Road, Williams, OR 97544

You can download Acrobat Reader at <http://www.adobe.com/products/acrobat/readstep2.html>

Dana Christensen
Title Officer
First American Title Insurance Company of Oregon
Phone: 541-779-7250
Fax: 866-400-2250

This message contains confidential information intended only for the use of the intended recipient(s) and may contain information that is privileged. If you are not the intended recipient, or the person responsible for delivering it to the intended recipient, you are hereby notified that reading, disseminating, distributing or copying this message is strictly prohibited.

If you have received this message by mistake, please immediately notify us by replying to the message and delete the original message immediately thereafter.

This message may contain confidential or proprietary information intended only for the use of the addressee(s) named above or may contain information that is legally privileged. If you are not the intended addressee, or the person responsible for delivering it to the intended addressee, you are hereby notified that reading, disseminating, distributing or copying this message is strictly prohibited. If you have received this message by mistake, please immediately notify us by replying to the message and delete the original message and any copies immediately thereafter.

Thank you.

FACLD



First American

First American Title Insurance Company of Oregon
118 NE C Street
Grants Pass, OR 97526
Phn - (541)476-6884
Fax - (866)637-1007

JOSEPHINE COUNTY TITLE UNIT
FAX (866)637-1007

Title Officer: **Dana Christensen**
(541)476-6884
dchristensen@firstam.com

LOT BOOK SERVICE

Patsy Busby
1740 Cedar Flat Rd
Williams, OR 97544

Order No.: 7159-1491544
November 03, 2009

Attn:
Phone No.: (541)846-6255 - Fax No.:
Email:

Re: T-10397

Fee: \$200.00

We have searched our Tract Indices as to the following described property:

PARCEL I:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 SOUTH, RANGE 5 WEST, OF THE WILLAMETTE MERIDIAN, JOSEPHINE COUNTY, OREGON; THENCE EAST ALONG THE SOUTH LINE THEREOF, 457.43 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 954.80 FEET; THENCE WEST 158.67 FEET; THENCE SOUTH 476.29 FEET; THENCE WEST 140.09 FEET; THENCE SOUTH 478.51 FEET, MORE OR LESS, TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE EAST, ALONG SAID LINE, 298.76 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL II:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 SOUTH, RANGE 5 WEST, OF THE WILLAMETTE MERIDIAN, JOSEPHINE COUNTY, OREGON; THENCE NORTH 0°04'50" WEST ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 882.58 FEET; THENCE EAST 458.67 FEET; THENCE SOUTH 384.80 FEET TO THE TRUE POINT OF BEGINNING; THENCE EAST 128 FEET; THENCE SOUTH 500 FEET TO THE SOUTH LINE OF SAID NORTHEAST QUARTER; THENCE WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER 128 FEET, MORE OR LESS, TO A POINT 457.43 FEET FROM SAID SOUTHWEST CORNER OF THE NORTHEAST CORNER OF SECTION 4; THENCE NORTH 500 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: This legal description was created prior to January 1, 2008.

and as of October 22, 2009 at 8:00 a.m.

We find that the last deed of record runs to

Otto C. Gaither, Patsy L. Busby & Ace Weston, not as tenants in common but with the right of survivorship

We also find the following apparent encumbrances within ten (10) years prior to the effective date hereof:

1. Taxes for the current fiscal year are reduced by reason of Veterans Exemption. If the exempt status is terminated under the statute prior to July 1, said property will be taxed at 100% of the assessed value.
2. Deed of Trust and the terms and conditions thereof.

Grantor/Trustor:	Otto C Gaither and Patsy L Busby and Ace Weston
Grantee/Beneficiary:	Key Bank USA, National Association
Trustee:	Josephine County Title
Amount:	\$92,000.00
Recorded:	November 01, 2000
Recording Information:	00-19247

We have also searched our General Index for Judgments and State and Federal Liens against the Grantee(s) named above and find:

NONE

We also find the following unpaid taxes and city liens: NONE

NOTE: Taxes for the year 2009-2010 PAID IN FULL

Tax Amount:	\$916.33
Map No.:	39 5 4A TL 1400
Property ID:	R328436
Tax Code No.:	06

NOTE: An application to Exempt Mobile Home from Registration and Titling was recorded November 17, 2000 as Document No. 00-20247 of Josephine County Official Records.

NOTE: An application to Exempt Mobile Home from Registration and Titling was recorded November 17, 2000 , 00-20248 of Josephine County Official Records.

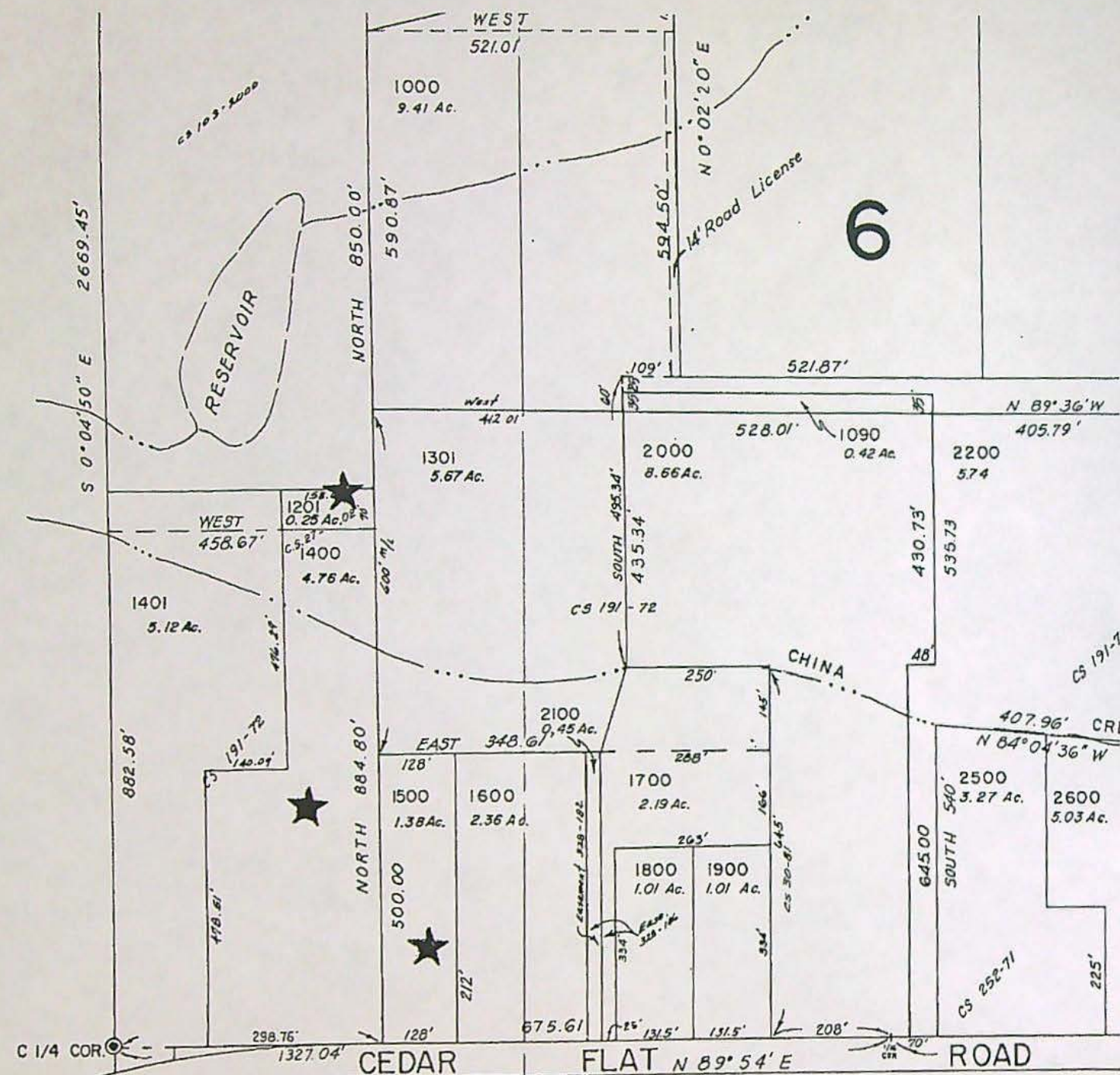
NOTE: Taxes for the year 2009-2010 PAID IN FULL

Tax Amount:	\$551.14
Map No.:	39 5 4A TL 1500
Property ID:	R328438
Tax Code No.:	06

NOTE: Taxes for the year 2009-2010 PAID IN FULL

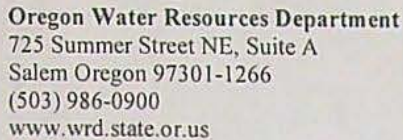
Tax Amount: \$3.99
Map No.: 39 5 4A TL 1201
Property ID: R328434
Tax Code No.: 06

THIS IS NOT a title report since no examination has been made of the title to the above described property. Our search for apparent encumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this Lot Book Service and will not be responsible for errors or omissions therein. The charge for this service will not include supplemental reports, rechecks or other services.



SEE MAP 39 5 4

FIRST AMERICAN TITLE CO. 4-A
 Township 39 Range 5 Section 4-A
 This map is for location purposes only. No liability
 is assumed for variations disclosed by survey.
 Not To Scale



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.

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

Name: Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston

Address: 1740 Cedar Flat Road

Williams	Oregon	97544
City	State	Zip

Phone: (541)846-6255

Fax: _____ E-Mail address: opgoldsearchers@localnet.com

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

Name: _____

First Last

Address: _____

City _____ State _____ Zip _____

Phone: _____

Fax: _____ E-Mail address: _____

- If an agent is listed above, please check one of the following:
 - ☐ Please send all correspondence to Agent. Send *copies* of correspondence to Applicant; or
 - ☐ Please send all correspondence to Applicant. Send *copies* of correspondence to Agent.

10397

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MAY 29 2007

Last revised: 1/4/2007

Transfer Application/1

WATER RESOURCES DEPT
SALEM OREGON

FS

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.	Rogue River Final Decree	N/A	16346
2.	S-3860	S-2142	2038
3.			
4.			
5.			
6.			

- Attach a **separate Supplemental Form A** (*Description of Proposed Change(s) to a Water Right*) for **each** water right listed above.
- Check **all** proposed change(s) included in this transfer application:
 - ☐ Place of Use ☒ Point of Diversion ☐ Additional Point of Diversion
 - ☐ Character of Use ☐ Point of Appropriation ☐ Additional Point of Appropriation
 - ☐ Instream Transfer ☐ Surface Water source to Ground Water source
- Reason(s) for change(s): To change the authorized POD from a ditch on Munger Creek and Hartley Reservoir downstream to a 15HP pump and motor on the West Fork Williams Creek.

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.

A 15 HP Berkeley centrifugal pump and Century motor pumps water from the West Fork Williams Ck below the confluence with Munger Ck through a 4" diameter PVC pipe to the places of use. Impact sprinklers are used to apply the water to the lawn, garden, and pasture.
- System capacity: 0.5 cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

The 15 HP pump/motor and 4" pipeline is shared with several other water right holders.

The water users are on a rotation system to share the system capacity.

10327

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MAY 29 2007

6. EVIDENCE OF BENEFICIAL WATER USE

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

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

- Are any of the water rights proposed for transfer located within or served by an irrigation or other water district? ☐ Yes ☒ No
- Will any of the water rights be located within or served by an irrigation or other water district after the proposed transfer? ☐ Yes ☒ No
- Is water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity? ☐ Yes ☒ No

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

N/A

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

Josephine County

500 NW 6th Street

Grants Pass, Oregon 97526

T 10397

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8. LAND OWNERSHIP

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

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

Names of Current Landowner(s): _____
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.)

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9. ATTACHMENTS

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

Supplemental Form A –

Description of Proposed Change(s) to a Water Right

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

Supplemental Form B –

Evidence of Use Affidavit(s)

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

Map

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

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

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

Land Use Information Form:

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

Fees:

- ☒ Amount enclosed: \$350.00
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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Before submitting your application to the Department, be sure you have:

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

10. SIGNATURES

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

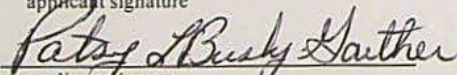
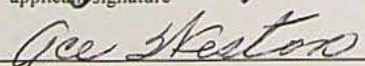
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership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

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

☐ I (we) affirm that the applicant is a municipality, as defined in ORS 540.510(3)(b), and that the right is in the name of the municipality or a predecessor. Therefore, pursuant to OAR 690-380-3000(13)(b), the applicant is NOT required to provide the above described report of ownership and lien information.

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

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

	Otto C. Gaither	5-16-07
applicant signature	name (print)	date
	Patsy L. Busby-Gaither	5-16-07
applicant signature	name (print)	date
	Ace Weston	5-16-07
applicant signature	name (print)	date

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Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

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

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

- Certificate Number or other identifying number: 16346

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

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

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2. CURRENT WATER RIGHT INFORMATION

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

☒ Certificated Right	16346	Rogue River Final
	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: J. T. Hartley
- County: Josephine
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): 1881

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: Munger Creek

Tributary to: West Fork Williams Creek

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

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

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

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

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

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

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- Certificate Number or other identifying number: 16346

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)
	Munger Creek 1881	39S	5W	Will	4	NW SW		Not specified

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

☐ Yes ☒ No (Surface water source only.)

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

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

or

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

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

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

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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WATER RESOURCES DEPT
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▪ Certificate Number or other identifying number: 16346

The following information must be provided only for those places of use 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 Place of Use to be Affected:

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

[illegible]

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▪ Certificate Number or other identifying number: 16346

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)
West Fork Williams Ck	39S	5W	Will	4	NW SE	TL 1302	310 feet South and 50 feet East from the center of section 4.

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

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

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

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

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

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

▪ Certificate Number or other identifying number: 16346

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

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer
(NOTE: Complete this table *only* if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)

Remarks: We bought the property in 2000 and the proposed (historic) POD had been
used continuously since 1975. The proposed POD is on the West Fork Williams Creek
downstream of the confluence with Munger Creek so that Munger Creek water is
being diverted. Also, 0.5 acres under certificate #16346 will be cancelled.

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Water Right Transfer Supplemental Form A

DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT

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

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

- Certificate Number or other identifying number: 2038

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

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

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SALEM, OREGON

2. CURRENT WATER RIGHT INFORMATION

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

☒ Certificated Right	2038	S-2142
	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: J. T. Hartley
- County: Josephine
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): August 18, 1914

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: Munger Creek and Hartley Reservoir

Tributary to: West Fork Williams Creek

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

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

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

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

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

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

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▪ Certificate Number or other identifying number: 2038

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)
	Munger Creek Aug 18, 1914	39S	5W	Will	4	SW NW		Not specified
	Hartley Res Aug 18, 1914	39S	5W	Will	4	NW NE		Not specified

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

☐ Yes ☒ No (Surface water source only.)

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

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

or

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

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

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

OWRD Well No. as identified in table above	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
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- Certificate Number or other identifying number: 2038

*The following information **must be provided** only for those places of use 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 Place of Use to be Affected:

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

[illegible]

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- Certificate Number or other identifying number: 2038

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)
West Fork Williams Ck	39S	5W	Will	4	NW SE	TL 1302	310 feet South and 50 feet East from the center of section 4.

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

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

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

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

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

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

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▪ Certificate Number or other identifying number: 2038

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

Location of Proposed Place of Use: (i.e., the "TO" lands) ☐ N/A – Instream Water Right Transfer
(NOTE: Complete this table **only** if a Change in Place of Use is being proposed.)

Source	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)

Remarks: We bought the property in 2000 and the proposed (historic) POD had been
used continuously since 1975. The proposed POD is on the West Fork Williams Creek
downstream of the confluence with Munger Creek so that Munger Creek water is
being diverted. Also, 4.03 acres under certificate #2038 will be cancelled.

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SALEM, OREGON

Water Right Transfer Map from C# 16346

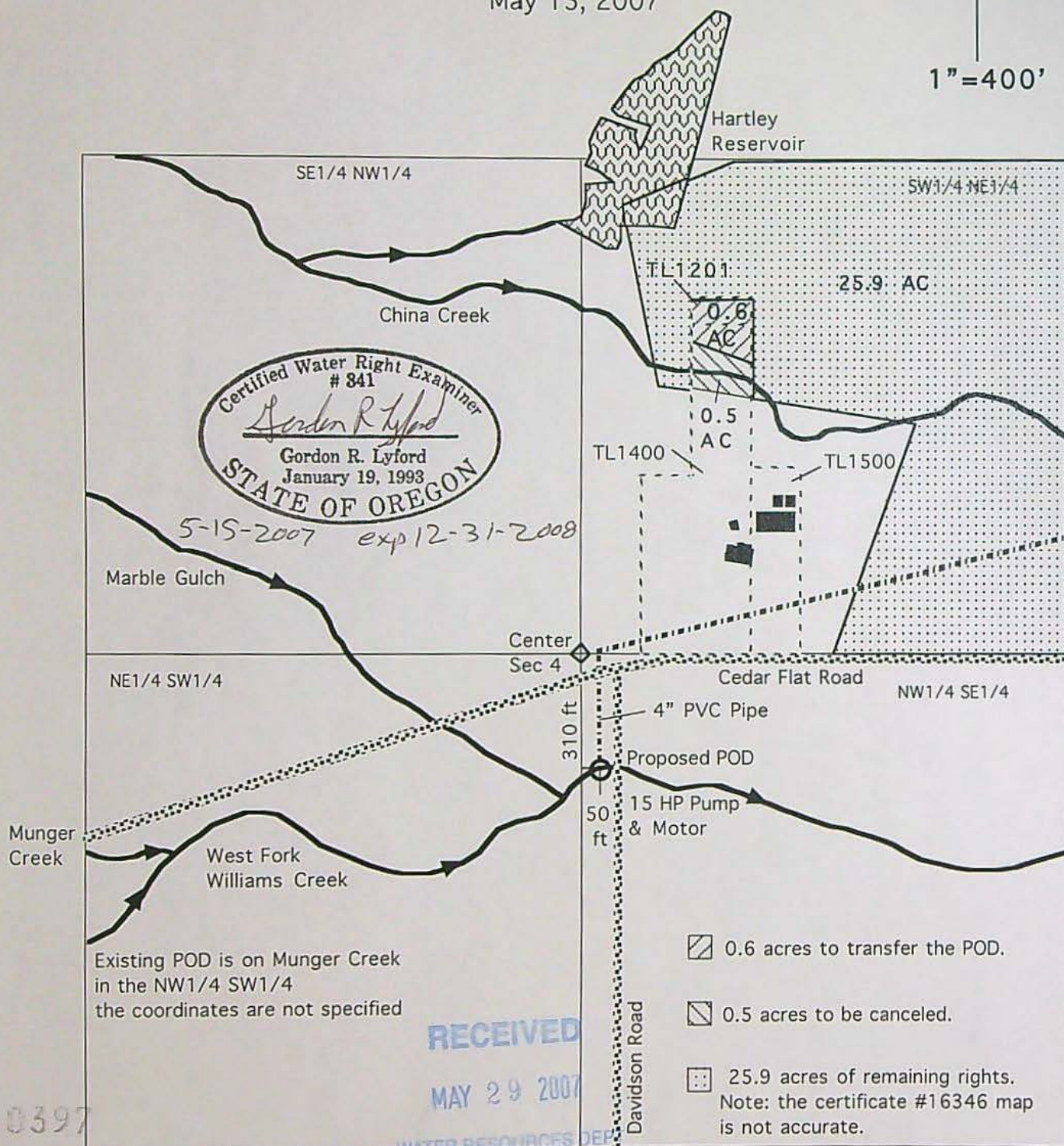
T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

N
↑

1"=400'



Rogue River Final Decree, certificate #16346 with a priority of 1881.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the point of diversion from Munger Creek to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.

Water Right Transfer Map from C# 2038

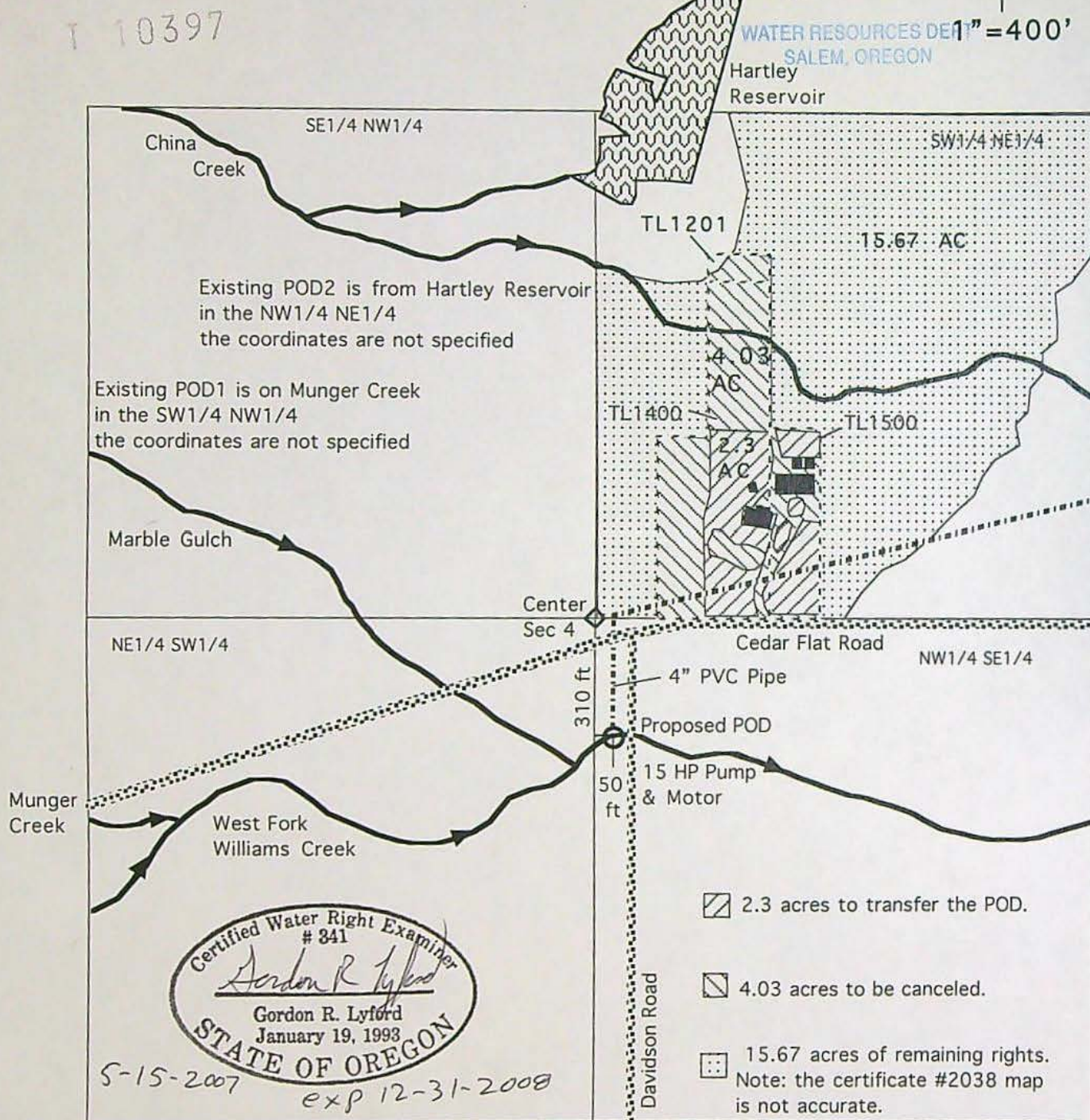
T. 39 S., R. 5 W., W. M., JOSEPHINE COUNTY

Portions of Section 4

May 15, 2007

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WATER RESOURCES DEPT. = 400'
SALEM, OREGON

Application S-3860, Permit S-2142, Certificate #2038 with a priority of August 18, 1914.

This map was drawn by Gordon R. Lyford for Otto C. Gaither, Patsy L. Busby-Gaither, and Ace Weston to support their Application for a Water Right Transfer to change the points of diversion from Munger Creek and Hartley Res. to the West Fork Williams Creek. Otto, Patsy, and Ace own tax lots 1201, 1400, and 1500.

This map was prepared for the purpose of identifying the location of water rights only and is not intended to provide legal dimensions or the location of property ownership lines.