

T-10427

T-10427

RA

Name Craig ColemanAddress 33896 E Walls Rd
Hermiston, OR 97838
541-567-1605Change in USE/POU/POADate Filed 7-2-07Initial notice date 7-17-2007 7-17-2007

DPD issued date

PD issued date 1/28/2008PD notice date 2/5/2008Date of FO 3-25-08 Vol 74 Page 424Ext 9-29-09 V. 78 p. 1012C-Date 10-1-09 2012COBU due date 10-1-2010 2013

COBU Received date

Certificate issued 83836, 83844

DESCRIPTION OF WATER RIGHT(s)

Name of Stream WellTrib. of UmatillaUse IRCounty Umatilla

Quantity of water (CFS)

No. of Acres

Name of ditch

App # U 736Per # U 649Cert # 80913PR Date 1954App # G 5209Per # G 10505Cert # 80915PR Date 1970

App #

Per #

Cert #

PR Date

App #

Per #

Cert #

PR Date

App #

Per #

Cert #

PR Date

Hansell Brothers Inc

FEES PAID		
Date	Amount	Receipt #
7/2/07	800.00	88474
7/2/07	125.00	88475
11/1/07	400.00	90431

FEES REFUNDED		
Date	Amount	Receipt #

Assignments:

Irrigation District

Agent Bill Porfily PO Box 643 Stanfield, OR 97878

CWRE

CC's list

Reimbursement Authority Contractor: Pacific Hydro GeologyRevised map - Location

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **88474**

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

INVOICE # _____

RECEIVED FROM: Popcity Water Rights Consulting
BY: _____

APPLICATION	
PERMIT	
TRANSFER	T-10427

CASH: ☐ CHECK: # 5327 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 800.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$ <u>800.00</u>		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD)		\$
0231 HYDRO LICENSE FEE (FWWRD)		\$
HYDRO APPLICATION		\$

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **88474**

DATED: 7-2-07 BY: [Signature]

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **90431**

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

INVOICE # _____

RECEIVED FROM: Porfily Water Rights Consulting

BY: _____

CASH: ☐ CHECK: # 5392 OTHER: (IDENTIFY) ☐

APPLICATION
PERMIT
TRANSFER T.10427

TOTAL REC'D \$ 400.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES PCA 46111 \$
OTHER: (IDENTIFY) \$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$ <u>400.00</u>		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: **90431**

DATED: 11-1-07 BY: [Signature]

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

STATE OF OREGON
WATER RESOURCES DEPARTMENT

RECEIPT # **90431**

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

INVOICE # _____

RECEIVED FROM: Porfily Water Rights Consulting

BY: _____

CASH: ☐ CHECK: # 5392 OTHER: (IDENTIFY) ☐

APPLICATION
PERMIT
TRANSFER T.10427

TOTAL REC'D \$ 400.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES PCA 46111 \$
OTHER: (IDENTIFY) \$

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

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

WATER RIGHTS:

	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$	0202	\$
0203 GROUND WATER	\$	0204	\$
0205 TRANSFER	\$ <u>400.00</u>		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

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

RECEIPT: **90431**

DATED: 11-1-07 BY: [Signature]

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

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **97943**

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

INVOICE # _____

RECEIVED FROM: FLYING J
BY: _____

APPLICATION	
PERMIT	
TRANSFER	T-10427

CASH: ☐ CHECK: # 751621 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D \$ 500.00

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 46110
0407 COPY & TAPE FEES \$ _____
0410 RESEARCH FEES \$ _____
0408 MISC REVENUE: (IDENTIFY) \$ _____
TC162 DEPOSIT LIAB. (IDENTIFY) \$ _____
0240 EXTENSION OF TIME FORX - PER \$ 500.00

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

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD) \$ _____
0231 HYDRO LICENSE FEE (FWWRD) \$ _____
HYDRO APPLICATION \$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION \$ _____

RECEIPT: **97943**

DATED: 9-25-09 BY: QR



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

March 26, 2008

CRAIG COLEMAN
33896 E WALLS ROAD
HERMISTON OR 97838

Reference: Transfer 10427

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

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

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

You have the requirement to hire a Certified Water Right Examiner (CWRE) to complete a Claim of Beneficial Use report and map which must be submitted to this department within one year of the date you completed the change or within one year of the completion date authorized in the transfer, whichever occurs first.

Sincerely,

 Doug Parrow
Natural Resource Specialist

DP:sh

cc: Watermaster #5
Dale Van Schoiack, CWRE
Bill Porfily, Agent
Flying J Inc., Receiving Landowner
Hansell Brothers Inc.
County Line Water Improvement District

Enclosure

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

In the Matter of Transfer Application	)	FINAL ORDER APPROVING A
T-10427, Umatilla County	)	CHANGE IN POINT OF
	)	APPROPRIATION, PLACE OF USE,
	)	AND CHARACTER OF USE, AND
	)	PARTIAL CANCELLATION OF A
	)	WATER RIGHT

Authority

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

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

CRAIG COLEMAN
33896 E. WALLS ROAD
HERMISTON, OREGON 97838

Receiving Landowner

FLYING J INC.
1104 COUNTRY HILLS DRIVE
OGDEN, UTAH 84403

Findings of Fact

Background

1. On July 2, 2007, Craig Coleman filed an application to change the character of use, place of use, and point of appropriation under Certificate 80913. The Department assigned the application number T-10427.
2. On July 2, 2007, the applicant submitted an Affidavit for Partial Cancellation of a Water Right Certificate requesting to voluntarily cancel 13.5 acres of supplemental irrigation use under Certificate 80915 appurtenant to tax lot 2300, in the NW ¼ of the NW ¼ of Section 36, T4N, R27E (the same lands listed in Finding of Fact #17). The portion of the supplemental right which the applicant has proposed to cancel is a part of the lands affected

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

by Transfer T-9996, and is currently in an inchoate state, (Certificate 80915 having been cancelled by the T-9996 order recorded at Special Order Volume 68, pages 52-55.)

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

Certificate: 80913 in the name of HANSELL BROTHERS, INC. (perfected under Permit U-649)

Use: IRRIGATION of 13.5 ACRES

Priority Date: AUGUST 9, 1954

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	36	SW NW	Well #9 - 1884 FEET SOUTH AND 1315 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

4. Application T-10427 proposes to move the authorized point of appropriation approximately 1.4 miles northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	25	NW NE	590 FEET SOUTH AND 1420 FEET WEST FROM THE NE CORNER OF SECTION 25

5. Application T-10427 proposes to change the character of use from irrigation to industrial use.
6. Application T-10427 also proposes to change the place of use of the right to:

INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
4 N	27 E	WM	25	NE NE
4 N	27 E	WM	25	NW NE
4 N	27 E	WM	25	SW NE
4 N	27 E	WM	25	SE NE

7. Notice of the application for transfer was published on July 17, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On October 15, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10427 to the applicant. The draft Preliminary Determination set forth a deadline of November 30, 2007, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary

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

9. On January 28, 2008, the Department issued a Preliminary Determination proposing to approve Transfer T-10427 and mailed a copy to the applicant. Additionally, notice of the Preliminary Determination for the transfer application was published on the Department's weekly notice on February 5, 2008, and in the East Oregonian newspaper on February 9, 16 and 23, 2008, pursuant to ORS 540.520 and OAR 690-380-4020. No protests were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

10. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
11. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10427.
12. The proposed change would not result in enlargement of the right, as long as the new use is limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and does not exceed the maximum annual duty allowed for the original use, being 40.5 acre-feet per year.
13. The proposed change would not result in injury to other water rights.
14. The receiving landowner is Flying J Inc., who will be responsible for proving up on the changes from 13.5 acres of irrigation use to industrial use.

Partial Cancellation of Water Rights

15. ORS 540.510(1) and OAR 690-380-2250(5) provide that the order approving the transfer of a primary right shall cancel the portion of a supplemental right appurtenant to the same lands if the supplemental right is not included in the transfer. The supplemental right under Certificate 82596 is not included in transfer application T-10427, and will be cancelled upon issuance of a final order approving T-10427, unless the applicant amends the application to include the supplemental rights in the transfer, or withdraws those lands from the transfer.
16. Consistent with OAR 690-380-2250, the Department in the draft preliminary determination notified the applicant of the Department's intent to cancel the portion of the supplemental water right described below unless within 30 days of the date of the notification the applicant modified the application to include the supplemental right or withdrew the application. The applicant did not respond to the notice by withdrawing the application or modifying it to include the supplemental right. Therefore, the following portion of the supplemental right will be cancelled upon issuance of a final order approving T-10427.

17. The portion of the following right is proposed to be cancelled:

Certificate: 82596 in the name of COUNTY LINE WATER IMPROVEMENT DISTRICT (perfected under Permit G-10836)

Use: SUPPLEMENTAL IRRIGATION of 13.5 ACRES

Priority Date: FEBRUARY 15, 1978

Rate: 0.16 CUBIC FOOT PER SECOND

Limit/Duty: 0.0118 cfs per acre, not to exceed 2.89 acre-feet per acre per year of artificially and naturally recharged ground water.

Source: ARTIFICALLY RECHARGED GROUND WATER FROM WELLS IN THE ORDINANCE CRITICAL GROUND WATER AREA

Authorized Points of Appropriation (Coleman Wells):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	26	SW NW	1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	26	SW NW	1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	27	SW NW	230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27
4 N	27 E	WM	27	SE NW	2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27
4 N	27 E	WM	27	SE NW	960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

Conclusions of Law

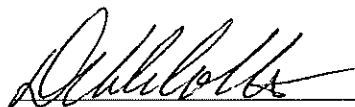
The changes in character of use, place of use, and point of appropriation proposed in application T-10427 are consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000.

Now, therefore, it is ORDERED:

1. The changes in character of use, place of use, and point of appropriation proposed in application T-10427 are approved.
2. The portion of Certificate 82596 listed in Finding of Fact #17 is cancelled. A new certificate will be issued to describe the remaining portion of the right not affected by the cancellation.
3. Water right certificate 80913 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.

4. The 13.5 acre portion of the inchoate water right described in Finding of Fact #2, perfected under Permit G-10505 and transferred under T-9996 is cancelled, and shall not included in a Claim of Beneficial Use for T-9996.
5. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80913 and any related decree.
6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.
7. The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.
8. The former place of use of the transferred right shall no longer receive water under the right.
9. The diversion for industrial use shall be limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and an annual amount not to exceed 40.5 acre-feet.
10. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.
11. The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.
12. When satisfactory proof of the completed changes is received, a new certificate confirming portion of the right transferred will be issued.

Dated at Salem, Oregon this 25th day of March 2008.


Phillip C. Ward, Director

Mailing date: MAR 28 2008

STATE OF OREGON

COUNTY OF UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ONE (1) WELL, in the UMATILLA RIVER BASIN for IRRIGATION of 24.8 ACRES.

This right was perfected under Permit U-649. The date of priority is AUGUST 9, 1954. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.31 CUBIC FOOT PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	36	SW NW	WELL #9 - 1884 FEET SOUTH AND 1315 FEET EAST FROM THE NW CORNER OF SECTION 36

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3.0 acre-feet per acre for each acre irrigated during the irrigation season of each year. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	35	NE NE	4.7
4 N	27 E	WM	36	NW NW	14.8
4 N	27 E	WM	36	SW NW	5.3

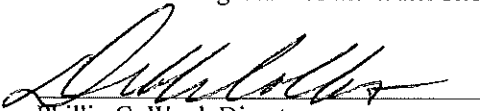
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 80913, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered MAR 25 2008, approving Transfer Application T-10427.

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 MAR 25 2008.


Phillip C. Ward, Director

STATE OF OREGON
COUNTY OF MORROW, UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION of 5074.48 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. The right is limited to 59.65 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14649.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

The wells are located as follows:

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
SOLANO	4 N	27 E	WM	20	SW SW		10 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 20
MANN	4 N	27 E	WM	20	SE SW		190 FEET NORTH AND 1250 FEET EAST FROM SW CORNER, SECTION 20
COLEMAN	4 N	27 E	WM	26	SW NW		1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26
COLEMAN	4 N	27 E	WM	26	SW NW		1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26
COLEMAN	4 N	27 E	WM	27	SW NW		230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27
COLEMAN	4 N	27 E	WM	27	SE NW		960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27 (There are two wells at this location within 20 feet)
COLEMAN	4 N	27 E	WM	27	SE NW		2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27
12H	4 N	27 E	WM	28	SW NE		3180 FEET NORTH AND 1470 FEET WEST FROM SE CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE NW		3700 FEET NORTH AND 1390 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	NW SW		1650 FEET NORTH AND 1320 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE SW		90 FEET NORTH AND 40 FEET WEST FROM S1/4 CORNER, SECTION 28
12H	4 N	27 E	WM	28	SW SE		20 FEET NORTH AND 1350 FEET WEST FROM SE CORNER, SECTION 28
WOOD	4 N	27 E	WM	30	NW NE		1190 FEET SOUTH AND 4170 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	SW NW	2	1280 FEET SOUTH AND 1350 FEET EAST FROM NW CORNER, SECTION 30

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
WOOD	4 N	27 E	WM	30	SW SW	4	3875 FEET SOUTH AND 1385 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	NW SE		3830 FEET SOUTH AND 4160 FEET EAST FROM NW CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		290 FEET NORTH AND 50 FEET WEST FROM SE CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		100 FEET NORTH AND 40 FEET WEST FROM SE CORNER, SECTION 30
HOLZAPFEL	4 N	27 E	WM	32	NW NE		50 FEET SOUTH AND 1450 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		340 FEET SOUTH AND 1190 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		70 FEET SOUTH AND 2520 FEET EAST FROM NW CORNER, SECTION 32
12H	4 N	27 E	WM	33	NW NE		1270 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33
12H	4 N	27 E	WM	33	SW NE		1940 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	2	NW NW		28.60
3 N	27 E	WM	2	SW NW		17.80
3 N	27 E	WM	3	NE NE		32.30
3 N	27 E	WM	3	NW NE		34.10
3 N	27 E	WM	3	SW NE		14.00
3 N	27 E	WM	3	SE NE		21.90
3 N	27 E	WM	3	NE NW		32.70
3 N	27 E	WM	3	NW NW		27.50
3 N	27 E	WM	3	SW NW		33.60
3 N	27 E	WM	3	SE NW		15.70
3 N	27 E	WM	3	NE SW		33.10
3 N	27 E	WM	3	NW SW		29.10
3 N	27 E	WM	3	SW SW		37.80
3 N	27 E	WM	3	SE SW		31.10
3 N	27 E	WM	3	NE SE		36.10
3 N	27 E	WM	3	NW SE		36.00
3 N	27 E	WM	4	NE NE		29.30
3 N	27 E	WM	4	NW NE		35.40
3 N	27 E	WM	4	SW NE		35.50
3 N	27 E	WM	4	SE NE		29.60
3 N	27 E	WM	4	NE NW		31.10
3 N	27 E	WM	4	NW NW		31.00
3 N	27 E	WM	4	SW NW		26.50
3 N	27 E	WM	4	SE NW		31.20

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	4	NE SE		31.30
3 N	27 E	WM	4	NW SE		30.80
3 N	27 E	WM	4	SW SE		31.50
3 N	27 E	WM	4	SE SE		31.50
3 N	27 E	WM	5	NE NE		32.80
3 N	27 E	WM	5	NW NE		32.50
3 N	27 E	WM	5	SW NE		32.60
3 N	27 E	WM	5	SE NE		32.90
3 N	27 E	WM	5	NE NW		32.70
3 N	27 E	WM	5	NW NW		32.70
3 N	27 E	WM	5	SW NW		32.90
3 N	27 E	WM	5	SE NW		32.90
3 N	27 E	WM	9	NE NE		31.50
3 N	27 E	WM	9	NW NE		35.50
3 N	27 E	WM	9	SW NE		23.50
3 N	27 E	WM	9	SE NE		19.50
3 N	27 E	WM	10	SE NE		10.40
3 N	27 E	WM	10	NE NW		39.00
3 N	27 E	WM	10	NW NW		38.70
3 N	27 E	WM	10	SW NW		9.00
3 N	27 E	WM	10	SE NW		12.90
4 N	27 E	WM	19	NE SW		10.10
4 N	27 E	WM	19	NW SW	3	20.80
4 N	27 E	WM	19	SW SW	4	32.60
4 N	27 E	WM	19	SE SW		33.60
4 N	27 E	WM	19	NW SE		1.00
4 N	27 E	WM	19	SW SE		35.80
4 N	27 E	WM	19	SE SE		2.90
4 N	27 E	WM	20	SW SW		7.70
4 N	27 E	WM	20	SE SW	4	2.50
4 N	27 E	WM	26	SW NE	6	8.40
4 N	27 E	WM	26	SE NE	8	13.40
4 N	27 E	WM	26	SW NW	2	30.30
4 N	27 E	WM	26	SE NW	4	18.70
4 N	27 E	WM	26	NE SW		19.00
4 N	27 E	WM	26	NW SW		24.90
4 N	27 E	WM	26	SW SW		40.00
4 N	27 E	WM	26	SE SW		35.60
4 N	27 E	WM	26	NE SE	9	24.40
4 N	27 E	WM	26	NW SE	10	7.40
4 N	27 E	WM	26	NW SE	11	1.30
4 N	27 E	WM	26	SW SE		22.50
4 N	27 E	WM	26	SE SE	12	17.30
4 N	27 E	WM	27	NE NW		10.30
4 N	27 E	WM	27	NW NW		15.20
4 N	27 E	WM	27	SW NW		13.30
4 N	27 E	WM	27	SE NW		18.10
4 N	27 E	WM	27	NE SW		35.90
4 N	27 E	WM	27	NW SW		39.40
4 N	27 E	WM	27	SW SW		13.50
4 N	27 E	WM	27	SE SW		13.10

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	27	NE SE		2.80
4 N	27 E	WM	27	NW SE		3.40
4 N	27 E	WM	27	SW SE		27.10
4 N	27 E	WM	27	SE SE		31.60
4 N	27 E	WM	28	NW NE		1.00
4 N	27 E	WM	28	SW NE		37.10
4 N	27 E	WM	28	SE NE		24.80
4 N	27 E	WM	28	NE NW		2.40
4 N	27 E	WM	28	NW NW		13.80
4 N	27 E	WM	28	SW NW		36.40
4 N	27 E	WM	28	SE NW		39.10
4 N	27 E	WM	28	NE SW		34.72
4 N	27 E	WM	28	NW SW		34.42
4 N	27 E	WM	28	SW SW		31.42
4 N	27 E	WM	28	SE SW		31.72
4 N	27 E	WM	28	NE SE		39.10
4 N	27 E	WM	28	NW SE		39.90
4 N	27 E	WM	28	SW SE		38.60
4 N	27 E	WM	28	SE SE		40.00
4 N	27 E	WM	30	NE NE		34.70
4 N	27 E	WM	30	NW NE		37.60
4 N	27 E	WM	30	SW NE		29.00
4 N	27 E	WM	30	SE NE		27.10
4 N	27 E	WM	30	NE NW		31.90
4 N	27 E	WM	30	NW NW	1	42.70
4 N	27 E	WM	30	SW NW	2	34.20
4 N	27 E	WM	30	SE NW		25.20
4 N	27 E	WM	30	NE SW		29.50
4 N	27 E	WM	30	NW SW	3	40.50
4 N	27 E	WM	30	SW SW	4	37.30
4 N	27 E	WM	30	SE SW		28.20
4 N	27 E	WM	30	NE SE		32.80
4 N	27 E	WM	30	NW SE		36.20
4 N	27 E	WM	30	SW SE		32.60
4 N	27 E	WM	30	SE SE		30.60
4 N	27 E	WM	32	NE NE		27.60
4 N	27 E	WM	32	NW NE		2.60
4 N	27 E	WM	32	SW NE		34.10
4 N	27 E	WM	32	SE NE		30.50
4 N	27 E	WM	32	NE NW		32.00
4 N	27 E	WM	32	NW NW		32.00
4 N	27 E	WM	32	SW NW		32.00
4 N	27 E	WM	32	SE NW		32.00
4 N	27 E	WM	32	NE SW		32.00
4 N	27 E	WM	32	NW SW		32.00
4 N	27 E	WM	32	SW SW		32.00
4 N	27 E	WM	32	SE SW		32.00
4 N	27 E	WM	32	NE SE		31.00
4 N	27 E	WM	32	NW SE		29.00
4 N	27 E	WM	32	SW SE		33.20
4 N	27 E	WM	32	SE SE		35.40

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	33	NE NE		34.30
4 N	27 E	WM	33	NW NE		32.00
4 N	27 E	WM	33	SW NE		32.00
4 N	27 E	WM	33	SE NE		32.00
4 N	27 E	WM	33	NE NW		24.42
4 N	27 E	WM	33	NW NW		22.83
4 N	27 E	WM	33	SW NW		22.83
4 N	27 E	WM	33	SE NW		24.42
4 N	27 E	WM	33	NE SW		29.00
4 N	27 E	WM	33	NW SW		29.00
4 N	27 E	WM	33	SW SW		31.00
4 N	27 E	WM	33	SE SW		31.00
4 N	27 E	WM	33	NE SE		32.20
4 N	27 E	WM	33	NW SE		31.60
4 N	27 E	WM	33	SW SE		34.40
4 N	27 E	WM	33	SE SE		27.20
4 N	27 E	WM	34	NE NE		37.50
4 N	27 E	WM	34	NW NE		39.50
4 N	27 E	WM	34	SW NE		10.10
4 N	27 E	WM	34	SE NE		7.10
4 N	27 E	WM	34	NE NW		32.80
4 N	27 E	WM	34	NW NW		30.20
4 N	27 E	WM	34	SW NW		30.20
4 N	27 E	WM	34	SE NW		35.60
4 N	27 E	WM	34	NE SW		39.70
4 N	27 E	WM	34	NW SW		34.00
4 N	27 E	WM	34	SW SW		30.80
4 N	27 E	WM	34	SE SW		39.80
4 N	27 E	WM	34	NE SE		32.30
4 N	27 E	WM	34	NW SE		41.20
4 N	27 E	WM	34	SW SE		39.30
4 N	27 E	WM	34	SE SE		39.30
4 N	27 E	WM	35	NE NE		32.90
4 N	27 E	WM	35	NW NE		36.30
4 N	27 E	WM	35	SW NE		31.40
4 N	27 E	WM	35	SE NE		31.40
4 N	27 E	WM	35	NE NW		33.50
4 N	27 E	WM	35	NW NW		34.00
4 N	27 E	WM	35	SW NW		31.40
4 N	27 E	WM	35	SE NW		31.40
4 N	27 E	WM	35	NE SW		31.40
4 N	27 E	WM	35	NW SW		31.40
4 N	27 E	WM	35	SW SW		31.40
4 N	27 E	WM	35	SE SW		31.40
4 N	27 E	WM	35	NE SE		31.40
4 N	27 E	WM	35	NW SE		31.40
4 N	27 E	WM	35	SE SE		31.40
4 N	27 E	WM	36	NE NW		33.90
4 N	27 E	WM	36	NW NW		18.70
4 N	27 E	WM	36	SW NW		28.30

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	36	SE NW		28.30
4 N	27 E	WM	36	NW SW		30.20
4 N	27 E	WM	36	SW SW		26.00

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

<u>Well Location</u>	<u>Common Names (Per Order, 1976)</u>	<u>Target Levels (Ft below LSD)</u>	
		<u>Upper</u>	<u>Lower</u>
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordinance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordinance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordinance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.
6. Annual Reports:
 - (A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.
 - (B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.
7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.

8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.
- (A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.
- (B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.
- (C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.
9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.
10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.
11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

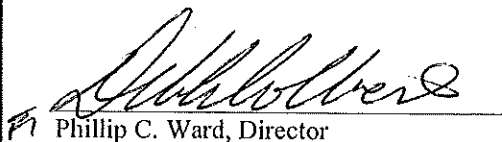
The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 82596, State Record of Water Right Certificates, NOT cancelled by the provisions of an order of the Water Resources Director entered MAR 25 2008, approving Transfer Application T-10427.

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 MAR 25 2008.


Phillip C. Ward, Director



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

September 29, 2009

Applicant

Craig Coleman
33896 E Walls Road
Hermiston, OR 97838

Receiving Landowner

Flying J Inc.
1104 Country Hills Drive
Ogden, Utah 84403

REFERENCE: File Transfer 10427

We have received your application for extension of the time limit to make complete application of water under Transfer T-10427. We also have your check in the amount of \$500.00. Receipt number 97943 is enclosed.

The application indicates reasonable diligence toward completion of the proposed project. The time limit to make complete application of water is extended to October 1, 2012. The order approving the extension was entered September 29, 2009, at Volume 78, Page 1012.

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

Sincerely,

Sarah Henderson
Executive Support

cc: Watermaster #5
David Filippi, (via e-mail)

enclosure

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

In the Matter of Application for Extension)
of Time for Transfer of Water Right)
T-10427, Umatilla County, Oregon)

FINAL ORDER APPROVING AN
EXTENSION OF TIME

Applicant

CRAIG COLEMAN
33896 E WALLS ROAD
HERMISTON, OR 97838

Receiving Landowner

FLYING J INC.
1104 COUNTRY HILLS DRIVE
OGDEN, UTAH 84403

Findings of Fact

1. On September 25, 2009, the Department received an application for extension of time for transfer of water right T-10427 from Flying J Inc.
2. The Water Resources Department issued an order approving Transfer Application T-10427 in the name of Craig Coleman and the receiving landowner in the name of Flying J Inc., on March 25, 2008. The order was recorded in Special Order Volume 74, at Page 424. The order set a transfer completion date of October 1, 2009.
3. The applicant has been pursuing the final land use approval to proceed with the water development under the transfer order. The County's land use approval was subjected to appeal by opponents, and Flying J was and remains unable to complete the changes under the transfer order until final land use approval on remand to the County is secured.
4. To fully complete the change, it will be necessary for the applicant to install a new well at the new point of appropriation and put the water to beneficial use as part of the planned truck plaza once final land use approval is secured.
5. The applicant has requested that the time for completion of beneficial use be extended to October 1, 2012, to allow sufficient time for the land use approval to be secured, and the truck plaza to be fully constructed, and water to be put to beneficial use as part of the truck plaza's operation.

This is a final order in other than 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 either 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.

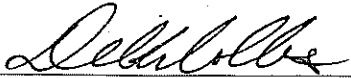
Conclusions of Law

Pursuant to OAR 690-380-6020, the Director of the Water Resources Department concludes the applicant has shown reasonable diligence to complete the transfer within the time period established by the order approving Transfer Application T-10427.

Now, therefore, it is ORDERED:

The time for completion of beneficial use authorized by T-10427 shall be extended to October 1, 2012.

Dated at Salem, Oregon this 29th day of September, 2009


Phillip C. Ward, Director

Mailing date: OCT 01 2009



Last revised: Nov 20, 2003

Transfer T-10427

APPLICATION FOR EXTENSION OF TIME FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

To the WATER RESOURCES DIRECTOR OF OREGON:
I/We, FLYING J INC.

(Name of Applicant)
of 1104 Country Hills Drive, Ogden,
(Mailing Address) (City)
state of Utah, 84403, 801.624.1280 (Terrence Bride)
(Zip Code) (Phone Number)

do hereby make application for an extension of time within which to complete a change in:

☒ point of diversion/appropriation ☒ place of use ☒ character of use
of water under the terms of an order of the Water Resources Director entered on March 25, 2008,
approving Transfer T-10427, in the name of Applicant Craig Coleman,
for the Flying J Inc. property located in the NE NE, NW NE, SW NE, and SE NE of
Section 25, T4N, R27E, W.M.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time
allowed, which expired on October 1, 2009:

See Attachment 1. (Note this application for extension is being submitted in advance of
the October 1, 2009 completion date.)

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomp
See Attachment 1.

I AM UNABLE TO COMPLETE the change under the terms of the
because See Attachment 1.

And request that the time for completion be extended to October 1, 20

(Signature of applicant)

In order for an application to be complete, it must be accompanied by
Department's fee schedule at www.wrd.state.or.us or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

File # : 1936 001760
(503) 986 0923 Kim

RECEIVED

SEP 23 2009

WATER RESOURCES DEPT
SALEM, OREGON

9-22-09
To Whom it may Concern:
Please contact
David E. Filippi
at 503-294-9529
with questions
Terrence Bride
801-624-1280



Last revised: Nov 20, 2003

Transfer T-10427

APPLICATION FOR EXTENSION OF TIME FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

To the WATER RESOURCES DIRECTOR OF OREGON:
I/We, FLYING J INC.

of 1104 Country Hills Drive (Name of Applicant) Ogden
(Mailing Address) (City)
state of Utah 84403 801.624.1280 (Terrence Bride)
(Zip Code) (Phone Number)

do hereby make application for an extension of time within which to complete a change in:

☒ point of diversion/appropriation ☒ place of use ☒ character of use
of water under the terms of an order of the Water Resources Director entered on March 25, 2008,
approving Transfer T-10427, in the name of Applicant Craig Coleman,
for the Flying J Inc. property located in the NE NE, NW NE, SW NE, and SE NE of
Section 25, T4N, R27E, W.M.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time
allowed, which expired on October 1, 2009:

See Attachment 1. (Note this application for extension is being submitted in advance of
the October 1, 2009 completion date.)

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:
See Attachment 1.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed,
because See Attachment 1.

And request that the time for completion be extended to October 1, 2012.

(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the
Department's fee schedule at www.wrd.state.or.us or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

Feb 10th : 1436 001760
(503) 986 0923 Kian

Application for Extension of Time for T-10427
Attachment 1

The Final Order Approving a Change in Point of Appropriation, Place of Use, and Character of Use, and Partial Cancellation of a Water Right for Transfer Application T-10427 ("Transfer Order") was issued on March 25, 2008. The Transfer Order was pursued for purposes of securing a water supply to accommodate the construction and operation of a truck plaza near the interchange of I-84 and I-82 in Umatilla County, Oregon.

As further background, while Flying J pursued and secured the Transfer Order, Flying J also applied for a conditional use permit ("CUP") from Umatilla County for the truck plaza. The CUP application was submitted in November 2006. The Umatilla County Board of Commissioners (the "Board") approved the CUP application. Two opponents appealed the County's approval to the Oregon Land Use Board of Appeals ("LUBA"). On February 4, 2009, LUBA remanded the County's decision on two minor grounds. The opponents further appealed LUBA's decision to the Oregon Court of Appeals. On August 5, 2009, the Oregon Court of Appeals affirmed LUBA's decision. The appeal period for the petitioners filing of a request for review of the Court of Appeals' decision by the Oregon Supreme Court ended on September 9, 2009 without petitioners filing a request for review. While the appeal to the Oregon Court of Appeals and the potential request for review by the Oregon Supreme Court was pending, Flying J was unable to return to the County to address the issues in LUBA's remand until it knew that the petitioners had not requested a review by the Oregon Supreme Court. With the recent expiration of the period within which the petitioners could request review by the Oregon Supreme Court, the matter can now finally be heard by the Board on remand.

In sum, the appeal of the County's approval of the CUP has now concluded, and the matter is returning to the Board for further action. While the CUP has been on appeal, Flying J was not in a position to proceed with water development under the Transfer Order. Once the remaining CUP issues are addressed as part of the remand to the Board, and the CUP is again approved, Flying J can at that point proceed with water development under the Transfer Order.

Copies of the following documents are attached hereto and incorporated herein as exhibits to this Attachment 1: (1) Findings of Fact and Conclusions of Law Approving Flying J, Inc.'s Condition Use Request; (2) Final Order and Opinion of LUBA; (3) Oregon Court of Appeals decision; (4) Rules of Oregon Appellate Procedure (rules governing period of time within which petitioners could request review by the Oregon Supreme Court).

The following has been accomplished toward completion of the change within the time allowed, which expires October 1, 2009: As explained above and evidenced in the exhibits attached hereto, Flying J has been diligently pursuing final land use approval to proceed with water development under the Transfer Order.

To fully complete the change it will be necessary to accomplish the following: Once final land use approval is secured, Flying J will then proceed with water development, which will include installing a new well at the new point of appropriation and putting water to beneficial use as part of the planned truck plaza.

I am unable to complete the change under the terms of the order, within the time allowed, because: The County's land use approval was subjected to appeal by opponents, and Flying J was and remains unable to complete the changes under the Transfer Order until final land use approval on remand to the County is secured.

Additional comment:

Pursuant to OAR 690-380-6020(3), Flying J requests an extension of five years to allow sufficient time for the land use approval to be secured, the truck plaza to be fully constructed, and water to be put to beneficial use as part of the truck plaza's operation.

Further, pursuant to OAR 690-380-6020(4), Flying J would underscore that reasonable diligence has been made by Flying J to complete the project during the development period contained in the Transfer Order, as evidenced by Flying J's defense of the County's CUP approval in both the appeal filed by opponents to LUBA and the subsequent appeal to the Oregon Court of Appeals, and now Flying J's continued pursuit of the CUP on remand to the Board.

Tracking # 4086 9588 6462

SALEM OREGON
WATER RESOURCES DEPT

SEP 25 2009

Last revised: Nov 20, 2003



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Transfer T-10427

APPLICATION FOR EXTENSION OF TIME
FOR TRANSFER OF WATER RIGHT

A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/publication/reports/index.shtml.

To the WATER RESOURCES DIRECTOR OF OREGON:
I/We, FLYING J INC.

(Name of Applicant)
of 1104 Country Hills Drive, Ogden,
(Mailing Address) (City)
state of Utah, 84403, 801.624.1280 (Terrence Bride)
(Zip Code) (Phone Number)

do hereby make application for an extension of time within which to complete a change in:
☒ point of diversion/appropriation ☒ place of use ☒ character of use
of water under the terms of an order of the Water Resources Director entered on March 25, 2008,
approving Transfer T-10427, in the name of Applicant Craig Coleman,
for the Flying J Inc. property located in the NE NE, NW NE, SW NE, and SE NE of
Section 25, T4N, R27E, W.M.

(Give location of your property, as shown on the order approving the transfer)

THE FOLLOWING HAS BEEN accomplished toward completion of the change within the time
allowed, which expired on October 1, 2009 :

See Attachment 1. (Note this application for extension is being submitted in advance of
the October 1, 2009 completion date.)

(If for irrigation, how many acres total are now irrigated)

TO FULLY COMPLETE the change, it will be necessary to accomplish the following:
See Attachment 1.

I AM UNABLE TO COMPLETE the change under the terms of the order, within the time allowed,
because See Attachment 1.

And request that the time for completion be extended to October 1, 2012.

(Signature of applicant)

In order for an application to be complete, it must be accompanied by the required fee. See the
Department's fee schedule at www.wrd.state.or.us or call (503) 986-0900.

MAIL COMPLETED APPLICATION AND FEE TO:

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271

FILED: 1936 001760
(503) 986 0923 Kim

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OVER THE COUNTER

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SEP 25 2009

WATER RESOURCES DEPT
SALEM, OREGON

Sarah Henderson

From: Filippi, David [DEFILIPPI@stoel.com]
Sent: Friday, September 25, 2009 10:45 AM
To: Sarah Henderson
Cc: Filippi, David
Subject: Application for Extension of Time for T-10427

Attachments: Application for Extension of Time T-10427.pdf; Doc1.doc; EXHIBIT 2.pdf; Final Opinion and Order (02_04_09).pdf; pdf of 20090805 Court of Appeals Opinion re Case No. A141408.pdf; EXHIBIT 1.pdf



Application for
Extension of T...



Doc1.doc (27 KB)



EXHIBIT 2.pdf (1
MB)



Final Opinion and
Order (02_04...



pdf of 20090805
Court of Appea...



EXHIBIT 1.pdf (181
KB)

Hello Sarah,

Per our recent discussions, please find attached an application for extension of time for T-10427, along with attachments. You should have received (or will receive shortly) under separate cover directly from Flying J the application with the original signature along with a check in the amount of \$500 for the application fee.

Please call me if you have any questions. Thank you for your assistance.

David E. Filippi
Stoel Rives LLP
(503) 294-9529

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.		Permit U-649/T-9275	80913
2.			
3.		Permit G-10505/ T-9275	80915**
4.			
5.			
6.			

**** 13.5 acres of supplemental water rights described in this water right will be cancelled with approval of this transfer. These water rights are supplemental to the 13.5 acres of water right being transferred.**

- 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): **Flying J, Inc. has acquired 13.5 acres (50 gpm) described in Certificate 80913 for Industrial Use is(operation of a Truck stop).**

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.

See attached "Craig Coleman Delivery System Map".

- System capacity: **10+** cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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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:

County Line Improvement District, P. O. Box 631, Hermiston, OR 97838

The County Line Improvement District serves recharge water to the alluvial wells in their Boundaries. The well involved in this transfer is within the boundaries of the County Line Improvement District but is a basalt well thus is not being served by the District. The land under this transfer is also within the boundaries of the County Line Improvement District but is not served by the District.

- 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).

Umatilla County, 216 SE 4th, Pendleton, Oregon 97801

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Last revised: 10/13/2006

Transfer Application/3

FS

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): Flying J Inc.*
First Last

Address: 1104 Country Hills Drive

Ogden Utah 84403
City State Zip

***Flying J Inc is the land owner receiving the 13.5 Acres (50 gpm) of Certificate 80913 being transfer to Industrial Use (operation of a truck stop).**

- 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.

Copies of all notices and correspondence should also be sent the applicant's agent.

- ☐ 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:
- ① In EFU zone or irrigation district,
 - ② Change in place of use only,
 - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ④ Irrigation only.

Fees:

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

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

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

Temporary Transfers, also include:

Recorded Deed:

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

Affidavit of Consent:

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

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SALEM, OR 97331
Revised: 10/13/2006

Transfer Application/5

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

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

10. SIGNATURES

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

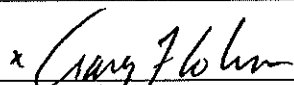
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership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

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

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

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

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

 applicant signature	Craig F. Coleman name (print)	6-29-07 date
 applicant signature	 name (print)	 date

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SALEM, OREGON
Last revised: 10/13/2006

Transfer Application/6

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Water Right Transfer Supplemental Form A **DESCRIPTION OF PROPOSED CHANGE(S) TO A WATER RIGHT**

COPY

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: 80913

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

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

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2. CURRENT WATER RIGHT INFORMATION

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

☒ Certificated Right	<u>80913</u> Certificate Number	<u>U-649</u> Permit Number or Decree Name
☐ Adjudicated, Non-certificated Right	 Name of Decree	 Page Number
☐ Permit for which Proof has been Approved	 Permit Number	 Date Claim of Beneficial Use Submitted
☐ Transferred Right for which Proof has been Filed	 Previous Transfer Number	 Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: HANSELL Brothers, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): August 9, 1954

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: Basalt Well #9

Tributary to: Umatilla River

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

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

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

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

If "Yes", what are the Permit, Registration or Certificate Numbers? Permit G-10505 former Certificate 80915 for supplemental irrigation is associated with this land. The portion of this supplemental permit associated with this transfer will be cancelled with the order approving this transfer. An affidavit is attached cancelling the 13.5 acre supplemental water right described in this Permit.

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Supplemental Form A

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

▪ Certificate Number or other identifying number: 80913

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. 1-)	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)
UMA #1806	Well # 9 August 9, 1954	4N	27E	WM	36	SW NW	3300	1884 ft S & 1315 ft E from the NW Cor. Sec. 36

▪ 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
See attached Well Log UMA #1806									

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▪ Certificate Number or other identifying number: 80913

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)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Well # 9 August 9, 1954	4N	27E	WM	36	NW NW	2300	13.5 Acres

▪ Certificate Number or other identifying number: _____

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)
Basalt Wells	4N	27E	W M	25	NE NE	200	590 ft. S & 1420 ft. W from the NE Corner of Section 25

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- 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
NO		Proposed 8"	Steel 8"	150 ft		150 ft	200 ft.	200 ft to 300 ft	2" nipple Top of Casing	300 ft

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Supplemental Form A

- 5 -

Description of Proposed Change(s) to a Water Right

▪ Certificate Number or other identifying number: 80913

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)
New Basalt Well	4N	27E	W M	25	NE NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	NW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SE NE	200 & 202	Industrial Use

Remarks: _____

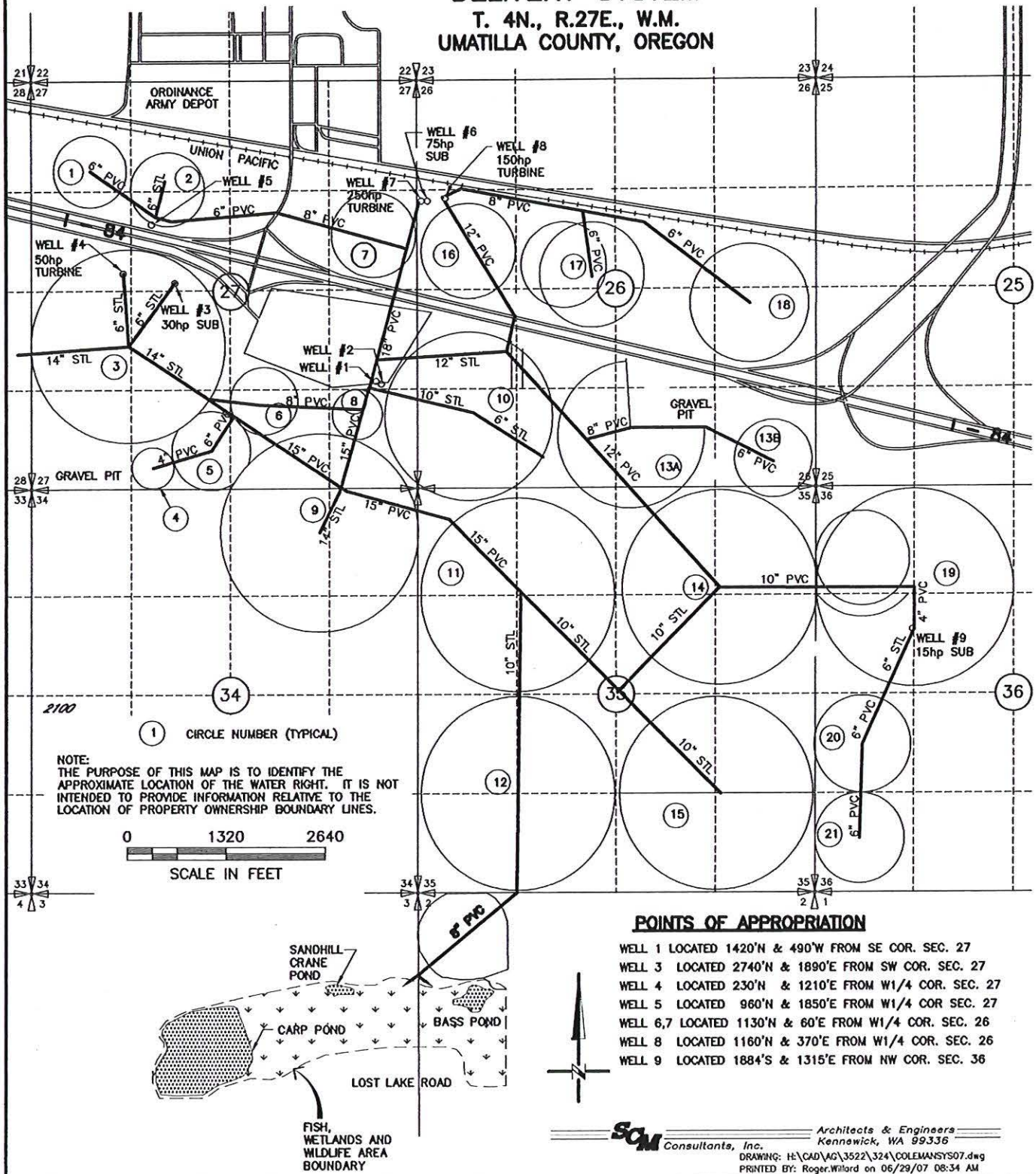
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COPY

CRAIG COLEMAN DELIVERY SYSTEM T. 4N., R.27E., W.M. UMATILLA COUNTY, OREGON



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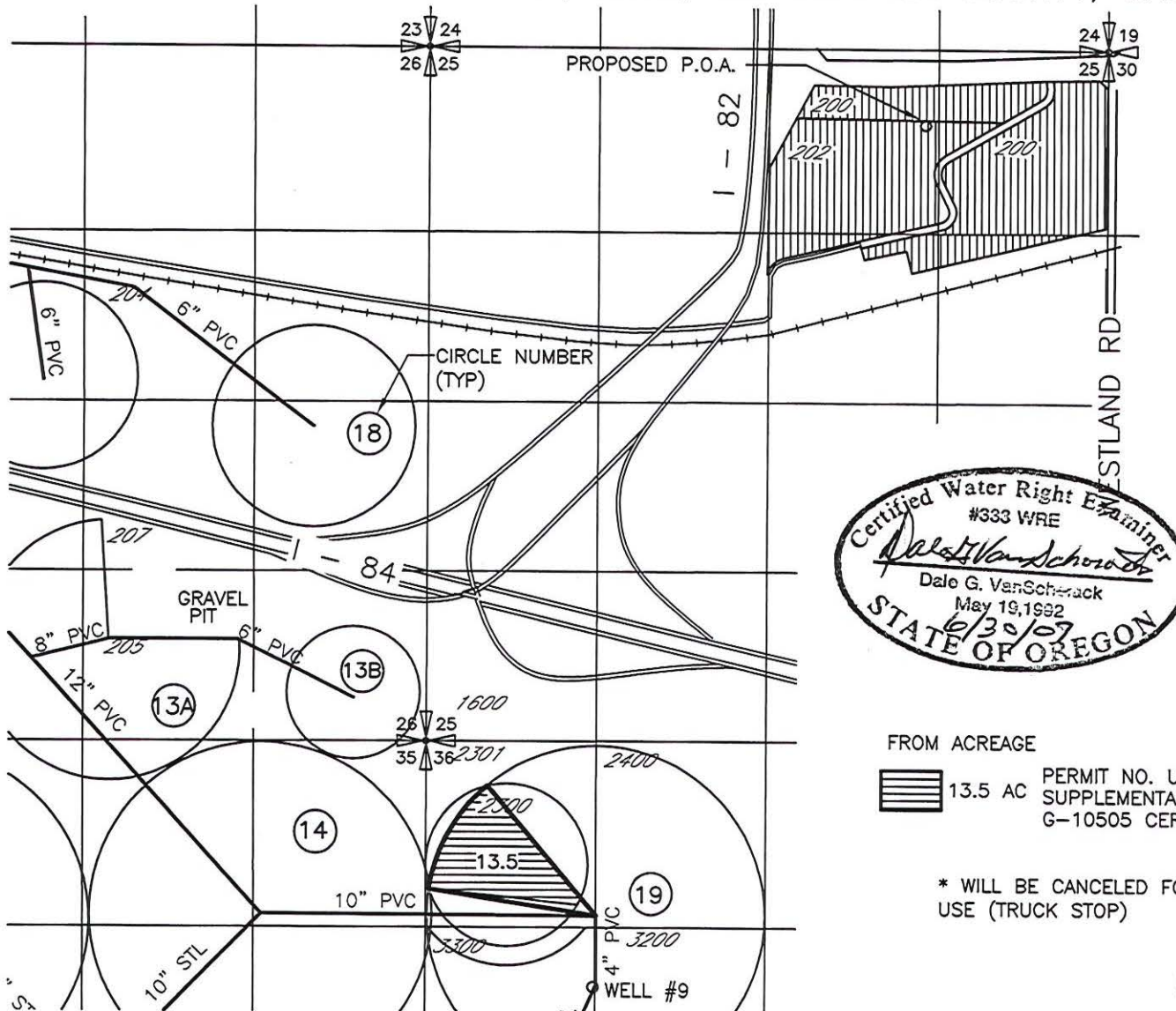
COPY

TRANSFER APPLICATION MAP

COLEMAN TO FLYING "J"

13.5 ACRES (50 GPM) OF WATER RIGHT
A PORTION OF CERTIFICATE 80913

T4N, R27E, WM UMATILLA COUNTY, OREGON

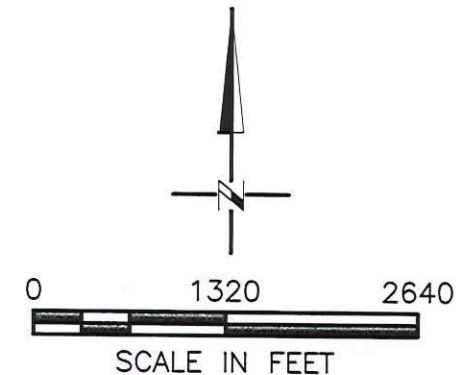


AUTHORIZED POINT OF APPROPRIATION

WELL 9
LOCATED 1884'S & 1315'E FROM NW
COR SEC 36

PROPOSED POINT OF APPROPRIATION

TRUCK STOP WELL
LOCATED 590'S & 1420'W FROM NE
COR SEC 25



FROM ACREAGE



13.5 AC

PERMIT NO. U-649 CERT 80193
SUPPLEMENTAL PERMIT NO.
G-10505 CERT 80915*

TO PLACE OF USE



INDUSTRIAL USE
(TRUCK STOP)
50 GPM YEAR
ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

SCM Consultants, Inc.
A Tetra Tech Company

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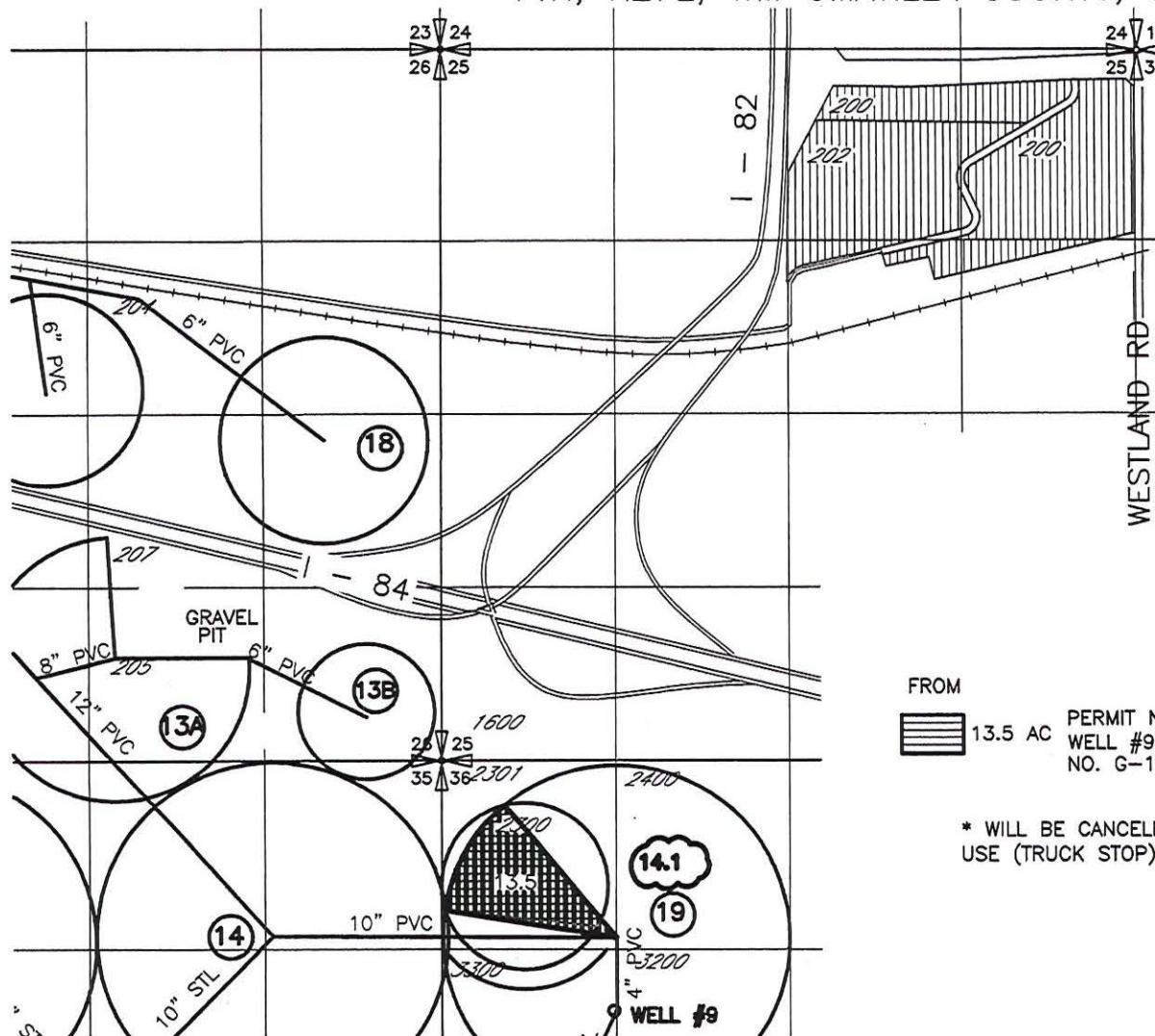
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WATER RESOURCES DEPT
COLEMAN, OREGON

EXHIBIT "A"
COLEMAN TO FLYING "J"
13.5 ACRES (50 GPM) OF WATER RIGHT
DESCRIBED IN CERTIFICATE 80913
T4N, R27E, WM UMATILLA COUNTY, OREGON

COPY



AUTHORIZED POINT OF APPROPRIATION

WELL 9 LOCATED 1884'S & 1315'E
 FROM NW COR. SEC.36 BEING WITHIN
 SW1/4NW1/4

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WATER RESOURCES DEPT
 SALEM, OREGON

FROM



13.5 AC

PERMIT NO. U-649 CERT 74109
 WELL #9 SUPPLEMENTAL PERMIT
 NO. G-10505 CERT 80913*

TO



INDUSTRIAL USE
 (TRUCK STOP)
 50 GPM YEAR
 ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
 USE (TRUCK STOP)

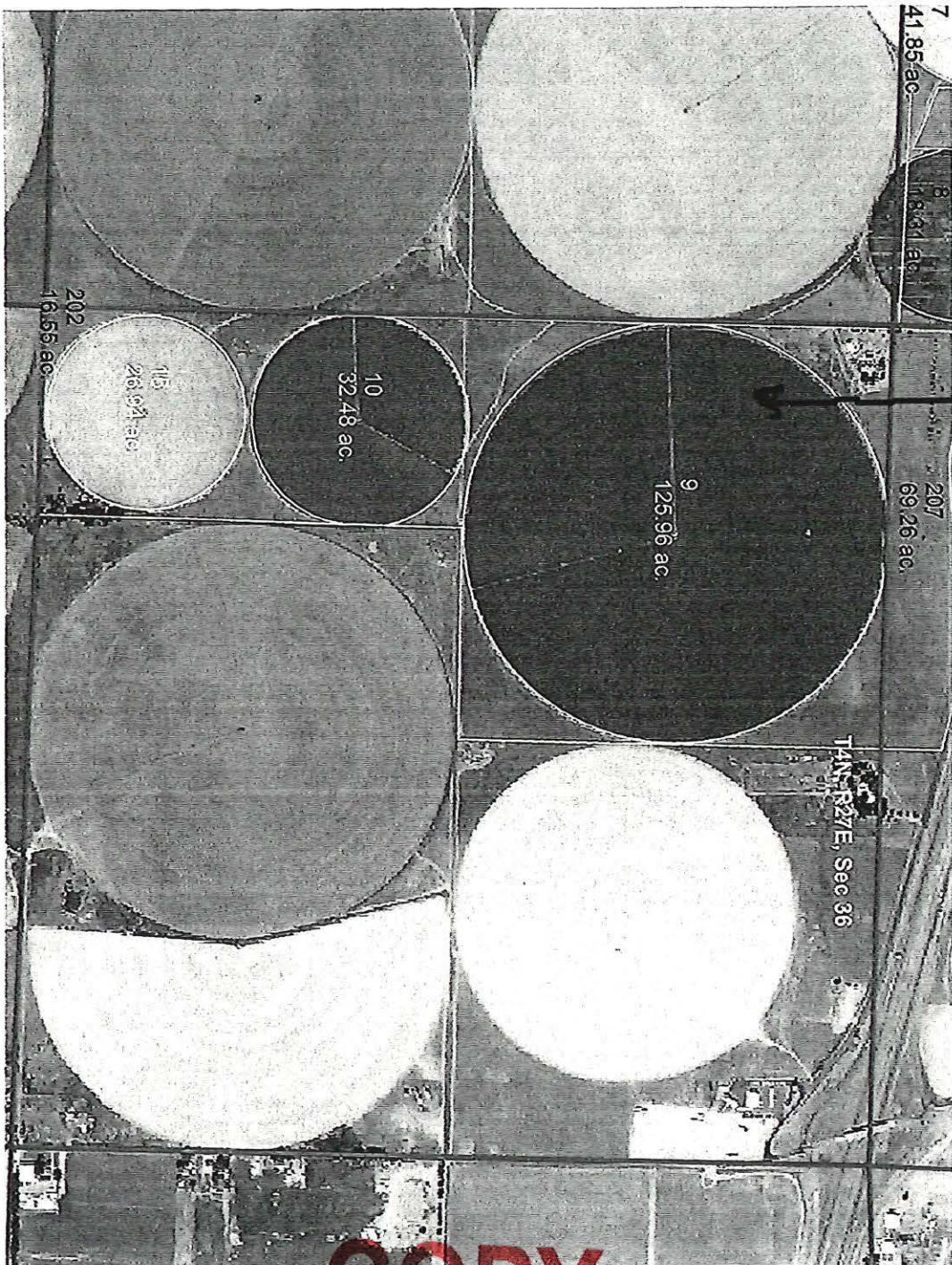
NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
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SCM Consultants, Inc.
 A Tetra Tech Company

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2006 Aerail Photo

Area being Transferred to Flying J



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WATER RESOURCES DEPT
SALEM, OREGON

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 JAN 24 1955
 STATE ENGINEER
 SALEM, OREGON

4N/27-36E (1)
Umatilla

G.W. Redwine

Application No. U 736
 Permit No. U 649
 Well No. 1

REPORT ON COMPLETION OF WELL

(Note: This report should be submitted to the State Engineer, Salem, Oregon, as soon as possible after the well is completed. If more than one well is covered by this permit, a separate report shall be filed for each)

Date of Report JAN 21, 1955

1. Location of well: SW 1/4 of NW 1/4 of Section 36 Twp. 4N Rge. 27E, W. M.
2. Name of nearest natural surface stream Umatilla River
3. Distance from well to that stream: approx 3 Miles feet.
4. If the well is less than 1300 feet from a natural surface stream, give the difference in elevation between the ground surface at the well and the lowest point in stream channel: Approx 3 Miles feet.
5. Date of beginning drilling or digging: August 16, 1952
6. Date well was completed: September 8, 1952

7. LOG OF MATERIALS ENCOUNTERED

Character of Material	Depth at which encountered	Thickness of stratum
<u>Sandy loam Top Soil</u>	At surface	<u>20</u> ft.
<u>Sand & Gravel</u>	<u>20</u> ft.	<u>30</u> ft.
<u>Gravel</u>	<u>30</u> ft.	<u>65</u> ft.
<u>Gray Clay</u>	<u>90</u> ft.	<u>10</u> ft.
<u>Gray Rock</u>	<u>105</u> ft.	<u>30</u> ft.
<u>Blue Clay & Shale</u>	<u>135</u> ft.	<u>59</u> ft.
	ft.	ft.
	ft.	ft.
	ft.	ft.

Remarks: _____

WELL INFORMATION

8. Diameter of well 12 inches. Depth of well 194 feet.
9. Depth at which water was first encountered 55 feet.
10. Water level when completed: 55 feet below ground surface.
11. Additional information regarding well; such as soil conditions, quick sand, caves, obstructions, rock, etc.: Gravel had tendency to cave from 60' to 95' where Gray Clay was first found

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 SALEM, OREGON

PEER
n **COPY**

County Hamilt

Application No. CANCP/

OWNER: G. W. Redwine

OWNER'S NO.

Description of measuring point: Owner's Air line & Gauge at LSD

Airline (165 feet Deep)

[illegible]

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T. 4N., R. 27E. 77.64 acres top of
Swl measured July 8, 1957 was 12" casing which was 1.0 ft above d.s.

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JAN 24 1955

STATE ENGINEER
SALEM, OREGON

PUMP INFORMATION

12. Manufacturer of pump: Berkeley Pump Co
 13. Address: Berkeley, California
 14. Data on name or base plate: Model 803-4 Serial # 5410115
1750 RPM - 15 H.P.
 15. Data on pump bowl assembly: 803-4 - dup. Diameter 6 1/2 x 6"
9 Stages -
 16. Size of pump: 15 H.P.
 17. Rated capacity: 225 gpm gallons per minute.
 18. Rated speed: 1750 revolutions per minute.
 19. Number of stages: 9
 20. Size of intake pipe: 5"
 21. Size of discharge pipe: 5"
 22. Length of intake pipe: 5'5"
 23. Length of discharge pipe: 160'
 24. Suction lift: (difference in elevation between water surface in well and pump) Deep Well Turbine - P.L. 140'
 25. Discharge lift: (difference in elevation between pump and end of discharge line) 140'
 26. Depth of pump intake below ground surface: 170' feet.
 27. Remarks:

MOTOR OR ENGINE INFORMATION

28. Name of manufacturer: U.S. Motors
 29. Address: Los Angeles Calif
 30. Type of motor or engine: Electric
 31. Data on name or base plate: 15 H.P. - 3 Ph. - 220-440 volts -
Frame 326-3 - Serial # 961412 - 60 cycle
1800-RPM - 20-40 Amps. 40°C Rating
F Code # Design.
 32. Rated horsepower: 15
 33. Rated speed of motor or engine: 1800 revolutions per minute.
 34. Rated Capacity of Pump
 (with described motor)
- | | | | |
|------------|-----------|------------|----------|
| <u>225</u> | g.p.m. at | <u>320</u> | ft. head |
| | g.p.m. at | | ft. head |
| | g.p.m. at | | ft. head |
| | g.p.m. at | | ft. head |
| | g.p.m. at | | ft. head |

35. Remarks:

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WATER RESOURCES DEPT
SALEM, OREGON

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JAN 24 1955

STATE ENGINEER
SALEM, OREGON

CAPACITY TEST

36. Date of test: 12/12/53 37. Temperature of water °F. or °C.
38. Motor speed during test: Varied
39. Test made by (weir, tank or other means): Deep well turbine of gas motor

40.

Pounds pressure	TOTAL HEAD	*Total lift in feet	Gallons per min.	*Feet to water level	Draw-down	Time
lbs., Gauge at pump	Total	ft. in.	187	50 ft.	125 ft.	2 M.
lbs., Gauge at pump	Total	ft. in.	240	125 ft.	175 ft.	M.
lbs., Gauge at pump	Total	ft. in.	230	170 ft.	200 ft.	M.
lbs., Gauge at pump	Total	ft. in.	225	160 ft.	205 ft.	M.
lbs., Gauge at pump	Total	ft. in.	225	150 ft.	205 ft.	80 M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
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lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.
lbs., Gauge at pump	Total	ft. in.		ft.	ft.	M.

* Difference in elevation between water level in well and outlet of pump test line.

• Distance from ground level to water surface in well.

• Distance water level is lowered during time interval.

+ Hour and minute at which observation was made.

41. Installation will work efficiently under normal head of 320 ft.

42. Water is discharged into: 6" Steel main line pipe

43. Was water lowered to pump intake by test? Yes - from 50 to 150'

44. Remarks: More capacity with getting better

GENERAL INFORMATION

45. Name of contractor or other party who drilled or dug well: B + G Drilling Co.

- Address: Pendleton, Oregon

46. Pump and motor were installed by: Carroll Equipment Co.

- Address: Pendleton, Oregon

47. Capacity test was made by: Carroll Equip. Co.

- Address: Pendleton, Oregon

48. General remarks:

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WATER RESOURCES DEPT
SALEM, OREGON

AFFIDAVIT FOR THE PARTIAL CANCELLATION OF A
WATER RIGHT CERTIFICATE

COPY

State of Oregon)
County of Oregon) ss

I Craig Coleman of Girth Dog, LLC

residing at 33896 E. Walls Road, Hermiston, OR 97838

telephone (541)567-1605, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 2300, Section 36, T4N, R27E, WM within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 4, N, Range 27E, of the Willamette Meridian, in Umatilla County County, Oregon, as shown on the attached map Exhibit A and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right certificate number 80915 issued to Hansell Brothers, Inc with a date of priority of January 9, 1970 for use of 0.168 cubic foot per second of water from 7 Wells (sources) for the purpose of Supplemental Irrigation (uses) is appurtenant to my property;
3. The appurtenant water right is/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 distric, or reclamation project, name it here: County Line Improvement District); and
4. I propose to transfer the primary water right as shown on the attached map Exhibit A and cancel the supplemental water right described as follows: The right to the use of 0.167 cubic foot per second from 7 wells for Supplemental Irrigation, and supplemental irrigation of 13.5 acres located:

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.5 Acres
Section 36
Township 4 N, Range 27 E, WM; and

5. I request the portion of the water right described above to be canceled at the time of OWRD approval of the of the attached transfer application transferring the primary water.

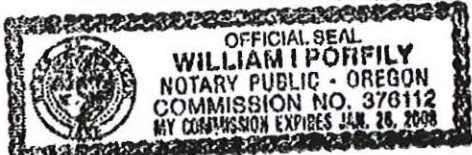
Girth Dog, LLC, by Craig Coleman
Signature of legal owner as listed on deed, or authorized agent

6-29-07
Date

Signature of legal co-owner as listed on deed
(if applicable)

Date

Subscribed and Sworn to Before me this 29 day of June, 2007.



William J. Porfily
Notary Public for Oregon

My Commission Expires Jan 26, 2008

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).

December 2004 FSD

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WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED

AUG 05 2009

FILED: AUG 15 2009 PERKINS COIE

IN THE COURT OF APPEALS OF THE STATE OF OREGON

WESTERN LAND & CATTLE, INC.; and PLISKA INVESTMENTS, I L.C.,
Petitioners,

v.

UMATILLA COUNTY and FLYING J, INC.,
Respondents.

Land Use Board of Appeals
2008144

A141408

Argued and submitted on May 13, 2009.

E. Michael Connors argued the cause for petitioners. With him on the brief was Davis Wright Tremaine LLP.

Roger A. Alfred argued the cause for respondent Flying J, Inc. With him on the brief were Michael C. Robinson, Corinne S. Celko, and Perkins Coie LLP.

No appearance for respondent Umatilla County.

Before Edmonds, Presiding Judge, and Wollheim, Judge, and Sercombe, Judge.

SERCOMBE, J.

Affirmed.

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondents

- ☐ No costs allowed.
☒ Costs allowed, payable by Petitioners
☐ Costs allowed, to abide the outcome on remand, payable by
-

1 SERCOMBE, J

2 Petitioners seek review of an opinion and order of the Land Use Board of
3 Appeals (LUBA). LUBA affirmed in part and remanded a land use decision of Umatilla
4 County (county). The county decision approved a conditional use permit for the
5 operation of a "travel plaza" on property owned by respondent Flying J, Inc. (respondent)
6 adjacent to a federal interstate highway. The permit for the travel plaza authorized
7 operation of automotive and truck fuel stations, a truck service building, a truck wash
8 building, a restaurant, a convenience store, and other accessory uses on respondent's
9 property. Petitioners, who own competing travel plazas, contend that LUBA erred in
10 affirming the county's allowance of the truck-related components of the project as
11 conditional uses. Petitioners also assert that LUBA erred in affirming a condition of the
12 permit that allowed respondent to defer paying part of the costs of a roadway intersection
13 improvement. We review LUBA's opinion and order to determine if it is "unlawful in
14 substance." ORS 197.850(9)(a). We affirm for the reasons stated below.

15 To summarize the facts stated in the LUBA opinion, respondent owns a
16 70.39-acre parcel located at the intersection of Interstate 82 and Lamb Road,
17 approximately 5.5 miles southwest of Hermiston. The property consists of two tax lots.
18 The bulk of the property is zoned tourist commercial (TC), and the remainder is zoned
19 light industrial (LI). Respondent applied to the county for conditional use approval of a
20 travel plaza use. A travel plaza houses commercial uses that cater to highway travelers
21 and their motor vehicles. The proposed travel plaza includes a restaurant, a travel
22 convenience store, automotive fueling stations, commercial truck fueling stations, a

1 commercial truck service building, a commercial truck wash building, and accessory
2 improvements. Most of the proposed development would be within the area zoned TC,
3 with some parking, drainage facilities, and the truck scales located within the LI-zoned
4 area. The present dispute concerns the application of the TC zoning district provisions.

5 The TC zoning in effect at the time of the application allowed some of the
6 requested uses as permitted uses.¹ Umatilla County Development Code (UCDC)
7 152.276(B) listed the uses permitted in the TC zone as including an "automobile service
8 station," "eating or drinking establishment," "food store limited to 2,500 square feet,"
9 "gift shop," and "information center." UCDC 152.003 defined "automobile service
10 station" as "[a]ny building, land area or other premises or portion thereof, used or
11 intended to be used for the retail dispensing or sale of vehicular fuels; and including as an
12 accessory use the sale and installation of lubricants, tires, batteries and similar
13 accessories." Thus, the restaurant, convenience store, and automobile service station uses
14 were permitted on the property without a conditional use permit. The parties concur that
15 the commercial truck fueling stations, truck service building, and truck wash facility
16 could be included in the travel plaza only if they were approved as conditional uses under
17 UCDC 152.277(E).

18 UCDC 152.277 set out the allowed conditional uses in the TC zoning
19 district, including:

¹ Generally speaking, the county land use regulations in effect at the time of an application for a land use permit apply to the permit. ORS 215.427(3)(a). The referenced county ordinances are those in effect on November 10, 2005, the date of the application for the conditional use permit.

1 "Other uses similar to the uses permitted or the conditional uses
2 normally located in a Tourist Commercial Zone, providing that it has the
3 approval of the Planning Commission."

4 UCDC 152.277(E). In addition, UCDC 152.009 generally allowed conditional uses in
5 certain circumstances in any zoning district. That zoning provision provided:

6 "The Planning Commission may permit as a conditional use in a
7 particular zone a use not listed in this chapter, provided the use is of the
8 same general type as the uses permitted there by this chapter."

9 The county approved the conditional use permit requested by respondent
10 under the authority of UCDC 152.277(E). The county concluded that each of the desired
11 uses was a permitted or conditional use allowed in the TC zoning district. The county
12 determined:

13 "The multiple uses proposed by the applicant are similar, if not identical, to
14 the uses that are specifically allowed as permitted uses in the TC zone
15 under UCDC §152.276(B). The only proposed uses that are not expressly
16 listed as permitted uses are the truck service station and truck wash. The
17 Board finds that these uses are similar to an automobile service station, and
18 therefore the entire composite of uses may be approved under UCDC
19 §152.227(E). The Board finds that this interpretation of the code is
20 consistent with long-standing County precedent regarding the application of
21 the 'similar use' standard."

22 Petitioners claimed that the requested nonpermitted uses constituted a
23 "truck stop" under the development code. UCDC 152.003 defined "truck stop":

24 "Any building, premise or land in which or upon which
25 maintenance, servicing, storage or repair of commercial licensed trucks or
26 motor vehicles is conducted or rendered, including the dispensing of motor
27 fuel or other petroleum products directly into the trucks or motor vehicles,
28 the sale of accessories or equipment for trucks or similar motor vehicles."

29 The development code specifically allowed a "truck stop or trucking terminal" as a
30 conditional use in the Commercial Rural Center (CRC) zoning district. UCDC

1 152.262(H). The CRC zoning district also allowed the other travel plaza uses requested
2 by respondent. UCDC 152.261(B)(2) - (4).

3 Petitioners argued that the "truck stop" uses could not be allowed as
4 conditional uses in the TC zoning district because they were explicitly listed as
5 conditional uses in the CRC district and therefore implicitly prohibited elsewhere.

6 Petitioners also claimed that UCDC 152.009, the general "similar use" provision, limited
7 the operation of UCDC 152.277(E). Because UCDC 152.009 allowed uses "of the same
8 general type" as listed in a zoning district only if the use was otherwise "not listed in this
9 chapter," and the "truck stop" uses were listed as conditional uses in the CRC zone,
10 petitioners asserted that the combination of uses that were a "truck stop" could not be
11 allowed on TC-zoned land as a conditional use.

12 The county rejected petitioners' interpretation of the code. It reasoned that
13 the purpose of UCDC 152.009, the general "similar use" provision, was not to limit
14 otherwise allowed and generic conditional uses and that the particular "similar use"
15 allowance in the TC zone controlled over that general provision at UCDC 152.009:

16 "The Board finds that UCDC §152.009 does not require the opponents'
17 desired result. First, the language of the code section allows a more
18 reasonable and less restrictive interpretation. * * * This section provides a
19 general permissive grant of authority to allow a particular use in a zone,
20 even if that use was not expressly listed by the code. The purpose of this
21 provision is to provide the County with flexibility to allow uses that were
22 not expressly enumerated, so long as they are found to be similar to other
23 listed uses. This section should not be read to require that such similar uses
24 may *never* be allowed (as through the application of UCDC §152.277(E)),
25 if the use *is* listed in another zoning district. In other words, the Board does
26 not interpret the phrase 'a use not listed in this chapter' to create a
27 limitation, but rather to expand the universe of uses that could be allowed
28 (and in fact, are allowed by UCDC §152.277(E)). * * *

1 "Second, the Board [concludes] * * * that the more specific language of
2 UCDC §152.227(E) must be read to control over the general language of
3 UCDC §152.009. UCDC §152.277(E) is very specific to uses in the TC
4 zone, and allows 'other uses similar to the uses permitted or the conditional
5 uses normally located in a Tourist Commercial Zone, providing that it has
6 the approval of the Planning Commission.' On the other hand, UCDC
7 §152.009 is located in the 'General Provisions' section of UCDC Chapter
8 152, and applies generally to uses that could be allowed in any zoning
9 district. It is well-established that general local ordinance provisions are
10 controlled by more specific provisions."

11 (Emphasis in original.)

12 Petitioners appealed the conditional use permit approval to LUBA. They
13 raised six assignments of error, one of which was that the county erred in allowing truck
14 stop uses in the TC zone as similar uses under UCDC 152.277(E), because those uses
15 were precluded by UCDC 152.009 and were otherwise allowed by UCDC 152.262.
16 LUBA sustained two unrelated assignments of error and remanded the permit to the
17 county for further action. The board denied petitioners' claim of error on the county's
18 allowance of the truck-related uses as conditional uses in the TC zone, concluding:

19 "LUBA must affirm a governing body's interpretation of local code
20 provisions that are consistent with the express language, purpose or
21 underlying policy. ORS 197.829(1); *Church v. Grant County*, 187 Or App
22 518, 69 P3d 759 (2003). Petitioners' preferred interpretation subsumes
23 UCDC 152.277(E) into the general similar use provision at UCDC 152.009,
24 and gives the specific provision no independent role or meaning. The
25 county's interpretation gives meaning to both provisions, and is therefore
26 more consistent with the terms of both provisions. Certainly, we cannot say
27 that the [county's] interpretation is inconsistent with the express language,
28 purpose or underlying policy. Accordingly, we affirm that interpretation.
29 ORS 197.829(1)."

30 On review, petitioners claim that LUBA erred in sustaining the county's
31 interpretation of UCDC 152.277(E) as allowing a conditional use that is otherwise

1 precluded by UCDC 152.009 and that is implicitly only allowed as a "truck stop" use in
2 the CRC zone. Petitioners also claim that LUBA erred in affirming a condition of
3 approval that required future monetary contribution to an intersection improvement
4 project, rather than immediate construction of that improvement. We reject without
5 further discussion petitioner's second claim and affirm the board's deference to the
6 county's interpretation of its ordinances under ORS 197.829.

7 We begin with the standard of review under that statute. ORS 197.829(1)
8 states rules of deference by LUBA to a local government's interpretation of its land use
9 policies. ORS 197.829(1) provides:

10 "The Land Use Board of Appeals shall affirm a local government's
11 interpretation of its comprehensive plan and land use regulations, unless the
12 board determines that the local government's interpretation:

13 "(a) Is inconsistent with the express language of the comprehensive
14 plan or land use regulation;

15 "(b) Is inconsistent with the purpose for the comprehensive plan or
16 land use regulation;

17 "(c) Is inconsistent with the underlying policy that provides the
18 basis for the comprehensive plan or land use regulation; or

19 "(d) Is contrary to a state statute, land use goal or rule that the
20 comprehensive plan or land use regulation implements."

21 Thus, under ORS 197.829, the rules of deference parallel some, but not all, rules of
22 construction used in determining the meaning of an ordinance. Under the statute, if
23 deference is owed to the locality's interpretation of its plan or regulation, then that
24 interpretation must be affirmed. If deference is not owed, LUBA can reverse that
25 interpretation if it is inconsistent with the legislative intent in enacting the provision as

1 revealed by the application of rules of statutory construction.

2 We review LUBA's application of ORS 197.829 to determine whether that
3 analysis is "unlawful in substance." ORS 197.850(9)(a). In this case, petitioners
4 challenge LUBA's opinion and order on the ground that LUBA erred in deferring to the
5 county's interpretations of its code that were "inconsistent with the express language" of
6 the code under ORS 197.829(1)(a). Petitioners do not contend that the county's
7 constructions of its code were inconsistent with the purposes or underlying policies of the
8 relevant land use regulations or that they were contrary to the governing policies
9 implemented by those regulations. ORS 197.829(1)(b), (c), and (d).

10 Whether a local government's interpretation of its comprehensive plan or
11 land use regulation is "inconsistent with the express language" of the plan or regulation
12 under ORS 197.829(1)(a) "depends on whether the interpretation is plausible, given the
13 interpretive principles that ordinarily apply to the construction of ordinances under the
14 rules of *PGE v. Bureau of Labor and Industries*, 317 Or 606, 610-12, 859 P2d 1143
15 (1993)]." *Foland v. Jackson County*, 215 Or App 157, 164, 168 P3d 1238, *rev den*, 343
16 Or 690 (2007). Put another way, the "consistency with the express language" inquiry
17 looks at the text of the plan provision or the regulation in question, as well as the context
18 of other parts of the plan or regulation that are relevant to the textual meaning of that
19 "express language."

20 Thus, the reference in ORS 197.829(1) to "express language" requires the
21 application of constructional rules related to the text of an ordinance. Therefore, in
22 determining whether a local government's interpretation of its land use plan or regulation

1 is "inconsistent with the express language of the comprehensive plan or land use
2 regulation" under ORS 197.829(1)(a), we apply the statutory construction principles in
3 ORS 174.010 and ORS 174.020(2) that are based on the "express language" of a
4 provision.² Although those statutes are written to pertain to "the construction of a
5 statute," we use them as well in the interpretation of local ordinances. *Ramirez v. Hawaii*
6 *T & S Enterprises, Inc.*, 179 Or App 416, 425, 39 P3d 931 (2002). We also apply other
7 textual canons of construction in evaluating a local government's interpretation of its plan
8 or regulation under ORS 197.829(1)(a). Those canons include some rules applied in
9 "first level" *PGE* analysis, such as giving words of common usage their "plain, natural,
10 and ordinary meaning" and recognizing that "use of the same term throughout a statute
11 indicates that the term has the same meaning throughout the statute." *PGE*, 317 Or at
12 611.³

² ORS 174.010 provides:

"In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all."

ORS 174.020(2) provides that, in the construction of a statute, "[w]hen a general and particular provision are inconsistent, the latter is paramount to the former so that a particular intent controls a general intent that is inconsistent with the particular intent."

³ On the other hand, the legislative intent in enacting a land use policy, as shown in its legislative history, is not pertinent to the "express language" factor under ORS 197.829(1)(a). That legislative history, however, may be relevant in identifying the "purpose" or "underlying policy" of the measure, or the "state statute, land use goal or rule that the comprehensive plan provision or land use regulation implements" under the remaining ORS 197.829 factors.

1 On review, petitioners contend that LUBA erred in applying ORS 197.829
2 to the county's interpretation of UCDC 152.277(E). Petitioners reiterate their contention
3 that application of UCDC 15.277(E), the "similar use" provision in the TC zoning
4 district, to allow truck-related uses sufficient to comprise a "truck stop" in the TC zone is
5 "inconsistent with the express language" of the development code. They reason that the
6 express text of UCDC 152.262(H) allows a "truck stop or trucking terminal" as a
7 conditional use in the CRC zone and that the express allowance of a "truck stop" use in
8 one zoning district implies that any combination of uses that is a "truck stop" use is
9 precluded in all other zoning districts, including the TC zoning district. Petitioners
10 further argue that the specific limitations on permissible "similar uses" in UCDC 152.009
11 (to allow only those uses "not listed in this chapter") apply to the similar uses
12 countenanced by UCDC 152.277(E). Therefore, petitioners conclude that the county's
13 interpretation of UCDC 152.277(E) is not entitled to deference under ORS 192.529(1)(a)
14 and should be overturned. Petitioners additionally claim, without any reference to any
15 relevant portion of ORS 197.829, that the county's interpretation of UCDC 152.277(E) is
16 not subject to deference because it is inconsistent with a ruling of the Land Conservation
17 and Development Commission (LCDC) on the county's land use ordinances.

18 Petitioners do not dispute the county's interpretation of the text of UCDC
19 152.277(E) as permitting components of truck stop uses in the TC zone, that is, that those
20 truck-related uses are "similar to" the "automobile service station" permitted use in the
21 TC zoning district. Instead, petitioners contend that UCC 152.277(E) is limited by the
22 operation of UCDC 152.262(H), the code provision that allows a "truck stop or trucking

1 terminal" as a conditional use in the *CRC zoning district*. In essence, petitioners argue
2 that both provisions regulate the uses allowed in the TC zoning district, that UCDC
3 152.262(H) by negative implication precludes trucks stops except in the CRC zone, and
4 that the implicit preclusion of truck stops under UCDC 152.262(H) controls over any
5 express allowance of that use by UCDC 152.277(E). The county interpreted UCDC
6 152.262(H) to not have that implied effect. Thus, the question becomes whether the
7 county's interpretation of UCDC 152.262(H) is entitled to deference under ORS 197.829,
8 *i.e.*, whether the county's interpretation of UCDC 152.262(H) is inconsistent with its
9 "express language" under ORS 197.829(1)(a).

10 The "express language" of UCDC 152.262(H) permits "truck stops and
11 truck terminals" as a conditional use in the CRC zoning district; it says nothing about
12 truck stops anywhere else. If there is a negative implication by that allowance, it comes
13 from some place other than the "express language" of UCDC 152.262(H). It could be
14 that the county describes each of its allowed land uses in the development code by
15 particular and exclusive wording, so that an inference could be drawn that the meanings
16 of two described uses do not overlap. Even if that inference could be drawn from the
17 structure of the code as a whole, it is not compelled by the "express language of the * * *
18 land use regulation," *i.e.*, the text of UCDC 152.262(H) and other expressly applicable
19 provisions.⁴

⁴ Petitioners argue that such an inference was drawn in *Clatsop County v. Morgan*, 19 Or App 173, 178-79, 526 P2d 1393 (1974). We disagree. In *Clatsop County*, we held that the failure to list a particular use as a permitted or conditional use in a zoning district provision meant that the use was not allowed in that district, particularly when that use

1 In sum, petitioners' application of ORS 197.829(1)(a) to avoid deference to
2 the county's interpretation of UCDC 152.262(H) and UCDC 152.277(E) fails because it
3 relies on a rule of permissible inference as to the meaning of an ordinance and not on the
4 express language of the enactment itself. It is only that "express language" of the
5 provisions that is relevant in applying the rule of deference stated in ORS 197.829(1)(a).
6 We conclude that the county's interpretation of UCDC 152.262(H) to regulate only the
7 allowance of truck stops in the CRC zoning district, and not to preclude that use
8 elsewhere, is not "inconsistent with the express language" of UCDC 152.262(H).
9 Because the county's interpretation of UCDC 152.262(H) is consistent with its wording,
10 that interpretation is entitled to deference under ORS 197.829(1)(a). Thus, LUBA did not
11 err in affirming the county's application of UCDC 152.262(H) and UCDC 152.277(E) to
12 allow the truck stop uses.

13 Petitioners next contend that LUBA erred in affirming the county's

was listed as an allowed use elsewhere. In that case, the landowners sought to construct a commercial amusement establishment on their property that was zoned A-1 (Agricultural and Forestry). The applicable zoning ordinance did not list amusement parks as an allowed or conditional use in the A-1 zone; instead, the use was allowed as a conditional use in the commercial zoning districts. We concluded that "the drafters intended to restrict commercial amusement establishments to commercial (C-1, C-2) zones" because by "expressly assigning amusement park activities to commercial zones, the legislative body has restricted such activities to commercial zones only, and by necessary inference has expressed an intent that similar activities not be carried on in any other zone." 19 Or App at 178-79. *Clatsop County* did not involve construing the meaning of a listed use in a zoning ordinance to avoid overlapping allowed uses among the various zoning districts, the statutory construction principle advanced by petitioners. *Clatsop County* determined only that a zoning use is allowed in the district in which it is listed and not in a district in which it is not listed. We rejected the argument that zoning ordinances implicitly preclude overlapping allowed uses among the zoning districts in *Sarti v. City of Lake Oswego*, 106 Or App 594, 809 P2d 701 (1991).

1 interpretation of UCDC 152.009 to not limit the type of conditional uses that can be
2 allowed by UCDC 152.277(E). Again, petitioners do not claim that the county's
3 interpretation of UCDC 152.009 is inconsistent with the apparent purpose or underlying
4 policy of the law or contrary to an enactment that is implemented by UCDC 152.009.
5 ORS 197.829(1)(b) - (d). Rather, they suggest that the "express language" of UCDC
6 152.009 states the exclusive means for allowing conditional uses that are not identified
7 specifically in the development code.

8 We agree with LUBA that the county's interpretation of UCDC 152.009 is
9 consistent with its text and apparent purpose. The county concluded that "the purpose of
10 [UCDC 152.009] is to provide the County with flexibility to allow uses that were not
11 expressly enumerated * * * [and not] to require that such similar uses may *never* be
12 allowed (as through the operation of UCDC §152.227(E)), if the use *is* listed in another
13 zoning district." (Emphasis in original.) Reading UCDC 152.009 to state the exclusive
14 means for locating "similar uses" renders UCDC 152.277(E) surplusage. ORS 174.010
15 dictates that, "where there are several provisions or particulars such construction is, if
16 possible, to be adopted as will give effect to all." Thus, the county correctly read UCDC
17 152.009 to state the policy for locating uses not otherwise listed in the code, and UCDC
18 152.277(E) to apply in different circumstances, *i.e.*, to set out conditional use allowances
19 in the TC zoning district without regard to whether the use is listed elsewhere. That
20 construction gives independent effect to each provision and is more consistent with the
21 "express language" of each provision under ORS 197.829(1). Because we read the
22 provisions to be consistent with each other, there is no need to apply ORS 174.020(2)

1 ("When a general and particular provision are inconsistent, the latter is paramount to the
2 former so that a particular intent controls a general intent that is inconsistent with the
3 particular intent.").

4 Petitioners finally contend that the county's interpretation of UCDC
5 152.277(E) to allow truck stops in the TC zoning district is inconsistent with a periodic
6 review order issued by LCDC or a periodic review report issued by DLCD. Petitioners
7 do not explain how the order or policy illustrates the "purpose" or the "underlying policy"
8 of the regulation or how UCDC 152.277(E) implements the order or report under ORS
9 197.829(1). We reject that contention without discussion.

10 We conclude that LUBA did not err under ORS 197.829(1) in deferring to
11 the county's interpretation of its development code provisions.

12 Affirmed.



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

May 28, 2008

County Line Water Improvement District
77126 County Line Road
Hermiston, Oregon 97838

Re: Correcting Final Order

Enclosed is a copy of Special Order Volume 74, Page 891, signed by the Director of Oregon Water Resources Department correcting a previous Special Order.

If you have any questions please contact Dorothy Pedersen in the transfer section at 503-986-0890.

Sincerely,

Sarah Henderson
Executive Support

cc: Watermaster #5

Transfer File T-10427

File G-8649

Enclosures



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

In the Matter of Special Order Volume 74,)
Page 715, Morrow and Umatilla Counties,)
Oregon) **FINAL ORDER CORRECTING A
SCRIVENER'S ERROR IN A
PREVIOUS ORDER**

Applicant

County Line Water Improvement District
77126 County Line Road
Hermiston, Oregon 97838

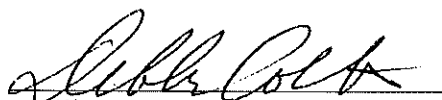
Findings of Fact

1. On April 30, 2008, the Department issued an order, recorded at Special Order Volume 74, Page 715, to correct a scrivener's error in the location of 10.4 acres of irrigation in Section 10, Township 3 North, Range 27 East, W.M. in Certificates 82596 and 83844. Those certificates incorrectly identified the 10.4 acres as being in the SE $\frac{1}{4}$ NE $\frac{1}{4}$.
2. The order recorded at Special Order Volume 74, Page 715 itself contained scrivener's errors. Finding of Fact #1 of the order stated the "Certificate incorrectly identifies the 10.4 acres as being in the SE $\frac{1}{4}$ NW $\frac{1}{4}$. The correct location is in SW $\frac{1}{4}$ NW $\frac{1}{4}$." The preceding statement should have been "Certificate incorrectly identifies the 10.4 acres as being in the SE $\frac{1}{4}$ NE $\frac{1}{4}$. The correct location is in SW $\frac{1}{4}$ NE $\frac{1}{4}$." Similarly, statement #2 of the order, under "Now, therefore, it is ORDERED:" repeated the error by incorrectly identifying the quarter quarter section as SW $\frac{1}{4}$ NW $\frac{1}{4}$ rather than SW $\frac{1}{4}$ NE $\frac{1}{4}$.
3. Certificate 84119, which was concurrently issued with the order and supersedes Certificates 82596 and 83844, did list the location of the acres correctly.

Now, therefore, it is ORDERED:

1. The order recorded at Special Order Volume 74, Page 715 is superseded by this order, and is of no further force or effect.
2. The correct location of 10.4 acres in the water right perfected under Permit G-10836 is in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 10, Township 3 North, Range 27 East, W.M., as described in Certificate 84119.

Dated at Salem, Oregon this 9th day of May, 2008.


Phillip C. Ward
Director

Mailing date: MAY 29 2008

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either 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.

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

In the Matter of Instream Water Right)
Certificate 84119, Morrow and Umatilla)
Counties, Oregon)

FINAL ORDER CORRECTING A
CERTIFICATE

Applicant

County Line Water Improvement District
77126 County Line Road
Hermiston, Oregon 97838

Findings of Fact

1. The Department issued a Certificate 82596 on December 15, 2006 as evidence of perfection of the water right under Permit G-10836 (applied for as Application G-8649). Certificate 82596 contains a scrivener's error in the location of 10.4 acres of irrigation in Section 10, Township 3 North, Range 27 East, W.M. Certificate incorrectly identifies the 10.4 acres as being in the SE¼ NW¼. The correct location is the SW¼ NW¼.
2. The Department issued an order approving T-10427 on March 25, 2008. The order was recorded at Special Order Volume 74, Pages 424 through 428. The order cancelled Certificate 82596 and a new remaining right water right certificate was issued as evidenced by Certificate 83844.
3. Consistent with Certificate 82596, Certificate 83844 also incorrectly listed the 10.4 acres in the SE¼ NE¼ of Section 10, Township 3 North, Range 27 East, W.M., thereby perpetuating the scrivener's error from Certificate 82596.

*Was incorrectly
stated as SE¼ NW¼
Should correctly
be SW¼ NW¼*

Now, therefore, it is ORDERED:

1. Certificate 83844 is cancelled.
2. Remaining Water Right Certificate 84119 is issued to supersede Certificate 83844 and to correctly describe the place of use of 10.4 acres in the SW¼ NW¼ of Section 10, Township 3 North, Range 27 East, W.M.

Dated at Salem, Oregon this 30th day of April, 2008.


Phillip C. Ward
Director

Mailing date: MAY 02 2008

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either 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.

Dorothy Pedersen

From: Glaphre Floth
Sent: Thursday, May 08, 2008 2:16 PM
To: Dorothy Pedersen
Subject: Sp Or V74 P715

Good Afternoon Dorothy,

I am sorry. I feel like such a pest. However...I am working with Sp Order V74 P715. In Findings of Fact #1 the last sentence states the the correct location is the SW1/4 NW1/4. Also #2 of the "Now therefore, section shows SW1/4 NW1/4. I think that it should be SW/NE. Cert #83844 had SE/NE which was not correct. Cert #84119 has it right with SW/NE. Now the only thing wrong is the Special Order unless I am missing something.

Glaphre Floth
Office Assistant
Umatilla County Watermasters Office
North Central Region
116 SE Dorion Ave
Pendleton, OR 97801
(541)278.5456
(541)278.0287 Fax



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

May 1, 2008

County Line Water Improvement District
77126 County Line Road
Hermiston, Oregon 97838

Re: Correcting Final Order and Certificate

Enclosed is a copy of Special Order Volume 74, Page 715, signed by the Director of Oregon Water Resources Department correcting a certificate. Also enclosed is a copy of the remaining right certificate 84119, issued to correct a scrivener's error in the certificate 83844.

If you have any questions please contact Dorothy Pedersen in the transfer section at 503-986-0890.

Sincerely,

Sarah Henderson
Executive Support

cc: Watermaster #5
Transfer File T-10427
File G-8649

Enclosures



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

In the Matter of Instream Water Right)
Certificate 84119, Morrow and Umatilla)
Counties, Oregon)

FINAL ORDER CORRECTING A
CERTIFICATE

Applicant

County Line Water Improvement District
77126 County Line Road
Hermiston, Oregon 97838

Findings of Fact

1. The Department issued a Certificate 82596 on December 15, 2006 as evidence of perfection of the water right under Permit G-10836 (applied for as Application G-8649). Certificate 82596 contains a scrivener's error in the location of 10.4 acres of irrigation in Section 10, Township 3 North, Range 27 East, W.M. Certificate incorrectly identifies the 10.4 acres as being in the SE¼ NW¼. The correct location is the SW¼ NW¼.
2. The Department issued an order approving T-10427 on March 25, 2008. The order was recorded at Special Order Volume 74, Pages 424 through 428. The order cancelled Certificate 82596 and a new remaining right water right certificate was issued as evidenced by Certificate 83844.
3. Consistent with Certificate 82596, Certificate 83844 also incorrectly listed the 10.4 acres in the SE¼ NE¼ of Section 10, Township 3 North, Range 27 East, W.M., thereby perpetuating the scrivener's error from Certificate 82596.

Now, therefore, it is ORDERED:

1. Certificate 83844 is cancelled.
2. Remaining Water Right Certificate 84119 is issued to supersede Certificate 83844 and to correctly describe the place of use of 10.4 acres in the SW¼ NW¼ of Section 10, Township 3 North, Range 27 East, W.M.

Dated at Salem, Oregon this 30th day of April, 2008.


Phillip C. Ward
Director

Mailing date: MAY 02 2008

This is a final order in other than 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 137-004-080 and OAR 690-01-005 you may either 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.

STATE OF OREGON
COUNTIES OF MORROW AND UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION of 5074.48 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. The right is limited to 59.65 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14649.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

The wells are located as follows:

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
SOLANO	4 N	27 E	WM	20	SW SW		10 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 20
MANN	4 N	27 E	WM	20	SE SW		190 FEET NORTH AND 1250 FEET EAST FROM SW CORNER, SECTION 20
COLEMAN	4 N	27 E	WM	26	SW NW		1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26
COLEMAN	4 N	27 E	WM	26	SW NW		1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26
COLEMAN	4 N	27 E	WM	27	SW NW		230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27
COLEMAN	4 N	27 E	WM	27	SE NW		960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27 (There are two wells at this location within 20 feet)
COLEMAN	4 N	27 E	WM	27	SE NW		2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27
12H	4 N	27 E	WM	28	SW NE		3180 FEET NORTH AND 1470 FEET WEST FROM SE CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE NW		3700 FEET NORTH AND 1390 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	NW SW		1650 FEET NORTH AND 1320 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE SW		90 FEET NORTH AND 40 FEET WEST FROM S1/4 CORNER, SECTION 28
12H	4 N	27 E	WM	28	SW SE		20 FEET NORTH AND 1350 FEET WEST FROM SE CORNER, SECTION 28

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 days of the date of service.

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
WOOD	4 N	27 E	WM	30	NW NE		1190 FEET SOUTH AND 4170 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	SW NW	2	1280 FEET SOUTH AND 1350 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	SW SW	4	3875 FEET SOUTH AND 1385 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	NW SE		3830 FEET SOUTH AND 4160 FEET EAST FROM NW CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		290 FEET NORTH AND 50 FEET WEST FROM SE CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		100 FEET NORTH AND 40 FEET WEST FROM SE CORNER, SECTION 30
HOLZAPFEL	4 N	27 E	WM	32	NW NE		50 FEET SOUTH AND 1450 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		340 FEET SOUTH AND 1190 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		70 FEET SOUTH AND 2520 FEET EAST FROM NW CORNER, SECTION 32
12H	4 N	27 E	WM	33	NW NE		1270 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33
12H	4 N	27 E	WM	33	SW NE		1940 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	2	NW NW		28.60
3 N	27 E	WM	2	SW NW		17.80
3 N	27 E	WM	3	NE NE		32.30
3 N	27 E	WM	3	NW NE		34.10
3 N	27 E	WM	3	SW NE		14.00
3 N	27 E	WM	3	SE NE		21.90
3 N	27 E	WM	3	NE NW		32.70
3 N	27 E	WM	3	NW NW		27.50
3 N	27 E	WM	3	SW NW		33.60
3 N	27 E	WM	3	SE NW		15.70
3 N	27 E	WM	3	NE SW		33.10
3 N	27 E	WM	3	NW SW		29.10
3 N	27 E	WM	3	SW SW		37.80
3 N	27 E	WM	3	SE SW		31.10
3 N	27 E	WM	3	NE SE		36.10
3 N	27 E	WM	3	NW SE		36.00
3 N	27 E	WM	4	NE NE		29.30
3 N	27 E	WM	4	NW NE		35.40
3 N	27 E	WM	4	SW NE		35.50

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	4	SE NE		29.60
3 N	27 E	WM	4	NE NW		31.10
3 N	27 E	WM	4	NW NW		31.00
3 N	27 E	WM	4	SW NW		26.50
3 N	27 E	WM	4	SE NW		31.20
3 N	27 E	WM	4	NE SE		31.30
3 N	27 E	WM	4	NW SE		30.80
3 N	27 E	WM	4	SW SE		31.50
3 N	27 E	WM	4	SE SE		31.50
3 N	27 E	WM	5	NE NE		32.80
3 N	27 E	WM	5	NW NE		32.50
3 N	27 E	WM	5	SW NE		32.60
3 N	27 E	WM	5	SE NE		32.90
3 N	27 E	WM	5	NE NW		32.70
3 N	27 E	WM	5	NW NW		32.70
3 N	27 E	WM	5	SW NW		32.90
3 N	27 E	WM	5	SE NW		32.90
3 N	27 E	WM	9	NE NE		31.50
3 N	27 E	WM	9	NW NE		35.50
3 N	27 E	WM	9	SW NE		23.50
3 N	27 E	WM	9	SE NE		19.50
3 N	27 E	WM	10	SW NE		10.40
3 N	27 E	WM	10	NE NW		39.00
3 N	27 E	WM	10	NW NW		38.70
3 N	27 E	WM	10	SW NW		9.00
3 N	27 E	WM	10	SE NW		12.90
4 N	27 E	WM	19	NE SW		10.10
4 N	27 E	WM	19	NW SW	3	20.80
4 N	27 E	WM	19	SW SW	4	32.60
4 N	27 E	WM	19	SE SW		33.60
4 N	27 E	WM	19	NW SE		1.00
4 N	27 E	WM	19	SW SE		35.80
4 N	27 E	WM	19	SE SE		2.90
4 N	27 E	WM	20	SW SW		7.70
4 N	27 E	WM	20	SE SW	4	2.50
4 N	27 E	WM	26	SW NE	6	8.40
4 N	27 E	WM	26	SE NE	8	13.40
4 N	27 E	WM	26	SW NW	2	30.30
4 N	27 E	WM	26	SE NW	4	18.70
4 N	27 E	WM	26	NE SW		19.00
4 N	27 E	WM	26	NW SW		24.90
4 N	27 E	WM	26	SW SW		40.00
4 N	27 E	WM	26	SE SW		35.60
4 N	27 E	WM	26	NE SE	9	24.40
4 N	27 E	WM	26	NW SE	10	7.40
4 N	27 E	WM	26	NW SE	11	1.30
4 N	27 E	WM	26	SW SE		22.50
4 N	27 E	WM	26	SE SE	12	17.30
4 N	27 E	WM	27	NE NW		10.30
4 N	27 E	WM	27	NW NW		15.20

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	27	SW NW		13.30
4 N	27 E	WM	27	SE NW		18.10
4 N	27 E	WM	27	NE SW		35.90
4 N	27 E	WM	27	NW SW		39.40
4 N	27 E	WM	27	SW SW		13.50
4 N	27 E	WM	27	SE SW		13.10
4 N	27 E	WM	27	NE SE		2.80
4 N	27 E	WM	27	NW SE		3.40
4 N	27 E	WM	27	SW SE		27.10
4 N	27 E	WM	27	SE SE		31.60
4 N	27 E	WM	28	NW NE		1.00
4 N	27 E	WM	28	SW NE		37.10
4 N	27 E	WM	28	SE NE		24.80
4 N	27 E	WM	28	NE NW		2.40
4 N	27 E	WM	28	NW NW		13.80
4 N	27 E	WM	28	SW NW		36.40
4 N	27 E	WM	28	SE NW		39.10
4 N	27 E	WM	28	NE SW		34.72
4 N	27 E	WM	28	NW SW		34.42
4 N	27 E	WM	28	SW SW		31.42
4 N	27 E	WM	28	SE SW		31.72
4 N	27 E	WM	28	NE SE		39.10
4 N	27 E	WM	28	NW SE		39.90
4 N	27 E	WM	28	SW SE		38.60
4 N	27 E	WM	28	SE SE		40.00
4 N	27 E	WM	30	NE NE		34.70
4 N	27 E	WM	30	NW NE		37.60
4 N	27 E	WM	30	SW NE		29.00
4 N	27 E	WM	30	SE NE		27.10
4 N	27 E	WM	30	NE NW		31.90
4 N	27 E	WM	30	NW NW	1	42.70
4 N	27 E	WM	30	SW NW	2	34.20
4 N	27 E	WM	30	SE NW		25.20
4 N	27 E	WM	30	NE SW		29.50
4 N	27 E	WM	30	NW SW	3	40.50
4 N	27 E	WM	30	SW SW	4	37.30
4 N	27 E	WM	30	SE SW		28.20
4 N	27 E	WM	30	NE SE		32.80
4 N	27 E	WM	30	NW SE		36.20
4 N	27 E	WM	30	SW SE		32.60
4 N	27 E	WM	30	SE SE		30.60
4 N	27 E	WM	32	NE NE		27.60
4 N	27 E	WM	32	NW NE		2.60
4 N	27 E	WM	32	SW NE		34.10
4 N	27 E	WM	32	SE NE		30.50
4 N	27 E	WM	32	NE NW		32.00
4 N	27 E	WM	32	NW NW		32.00
4 N	27 E	WM	32	SW NW		32.00
4 N	27 E	WM	32	SE NW		32.00
4 N	27 E	WM	32	NE SW		32.00

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	32	NW SW		32.00
4 N	27 E	WM	32	SW SW		32.00
4 N	27 E	WM	32	SE SW		32.00
4 N	27 E	WM	32	NE SE		31.00
4 N	27 E	WM	32	NW SE		29.00
4 N	27 E	WM	32	SW SE		33.20
4 N	27 E	WM	32	SE SE		35.40
4 N	27 E	WM	33	NE NE		34.30
4 N	27 E	WM	33	NW NE		32.00
4 N	27 E	WM	33	SW NE		32.00
4 N	27 E	WM	33	SE NE		32.00
4 N	27 E	WM	33	NE NW		24.42
4 N	27 E	WM	33	NW NW		22.83
4 N	27 E	WM	33	SW NW		22.83
4 N	27 E	WM	33	SE NW		24.42
4 N	27 E	WM	33	NE SW		29.00
4 N	27 E	WM	33	NW SW		29.00
4 N	27 E	WM	33	SW SW		31.00
4 N	27 E	WM	33	SE SW		31.00
4 N	27 E	WM	33	NE SE		32.20
4 N	27 E	WM	33	NW SE		31.60
4 N	27 E	WM	33	SW SE		34.40
4 N	27 E	WM	33	SE SE		27.20
4 N	27 E	WM	34	NE NE		37.50
4 N	27 E	WM	34	NW NE		39.50
4 N	27 E	WM	34	SW NE		10.10
4 N	27 E	WM	34	SE NE		7.10
4 N	27 E	WM	34	NE NW		32.80
4 N	27 E	WM	34	NW NW		30.20
4 N	27 E	WM	34	SW NW		30.20
4 N	27 E	WM	34	SE NW		35.60
4 N	27 E	WM	34	NE SW		39.70
4 N	27 E	WM	34	NW SW		34.00
4 N	27 E	WM	34	SW SW		30.80
4 N	27 E	WM	34	SE SW		39.80
4 N	27 E	WM	34	NE SE		32.30
4 N	27 E	WM	34	NW SE		41.20
4 N	27 E	WM	34	SW SE		39.30
4 N	27 E	WM	34	SE SE		39.30
4 N	27 E	WM	35	NE NE		32.90
4 N	27 E	WM	35	NW NE		36.30
4 N	27 E	WM	35	SW NE		31.40
4 N	27 E	WM	35	SE NE		31.40
4 N	27 E	WM	35	NE NW		33.50
4 N	27 E	WM	35	NW NW		34.00
4 N	27 E	WM	35	SW NW		31.40
4 N	27 E	WM	35	SE NW		31.40
4 N	27 E	WM	35	NE SW		31.40
4 N	27 E	WM	35	NW SW		31.40
4 N	27 E	WM	35	SW SW		31.40

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	35	SE SW		31.40
4 N	27 E	WM	35	NE SE		31.40
4 N	27 E	WM	35	NW SE		31.40
4 N	27 E	WM	35	SW SE		31.40
4 N	27 E	WM	35	SE SE		31.40
4 N	27 E	WM	36	NE NW		33.90
4 N	27 E	WM	36	NW NW		18.70
4 N	27 E	WM	36	SW NW		28.30
4 N	27 E	WM	36	SE NW		28.30
4 N	27 E	WM	36	NW SW		30.20
4 N	27 E	WM	36	SW SW		26.00

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

Well Location	Common Names (Per Order, 1976)	Target Levels (Ft below LSD)	
		Upper	Lower
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordinance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordinance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordinance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.

6. Annual Reports:

(A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.

(B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.

7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.

8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.

(A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.

(B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.

(C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.

9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.

10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.

11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

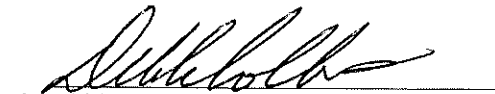
The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 82596, State Record of Water Right Certificates, NOT cancelled by the provisions of an order of the Water Resources Director entered March 25, 2008, approving Transfer Application T-10427 and corrects a scrivener's error in the place of use in original Certificate 82596 that was repeated in Certificate 83844. This certificate supersedes Certificate 83844.

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 APR 30 2008.


Phillip C. Ward, Director



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

July 12, 2007

CRAIG COLEMAN
33896 E WALLS RD
HERMISTON OR 97838

Reference: Transfer 10427

On July 2, 2007 we received your water right transfer application. The application was accompanied by \$800.00. Our receipt 88474 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the change.

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

Except as provided under ORS 540.510(3) for municipalities, you may not use water for the new use, in the new place of use or from the new point of diversion until the transfer application has been approved. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right. If the land is sold before the transfer is approved, the buyer's consent to the transfer will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

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

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

cc: Watermaster #5
Bill Porfily, Agent (PO Box 643, Stanfield, OR 97878)

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 07/17/07

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: Umatilla
Transfer: T -10427
Water Right: Cert:80913 RR *
Priority Date: 1954
Name: CRAIG COLEMAN
Address: 33896 E WALLS RD; HERMISTON OR 97838
Change: USE, POU, POD
Source: A WELL > UMATILLA RIVER
Authorized USE: IRRIGATION
Proposed USE: INDUSTRIAL
Authorized POU: T4N R27E 36
Proposed POU: T4N R27E 25
Authorized POD: T4N R27E 36
Proposed POD: T4N R27E 25

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

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

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

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



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

Application for Water Right

COPY Transfer

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

1. TYPE OF TRANSFER APPLICATION

Please check one

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

2. APPLICANT INFORMATION

Name: Craig Coleman
First Last

Address: 33896 E. Walls Road

Hermiston OR 97838
City State Zip

Phone: (541)567-1605 (503)209-4530 (Cell)
Home Work Other

Fax: _____ E-Mail address: _____

3. AGENT INFORMATION

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

Name: William Porfily
First Last

Address: P.O. Box 643

Stanfield OR 97878
City State Zip

Phone: (541)449-1327 (541)449-1327 (541)561-7259 (Cell)
Home Work Other

Fax: (541)449-1327 E-Mail address: bporfily@my180.net

- 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.

RECEIVED

JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

Transfer Application/1

FS

IN THE MATTER OF A) BEFORE THE UMATILLA COUNTY BOARD
 CONDITIONAL USE) OF COMMISSIONERS
 APPLICATION ON 70.39 ACRES)
 LOCATED SOUTHEAST OF) FINDINGS OF FACT AND CONCLUSIONS OF
 THE INTERSECTION OF I-82) LAW APPROVING FLYING J, INC.'s
 AND LAMB ROAD) CONDITIONAL USE REQUEST #C-1103-06
) MAP 4N 27 25A, TAX LOTS 200 AND 202

I. NATURE OF DECISION

The Umatilla County Board of Commissioners adopts these findings in support of Order No. BCC2008-42, approving the application of Flying J, Inc. for a conditional use permit to allow certain uses, categorized as a "stopping center," on a 70.39-acre site located in the Tourist Commercial (TC) and Light Industrial (LI) zones. The subject property is located at the southeast quadrant of the intersection of Interstate 82 and Lamb Road, approximately 5.5 miles southwest of the City of Hermiston.

Approval of this conditional use permit allows the following proposed uses on TC- and LI- zoned property: (1) a restaurant; (2) travel convenience store; (3) automotive and truck fueling stations; (4) truck service building; (5) truck wash building; and (6) accessory improvements such as but not limited to parking spaces, service drives, curbs, drainage, signs and landscaping. Most of the uses will be located in the TC zone with some parking and truck scales located in the LI zone. The total building area is proposed to be approximately 17,638 square feet. The locations of specific uses are identified on the applicant's Site Plan, dated June 11, 2007.

II. DESCRIPTION OF SITE AND PROPOSAL

The subject property is located on tax lots 200 and 202, which the applicant proposes to consolidate for the development. The subject property is undeveloped land at this time. Tax lot 200 contains 39.36 acres and tax lot 202 contains 31.03 acres for a total of 70.39 acres as consolidated. The subject property was zoned Rural Tourist Commercial (RTC), effective November 12, 2005; however, since the applicant's Conditional Use application was received by the County on November 10, 2005, two days prior to the date of the change in zoning, this application is processed according to the criteria associated with the TC zoning effective on that date. The proposed development would mostly occur on the portion of the property zoned TC, with some parking, drainage, and truck scales located on the LI zoned acreage.

Adjacent land to the north of the subject property is zoned Exclusive Farm Use (EFU) and contains cultivated fields. Interstate 82 and the Umatilla Army Depot abut the property to the west. The Union Pacific Railroad right-of-way abuts the property on the south with more Industrial zoned land beyond. Lands to the east, across Westland Road, are also zoned Industrial and contain the Hermiston Generating Plant, a natural gas burning electrical generating plant. There are no dwellings located in the immediate vicinity of the subject property.

The applicant proposes to construct the Flying J Travel Plaza, which will consist of the multiple uses described above, including a restaurant, travel convenience store, and auto and truck service stations. The purpose of the Flying J Travel Plaza will be to provide services for the motoring public on I-82, including the operators of commercial trucks and private vehicles.

III. COUNTY REVIEW PROCEDURES

The list of allowed uses in the TC zone does not specifically include a "travel plaza" or "truck stop" as a permitted or conditional use in that zone. However, in its Final Findings and Conclusions, dated February 5, 2008, the Planning Commission approved the proposed uses as "similar uses" to uses that are expressly allowed in the TC zone, as authorized by Umatilla County Development Code (UCDC) 152.277(E), which allows "other uses similar to the uses permitted or the conditional uses normally located in a Tourist Commercial Zone, providing that it has the approval of the Planning Commission." The Planning Commission also approved the proposed uses as "similar uses" to uses that are conditionally permitted in the LI zone, as authorized by UCDC 152.303(A)(17): The Planning Commission advised staff to process multi-use developments in the TC zone as a Conditional Use and concluded that, based on its interpretation of the code and established County precedent regarding the application of UCDC 152.277(E) or 152.303 (A)(17), the proposed uses are other uses similar to the uses permitted or conditional uses normally located in a TC zone or LI zone and are reviewed as a conditional use.

Two competing travel centers in the vicinity, Western Express and Space Age Fuels, appealed the Planning Commission approval to the Board of Commissioners. A public hearing was held before the Board of Commissioners on April 17, 2008, and the record was held open for the applicant to submit final written argument. On April 24, 2008, the applicant submitted final written argument, which contained a letter from the applicant's attorney and three (3) letters from the applicant's civil engineers and traffic engineer. The Board accepted the letter from the applicant's attorney, but rejected the remaining letters as new evidence. Having reviewed all of the evidence in the record, on May 8, 2008 the Board deliberated and voted to deny the opponents' appeal and approve the application. The Board adopts these findings in support of its decision to approve the application.

IV. APPLICABLE STANDARDS AND CRITERIA

This application involves County standards and criteria governing allowed uses in the TC zone and LI zone, conditional use permit requirements, design standards, and other standards and criteria addressed in this section of the findings.

A. Tourist Commercial Zone and Light Industrial Zone Requirements

The applicant proposes to develop the Flying J Travel Plaza on 70.39 acres zoned TC and LI. The proposed travel plaza will include the following uses in the TC zone: (1) restaurant; (2) travel convenience store; (3) automotive and truck fueling stations; (4) truck service building; (5) truck wash building; and (6) accessory improvements such as but not limited to parking spaces, service drives, curbs, drainage, signs and landscaping. The proposed travel plaza will include the following

uses in the LI zone: (1) truck scales; and (2) accessory uses, such as but not limited to parking, drainage, signs and landscaping.

1. UCDC §152.277 and UCDC §152.303(A)(17)— Conditional Uses Permitted

As explained by planning department staff in their staff reports to the Planning Commission and Board of Commissioners, the uses proposed by the applicant may be allowed in the TC zone through conditional use review under UCDC §152.277(E), which allows "other uses similar to the uses permitted or the conditional uses normally located in a Tourist Commercial Zone, providing that it has the approval of the Planning Commission." Additionally, the uses proposed by the applicant may be allowed in the LI zone through conditional use review under UCDC §152.202(A)(17), which allows, "other buildings and uses similar to the list above which shall not have any different or more detrimental effect upon the adjoining neighborhood areas or districts than the buildings and uses specifically listed." The Planning Commission agreed with the staff interpretation, and approved the applicant's proposed uses as "similar uses" under this section.

The Board of Commissioners affirms the Planning Commission's decision. Although the applicant's proposed travel plaza will be developed as a single project, it is comprised of multiple individual uses that may be considered individually for purposes of UCDC §152.277(E) and UCDC §152.303(A)(17). As indicated on the applicant's proposed Site Plan, dated June 11, 2007, each proposed use on the site is physically separate and distinct from the other uses. The uses are located on different portions of the 70-acre site, and are grouped in a logical way that is designed to minimize potential conflicts between the uses. For example, the restaurant and travel convenience store are located on the northern portion of the site, while the truck scales and truck service areas are located to the south.

The Board of Commissioners finds that the uses proposed by the applicant may be considered individually for purposes of applying the "similar use" standard of UCDC §152.277(E) and UCDC §152.303(A)(17). Contrary to the arguments presented by Space Age Fuels and Western Express, the Board finds that the most logical interpretation of the code allows each use to be considered individually, and there is nothing in the code that requires the applicant's proposal to be considered as a single "truck stop" use for purposes of the "similar use" provisions of UCDC §152.277(E). The Board finds that this interpretation is consistent with the stated purpose of the TC zone, which is "to serve the traveling public along major traffic corridors Facilities may include service stations, eating establishments or over-night accommodation." The opponents' argument would frustrate this stated purpose by prohibiting the proposed type of travel plaza from being located anywhere in the TC zone.

The multiple uses proposed by the applicant are similar, if not identical, to the uses that are specifically allowed as permitted uses in the TC zone under UCDC §152.276(B). The only proposed uses that are not expressly listed as permitted uses are the truck service station and truck wash. The Board finds that these uses are similar to an automobile service station, and therefore the entire composite of uses may be approved under UCDC §152.277(E). The Board finds that this interpretation of the code is consistent with long-standing County precedent regarding the

application of the "similar use" standard. In fact, the facilities operated by both Space Age Fuels and Western Express were approved under this same interpretation. More recently, the County applied the same interpretation in its approval of the Petro Stopping Center, and that aspect of the County's decision was approved by the Land Use Board of Appeals (LUBA). Specifically, LUBA affirmed the County's approval of a "retail travel store" as a permitted use, based on the fact that the three separate composite uses were all permitted uses in the TC zone. Because LUBA concluded that all three separate uses were permitted outright, LUBA did not reach the "similar use" issue under UCDC §152.277(E); however, that opinion supports the Board's decision to consider each use separately for purposes of UCDC §152.277(E).

Opponents Space Age Fuels and Western Express contend that the proposed travel plaza is not an allowable use in the TC zone because of UCDC §152.009, which provides: "The Planning Commission may permit as a conditional use in a particular zone a use not listed in this chapter [Chapter 152], provided the use is of the same general type as the uses permitted there by this chapter." Opponents note that at the time the applicant filed its application in 2005, "truck stops" were listed as permitted uses in the Commercial Rural Center (CRC) zone (the UCDC was subsequently amended on November 15, 2005 to remove truck stops from the CRC zone). Opponents argue that because a truck stop was a listed use in another zone when the application was filed, that use cannot be allowed as a conditional use in another zone due to UCDC §152.009. The Board notes that opponent, Western Express, is located in the TC zone and, contrary to the argument it raises now, previously submitted a development application as a "fueling center," which the County approved.

The Board finds that UCDC §152.009 does not require the opponents' desired result. First, the language of the code section allows a more reasonable and less restrictive interpretation. The code section provides that the Planning Commission "may permit as a conditional use in a particular zone a use not listed in this chapter," provided such use is similar to other permitted uses in that zone. This section provides a general permissive grant of authority to allow a particular use in a zone, even if that use was not expressly listed by the code. The purpose of this provision is to provide the County with flexibility to allow uses that were not expressly enumerated, so long as they are found to be similar to other listed uses. This section should not be read to require that such similar uses may *never* be allowed (as through the application of UCDC §152.277(E)), if the use *is* listed in another zoning district. In other words, the Board does not interpret the phrase "a use not listed in this chapter" to create a limitation, but rather to expand the universe of uses that could be allowed (and in fact, are allowed by UCDC §152.277(E)). The opponents read this section as if it were written to say that the Planning Commission "may not permit as a conditional use any use that is listed elsewhere in this chapter," and the Board disagrees with that interpretation.

Second, the Board also agrees with the Planning Commission's conclusion that the more specific language of UCDC §152.277(E) must be read to control over the general language of UCDC §152.009. UCDC §152.277(E) is very specific to uses in the TC zone, and allows "other uses similar to the uses permitted or the conditional uses normally located in a Tourist Commercial Zone, providing that it has the approval of the Planning Commission." On the other hand, UCDC §152.009 is located in the "General Provisions" section of UCDC Chapter 152, and applies

generally to uses that could be allowed in any zoning district. It is well-established that general local ordinance provisions are controlled by more specific provisions.

Finally, in the event that LUBA or another appellate body rejects the Board's above-stated interpretations of the Umatilla County Code under ORS 197.829, the Board adopts the alternative findings set forth in this paragraph. Under UCDC §152.766(B)(3), the Board is authorized on appeal from the Planning Commission to amend the Planning Commission's decision. The Board finds that, although the Planning Commission adopted findings of compliance with conditional use provisions applicable to a "truck stop," the proposed use may also be approved as a "stopping center," which was the type of use described in the County's approval of the Petro application. Because a stopping center was not a use that was listed anywhere in UCDC Chapter 152 when the application was filed, if it is determined on appeal that UCDC §152.009 applies, the stopping center use may still be allowed.

2. UCDC §152.278 — Limitations on Uses in TC Zone

Under UCDC §152.278, any outside storage areas in the TC zone shall be obscured by a fence, and storage of scrap or salvage materials is prohibited. The application does not propose any outside storage areas or storage of scrap or salvage materials, and these criteria are met. Compliance with these standards will also be ensured through the adoption of a condition of approval.

3. UCDC §152.304 – Limitations on Uses in LI Zone

1. All business, commercial and industrial activities, and storage allowed in an LI Light Industrial Zone shall be conducted wholly within a building or shall be screened from view from adjacent public roads or surrounding properties in farm, residential or commercial zones, unless the entire activity is conducted more than 500 feet from said surrounding property or road. Outdoor storage of farm and forest products or equipment shall not be subject to this limitation;

Finding: Contrary to opponents' arguments, the Board finds that this criterion does not require an evaluation of impacts or a specific screening proposal by the applicant. Additionally, the Board finds that all of Flying J's activities are more than five hundred feet (500') from adjacent properties and that there is no adjacent residential development. Therefore, the Board finds that this criterion is met, and that compliance with this criterion will be assured through feasible conditions of approval requiring a screening fence where appropriate in the LI and TC zoning districts.

2. All off-street loading areas shall be screened from view if adjoining properties are in a residential zone;

Finding: There are no adjoining residential zones; therefore, the Board finds that this criterion is not applicable.

3. All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

Finding: The Board finds that compliance with this criterion will be assured through a feasible condition of approval requiring that all of Flying J's activities comply with appropriate state and federal regulations.

Dimensional standards of the LI Zone

1. *Minimum lot size shall be one acre.*

Finding: The subject parcels are 39.36 acres and 31.03 acres. This criterion has been met.

2. *Minimum lot width. The minimum average lot width shall be 100 feet with a minimum of 25 feet fronting on a dedicated county, public road, or state highway;*

Finding: As shown on the Site Plan, dated June 11, 2007, the average lot width is over 100 feet with over 25 feet fronting Lamb Road. The Board finds that the subject property meets these requirements and this criterion is met.

B. Off-Street Parking and Loading Standards

This section of the findings addresses compliance with applicable standards of UCDC §152.560 and §152.562 regarding off-street parking and loading.

1. **UCDC §152.560 — Off Street Parking Requirements**

A. *Each use shall provide the following minimum off-street parking spaces. Each parking space shall be a minimum of nine feet wide and 20 feet in length.*

Finding: The Board finds that the record contains substantial evidence in the form of the Site Plan, dated June 11, 2007, demonstrating that the minimum number of required parking spaces will meet or exceed the required dimensional standard. Therefore, the Board finds that this standard is met.

B. *Off-street parking requirements:*

(9) *Commercial uses: one space for each 200 square feet of floor space, plus one space per employee.*

Finding: The commercial buildings will total 17,638 square feet, which requires a minimum of 89 parking spaces plus one space per employee. The Board finds that the applicant's Site Plan, dated June 11, 2007, demonstrates that the site will exceed the minimum number of required parking spaces. Therefore, the Board finds that this standard is met.

(11) *Conditional uses: additional spaces may be required by the Hearings Officer in the approval of a conditional use.*

Finding: The proposed travel plaza will provide more than the minimum required parking. No additional spaces are necessary.

2. UCDC §152.562 — Additional Off-Street Parking and Loading Requirements

A. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this chapter to begin such altered use until the required increase in off-street parking or loading is provided;

Finding: Compliance with this criterion is ensured through the adoption of a condition of approval requiring future compliance in the event of a change of use.

B. Requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Commission or Hearings Officer, based upon the requirements of comparable uses listed;

Finding: The Board finds that no additional requirements are necessary.

C. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately;

Finding: As addressed in Section B.1 above, all proposed uses are commercial uses and the applicant is providing an adequate amount of parking. This standard is met.

D. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Director in the form of deeds, leases, or contracts to establish the joint use;

Finding: This criterion is not applicable. Should additional uses be proposed for the subject property in addition to, or to replace, uses approved under this conditional use request, the proposed uses would be subject to review according to Development Code standards in effect at that time.

E. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located no farther than 500 feet from the building or use they are required to serve, measured in a straight line from the building.

Finding: There are no dwellings associated with the proposed use. All parking areas will be located on the subject site subject to Final Site Design Review.

F. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

Finding: Compliance with this criterion is ensured through the adoption of a condition of approval requiring future compliance.

G. Unless otherwise provided, required parking and loading spaces shall not be located in a required yard;

Finding: There is no required yard for the proposed use and this criterion is not applicable.

H. Plans shall be submitted as provided in §152.767 of this chapter;

Finding: The applicant has provided a site development plan as required by UCDC §152.767. Site Design Review and a final site plan are required as a condition of approval.

I. Design requirements for parking lots:

(1) Areas used for standing and maneuvering of vehicles shall have paved surfaces maintained adequately for all weather use and so drained as to avoid flow of water across public sidewalks;

Finding: The application shows that all parking areas will be paved and will be in compliance with DEQ requirements for storm water management and/or retention. The Board finds that the proposed wastewater treatment and disposal system has adequate land area to accommodate on site storm water control and disposal measures, and that compliance with this standard is ensured through the adoption of a condition of approval.

J. (2) Except for parking to serve residential use, parking and loading areas adjacent to residential use shall be designed to minimize disturbance of residents by the erection between the uses of a sight obscuring fence of not less than five feet in height except where vision clearance is required;

Finding: There are no residential areas in the vicinity and this criterion is not applicable.

K. (3) Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four inches high and set back a minimum of four and one-half feet from the property line, or by a bumper rail;

Finding: Based on the proposed site plan, the Board finds that it is feasible to comply with this standard, and compliance will be required at the time of final site development plan review.

- L. (4) *Artificial lighting which may be provided shall not create or reflect glare in a residential zone or on any adjacent dwelling;*

Finding: There are no residential areas in the vicinity and this criterion is not applicable.

- M. (5) *Service drives to off-street parking areas of four or more spaces shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives;*

- (6) *Service drives shall have a minimum vision clearance area bounded by the driveway centerline, the street right-of-way line, and a straight line joining said lines 20 feet from their intersection.*

Finding: There are no service drives proposed, and these criteria are not applicable.

C. Transportation Issues

For the reasons explained below, the Board finds that the applicant has demonstrated compliance with applicable approval criteria regarding transportation. Under UCDC §152.017, the applicant must demonstrate that the proposed use "shall not impose an undue burden on the public transportation system." Also, UCDC §152.616(BBB)(1) requires that "the activity will not create a traffic hazard." Based on the evidence submitted into the record by the applicant, the Board finds that the proposed travel plaza will comply with these standards.

The applicant submitted a traffic impact analysis (TIA) prepared by Lancaster Engineering ("Lancaster"), dated June 2006, and an addendum to the TIA, dated December 20, 2007, which demonstrate that the proposed travel plaza will not create an undue traffic burden or a traffic hazard. As stated in the TIA, the proposed development is conservatively estimated to generate 321 p.m. peak hour trips. As shown in the Table 1, Capacity Analysis Summary of the TIA and the addendum, this volume of trips will not have any significant effect on operations of adjacent roadways or intersections. The TIA and addendum indicate that all movements at the impacted I-82 ramps and at the intersection of Lamb Road and Westland Road are currently operating at Level of Service (LOS) "A" or "B" and that trips from the proposed development will not reduce service below LOS "C" at either set of ramps or the intersections. Additionally, the addendum to the TIA indicates that trips from the proposed development will not reduce service below LOS "C" at the intersection of Lamb Road and Generation Road. LOS "E" is the Umatilla County's performance standard for unsignalized intersections. Thus, all studied intersections will still operate at LOS "C" or better with the proposed travel plaza in place.

Additionally, the TIA and addendum demonstrate that existing trips plus trips from the proposed development will result, at most, in a volume to capacity ratio ("v/c") effect of .53. The Oregon Highway Plan ("OHP") imposes a v/c ratio of .85 at the intersection of Lamb Road and I-82. (December 20, 2007 addendum to TIA at Page 2). The TIA and addendum demonstrate that the

proposed development will have no adverse impact on any of the surrounding transportation facilities and the Board finds that the applicable traffic-related criteria are met.

Opponents Space Age Fuels and Western Express contend that the Lancaster TIA is inadequate because it relies on incorrect methodologies and fails to offer sufficient mitigation of potential impacts on the intersection of Lamb, Walker and Westland Roads. Contrary to the assertions of the opponents, the Board finds that the traffic impact analysis applied correct methodologies and properly identified the trip distributions for purposes of evaluating the level-of-service, as shown in the Capacity Analysis Summary of the TIA and the addendum. Also, as explained in a response letter from Michael Robinson dated April 9, 2008, the scope of the TIA is appropriate and was approved by the Umatilla County Public Works Director, Hal Phillips. The applicant provided a copy of an email from Mr. Phillips stating that the transportation engineering firm the County hired, Access Engineering, generally concurred with the Lancaster TIA. Further, as explained in the final argument letter from Michael Robinson, dated April 24, 2008, Lancaster coordinated with Oregon Department of Transportation ("ODOT") Region 5, which also approved the scope of the TIA.

The Lancaster TIA used the same analysis as the TIA in the application for a tourist center by George Barton, Umatilla County File No. C-1104-06, the methodology of which this Board previously approved. The Board recognizes that the ITE manual is the universal model for trip generation and finds that the appropriate use category for the project is ITE Category 946, as described in the Lancaster TIA and addendum. The Board also finds that appropriate and sufficient mitigation of impacts to Lamb, Walker and Westland Roads is ensured through conditions of approval. The applicant has agreed to a development agreement and waiver remonstrance to improvements to implement the development agreement to assist the County in improving roads north of I-84. Through the imposition of conditions of approval, the Board finds that any potential transportation impacts as a result of the proposed development will be sufficiently mitigated.

Opponents also contend that the intersections are hazardous today. The Lancaster TIA expressly examined the intersections' crash history. In an analysis of a five-year crash study, the TIA found only eight (8) accidents over five (5) years and three (3) of those occurred during winter conditions. Based on the small number of crashes, the fact that three (3) of them occurred during winter conditions, the TIA concluded that all studied intersections are expected to continue to operate at acceptable levels of service with the development. Based on the TIA, the Board finds that the intersections will function safely with the travel plaza in place.

The Board finds that all applicable transportation-related standards and criteria are satisfied. The Board also concludes, based on the TIA and addendum by Lancaster, that the proposed travel plaza will not generate significant additional traffic at the Lamb/Walker/Westland Road intersection in the near term. In the long term, traffic will require the intersection to be improved, and applicant will be required through conditions of approval to participate in improvements to the intersection necessary to mitigate its impact.

D. Water Supply

Opponents contend that the applicant has failed to establish that it can provide an adequate water supply for the proposed travel plaza, in violation of UCDC §152.615(K). The Board notes that the code section cited by opponents does not create a mandatory approval standard regarding the availability of water. UCDC §152.615 provides a list of "additional conditional use permit restrictions," which the County "may impose ... upon a finding that circumstances warrant such additional restrictions." Under the subsection relied upon by opponents, the County "may impose" such an additional restriction "protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources." UCDC §152.615(K).

Nevertheless, based on the Oregon Water Resources Department's Final Order approving a water right transfer to the applicant, dated March 25, 2008, and on evidence submitted by the applicant in letters from Michael Robinson, with exhibits, dated January 14, 2008, January 17, 2008, April 9, 2008, and April 24, 2008 and in a letter from Corinne Celko, with exhibits, dated April 17, 2008, the Board finds that there is substantial evidence in the record to support a finding that it is feasible for the applicant to obtain sufficient water for its proposed use. Specifically, evidence submitted indicates that the applicant can obtain up to 50 gallons per minute (gpm) of water and that the proposed development anticipated needing only thirty-five (35) gpm. In addition, the applicant will have two (2) 40,000 gallon tanks on-site providing 80,000 gallons of stored water, which the Hermiston Fire and Emergency Services District has stated is sufficient to meet the Fire District's on-site water requirements.

The Board finds that the applicant has demonstrated that it has obtained a water right transfer and that it is feasible to provide an adequate water supply for the proposed use.

E. Sign Regulations

Opponents contend that the applicant was required to submit a sign plan for approval as part of its application, and failed to do so. The Board disagrees, because the applicable County sign regulations at UCDC §152.548 provide that "an applicant shall submit with his application for a zoning permit for a sign, in addition to the site plan required for the zoning permit, a plan and four elevations of the sign itself." The Board finds that this section does not require a sign plan to be submitted with the conditional use application; it requires that the sign plan be submitted with the zoning permit. This is consistent with UCDC §152.545(A), which provides: "No sign shall hereafter be erected, moved, or structurally altered without a zoning permit, except for a Type 3 sign, and without being in conformity with the provisions of this chapter." Also, UCDC §152.612(D), which is titled "Procedure for Taking Action on a Conditional Use Application," provides: "An applicant granted a conditional use permit or land use decision must obtain a county zoning permit before commencing construction." Further, UCDC §152.616(BBB)(1)-(6) does not include a requirement that sign sizes or location be shown with the conditional use permit application.

The Board finds that the UCDC requires that signs be approved through a subsequent zoning permit and this is consistent with the development scheme, which requires a zoning permit prior to construction of an approved conditional use permit.

F. Landscaping Plan

The Board finds that the UCDC does not have specific requirements for types of landscaping or maintenance; however, County policy has been established that landscaping be required especially for larger developments involving several different land use types within one complex. Therefore, a landscaping plan will be required with the final site plan as a condition of approval.

G. Wastewater and Stormwater Treatment

Opponents contend that the applicant failed to demonstrate that it has a feasible wastewater and stormwater treatment system. Opponents again point to UCDC §152.615, which does not include mandatory approval criteria. The site plan for the proposed development shows multiple stormwater retention areas and a primary and secondary sewage treatment drainfield. Evidence, such as the documentation from Poagh, dated July 26, 2006, shows that the applicant will provide on-site waste disposal systems and a sufficient stormwater retention system. The systems are subject to approval by the Oregon Department of Environmental Quality ("DEQ") and the Board finds that it is feasible to provide on-site waste disposal systems and a sufficient stormwater retention system.

H. Additional Conditional Use Permit Restrictions—UCDC §152.615

Under UCDC §152.615, the County "may impose the following conditions upon a finding that circumstances warrant such additional restrictions."

A. Limiting the manner in which the use is conducted, including restricting hours of operation and restraints to minimize such environmental effects as noise, vibration, air pollution, glare or odor;

Finding: Due to the location of the subject property there are not any adjacent uses requiring protection from noise, vibration, air pollution, glare and odor; however, the Board finds that this criterion will be met through feasible conditions of approval requiring screening and compliance with appropriate state and federal regulations.

B. Establishing a special yard, other open space or lot area or dimension;

Finding: There are no specific Development Code criteria that would require special yards or open space and the nature of the proposed development does not appear to require special yards or open space. Therefore, no restrictions are necessary. The DEQ may require open space or yard area for storm water management. The applicant will be required to obtain and comply with a DEQ storm water permit, if applicable. The Board finds that this criterion is met.

C. Limiting the height, size or location of a building or other structure;

Finding: The proposed structures meet setback, size and height criteria established in the TC zone. No additional limitations are necessary. Approval of the site plan by issuance of a zoning permit will assure compliance with this criterion.

D. Designating the size, number, location and nature of vehicle access points;

Finding: Access issues are addressed above in Section IV.C of these findings. The Board finds that no additional restrictions regarding vehicle access points are required.

E. Increasing the required street dedication roadway width or improvements within the street right-of-way;

Finding: The proposal does not include the dedication of additional right-of-way; however, the applicant has agreed to widen Lamb Road and construct to County standards, including base work, widening and asphalt overlay. Turning lanes will also be constructed by the applicant. The applicant has agreed to sign a Development Agreement with Umatilla County for impacts to the intersection of Lamb, Walker and Westland Road, and to pay a proportionate share of improvements to the intersection.

F. Designating the size, location, screening, drainage, surfacing or other improvement of a parking or loading area;

Finding: See L below for parking area requirements.

G. Limiting or otherwise designating the number, size, location height and lighting of signs;

Finding: As addressed above in Section IV.E of these findings, the applicant will be required to submit a sign plan as part of its final zoning permit application. The Board finds that no additional restrictions are required beyond the applicable County sign regulation standards that will be applied as part of that process.

H. Limiting the location and intensity of outdoor lighting and requiring its shielding;

Finding: Umatilla County has no specific criteria for lighting and there is no residential development adjacent to the proposed development that would require screening or a limitation on intensity. Therefore, the Board finds that no lighting restrictions are warranted.

I. Requiring diking, screening, landscaping or other methods to protect adjacent or nearby property and designating standards for installation and maintenance;

Finding: The UCDC does not have specific requirements for types of landscaping or maintenance; however, County policy has been established that landscaping be required especially for larger developments involving several different land use types within one complex. Therefore, a landscaping plan will be required with the final site plan as a condition of approval. The Board finds that this criterion is met.

J. Designating the size, height, location and materials for a fence;

Finding: The applicant does not propose any outdoor storage; however, fencing will be required along the perimeter of the proposed development to serve as a barrier to prevent litter from accumulating in the canal, roadway, and adjacent properties. The applicant shall therefore be required to identify fencing on the final site plan as a condition of approval.

K. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources;

Finding: The property is not in a flood hazard area nor does it contain existing trees, vegetation, water resources, wildlife habitat or other significant natural resources in need of preservation. Therefore, this criterion is not applicable.

L. Parking area requirements;

Finding: Parking requirements are addressed above in Section IV.B of these findings. The Board finds that no additional restrictions are required.

I. Conditional Use Standards for Truck Stops — UCDC §152.616(BBB)

UCDC §152.616(BBB) contains specific conditional use standards applicable to "truck stops." The Board finds compliance with these standards for the reasons addressed below. However, in the event that, on appeal of this decision, LUBA or another review body rejects the Board's interpretation set forth above in Section IV.A of these findings regarding the "similar use" provision of UCDC §152.277(E), then the findings in this Section must be ignored in light of the Board's alternative approval of this application as a "stopping center."

1. The activity is compatible with the existing surrounding land uses.

Finding: Based on the argument and evidence before the Board, the Board finds that the proposed use is compatible with the existing surrounding land uses. Adjacent land to the north of the subject property are zoned Exclusive Farm Use (EFU) and contain cultivated fields. Interstate 82 and the Umatilla Army Depot abut the property to the west. The Union Pacific Railroad right-of-way abuts the property on the south with more industrial zoned land beyond. Lands to the east, across Westland Road, are also zoned for industrial use and contain the Hermiston Generating Plant, a natural gas burning electrical generating plant. There are no dwellings located in the immediate vicinity of the subject property. The Board finds that the activities of this use are compatible with the uses to the west, north, south and east. The use is compatible with EFU land to the north because noise, light, odor or other external impacts of this application will not affect the crop use.

2. The activity will not create a traffic hazard.

Finding: For the reasons described above in Section IV.A of these findings, the proposed use will not create a traffic hazard. The Board finds that the TIA and other supplemental information

provided by the applicant establish that all relevant transportation facilities will operate at acceptable levels of service with the proposed use in place.

3. *Access points are well-marked and designated through the use of bumper rails or landscaping.*

Finding: The Board finds that future compliance with this standard at the time of development will be ensured through the adoption of a condition of approval.

4. *Landscaping around the perimeter of the site may be required to help screen the use from other adjacent uses.*

Finding: The Board adopts a condition of approval requiring landscaping and fencing around the perimeter of the use to achieve this function.

5. *Additional setback requirements may be required to protect adjacent land uses.*

Finding: The Board finds that additional setback requirements are not required.

6. *Complies with other conditions deemed necessary.*

Finding: The Board finds that other conditions as appropriate are incorporated in this decision.

28. FINAL DECISION: THE CONDITIONAL USE REQUEST TO ESTABLISH A TRAVEL PLAZA INCLUDING THE FOLLOWING USES: (1) restaurant; (2) travel convenience store; (3) automotive and truck fueling stations; (4) truck service building; (5) truck wash building; and (6) accessory improvements such as but not limited to parking spaces, service drives, curbs, drainage, signs and landscaping COMPLIES WITH THE STANDARDS OF THE UMATILLA COUNTY DEVELOPMENT CODE AND IS APPROVED, SUBJECT TO THE FOLLOWING CONDITIONS:

Precedent Conditions: The following precedent conditions must be fulfilled prior to final approval of this request.

1. Applicant shall obtain approval for the vacation of Generation Road.
2. Applicant shall complete the approval process to replat Partition Plat 2005-25 (processed as a Type II land partition) to include the relocation of Generation Road, the consolidation of Tax Lots 200 and 202, and the realignment of the Westland Irrigation District canal. The final Partition Plat shall be recorded in the office of county records.

3. Applicant shall pay all current and back property taxes assessed for Tax Lots 200 and 202 prior to the recording of the partition replat.
4. Applicant shall provide documentation of an approved access permit from the Umatilla County Public Works Department for the new access point to Lamb Road and for changes to the existing Generation Road access point to Lamb Road.
5. Applicant shall provide a final site plan for the development that demonstrates compliance with Site Design Standards referenced above. Umatilla County shall provide notice and an opportunity for comment to request a public hearing prior to reaching a final decision on compliance with Site Design Standards. The standards shall include, but are not limited to the following:
 - A. Compliance with parking area requirements as listed in County Development Code Sections 152.560 – 152.562;
 - B. Compliance with sign regulations of County Development Code Section 152.546(L) and 152.547;
 - C. The size, height, location and materials for perimeter fencing;
 - D. The location of landscaping;
 - E. Parking spaces along the outer boundaries of a parking lot shall be contained by a curb at least four inches high and set back a minimum of four and one-half feet from the property line, or by bumper rail; and
 - F. Street lighting down the length of the site abutting Lamb Road.
6. Applicant shall provide documentation that an adequate water source has been obtained to service the truck stop and the other uses described in the proposed development.
7. Applicant shall provide documentation of DEQ site evaluation and approval for an on-site waste disposal system and storm water retention.
8. Applicant shall submit a copy of a signed agreement between Flying J and the Westland Irrigation District Board of Directors confirming and approving the new location of the irrigation canal. This may be shown on the final Partition Plat or in separate correspondence.
9. Applicant shall coordinate and execute a Development Agreement outlining improvements and responsibilities to mitigate impacts of the proposed development on adjacent roads and to pay for a proportionate share of the improvements. Terms of the Development Agreement shall be coordinated with applicable transportation authorities and abutting property owners to Westland Road, Lamb Road, Walker Road and Generation Road and their intersections.

Applicant may be required to demonstrate bonding to meet future obligations. The Development Agreement shall be provided to interested parties and adjoining property owners under a Type III process, with notice and hearing prior to determination of compliance with this standard. Review and approval of this condition shall be made by the Planning Commission.

10. In addition to condition # 9 above, the applicant shall make the following improvements to Lamb Road:

- a. Widen Lamb Road to accommodate a left hand turn lane and right hand turn lane. Specific standards and specifications of the widening and turn lanes shall be subject to final approval of the Public Works Director.
- b. Provide an asphalt overlay on Lamb Road along the entire frontage of the property, from Interstate 82 to the Westland Road intersection. Specific standards and specifications of the overlay, asphalt type, layer, depth, etc., shall be approved by the Public Works Director.

A determination of compliance with the County standards may require a review by an engineer. Developer shall pay for necessary costs for the engineering evaluation, if requested by the Public Works Director. A Type II Notice and an opportunity to provide comment on the final specifications of the road improvements shall be made to adjoining property owners.

Subsequent Conditions: The following subsequent conditions must be fulfilled following final approval of the Conditional Use Request, signified by the issuance of a Zoning Permit from the Umatilla County Planning Department.

- A. Applicant shall obtain any applicable State and/or Federal permits which may be required for the development of the Flying J Travel Plaza.
- B. The primary access road to Lamb Road shall meet the recommended standards of ODOT, the Umatilla County Transportation System Plan and approval by the Public Works Director.
- C. Outside storage areas shall be screened with a site-obscuring fence so that the area shall not be exposed to view from the traveling public and surrounding properties. Storage of scrap or salvage materials shall be prohibited.
- D. Should the owner or occupant of a lot or building change the use to which the lot or building is put, thereby increasing off-street parking or loading requirements, it shall be a violation of this chapter to begin such altered use until the required increase in off-street parking or loading is provided.
- E. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.

F. Applicant shall provide documentation from the Hermiston Fire & Emergency Services District that the travel plaza has satisfied the District's code requirements.

G. All noise, vibration, dust, odor, smoke, appearance or other objectionable factors involved in any activity shall comply with appropriate state and federal regulations.

Approved on this date:

July 30, 2008

William S. Hansell

UMATILLA COUNTY BOARD OF COMMISSIONERS

William S. Hansell

Chair

RECEIVED

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PERKINS COIE

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

WESTERN LAND & CATTLE, INC.,
and PLISKA INVESTMENTS, LLC,
Petitioners,

FEB04'09 PM 3:04 LUBA

vs.

UMATILLA COUNTY,
Respondent,

and

FLYING J, INC.,
Intervenor-Respondent.

LUBA No. 2008-144

FINAL OPINION
AND ORDER

Appeal from Umatilla County.

E. Michael Connors, Portland, filed the petition for review and argued on behalf of petitioners. With him on the brief was Davis Wright Tremaine LLP.

No appearance by Umatilla County.

Corinne S. Celko, Portland, filed the response brief and argued on behalf of intervenor-respondent. With her on the brief were Michael C. Robinson, Roger A. Alfred and Perkins Coie LLP.

BASSHAM, Board Chair; HOLSTUN, Board Member, participated in the decision.

RYAN, Board Member, did not participate in the decision.

REMANDED

02/04/2009

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioners appeal county approval of a conditional use permit for the construction of a travel plaza that includes automotive and commercial truck fuel stations, commercial truck services, a restaurant, and a travel convenience store.

FACTS

The subject property is a 70.39-acre parcel located at the southeast quadrant of the intersection of Interstate 82 and Lamb Road, approximately 5.5 miles southwest of the City of Hermiston. The property consists of two tax lots. The northeastern portion of the property is zoned Tourist Commercial (TC) and the remainder is zoned Light Industrial (LI). Adjacent land to the north is zoned Exclusive Farm Use (EFU). Interstate 82 and the Umatilla Army Depot abut the property to the west. The land to the south and east are zoned Industrial.

Petitioners submitted their application on November 10, 2005. The proposal consists of multiple uses, including (1) a restaurant; (2) a travel convenience store; (3) an automotive and commercial truck fueling stations; (4) a commercial truck service building; (5) a commercial truck wash building; and (6) accessory improvements. The majority of the proposed development would be located on the portion of the property zoned TC with some parking, drainage facilities, and truck scales located on the portion zoned LI.

Neither the TC nor the LI zone allow commercial truck stops, but both zones allow an "automobile service station" as a conditional use. The TC zone also allows as a conditional use "[o]ther uses similar to" permitted or conditional uses allowed in the TC zone.

The planning commission held public hearings regarding the application on March 23, 2006 and on January 24, 2008. The planning commission concluded that each of the various elements of the travel plaza was a permitted or conditional use in the TC zone, including the commercial truck fueling station and service building, which the planning commission found qualifies as a "similar use."

1 Petitioners appealed the planning commission's decision to the board of county
2 commissioners (BCC). The BCC held a public hearing on April 17, 2008. On May 8, 2008,
3 the BCC voted to tentatively affirm the decision of the Planning Commission approving the
4 project. Final approval of the application was granted on July 30, 2008. This appeal
5 followed.

6 **FIRST ASSIGNMENT OF ERROR**

7 Petitioners contend that the county erred in approving the proposed commercial truck
8 fueling station, service building and truck wash as "similar uses" under Umatilla County
9 Development Code (UCDC) 152.277(E).

10 The TC zone is codified at UCDC 152.275 *et seq.* The TC zone is "designed to serve
11 the traveling public along major traffic corridors or at appropriate recreational locations."
12 UCDC 152.275 ("Purpose"). Permitted facilities may include "service station, eating
13 establishments or over-night accommodations." *Id.* As noted, the TC zone does not list a
14 truck stop or truck service station as permitted or conditionally permitted uses. It does list an
15 "automobile service station" as a permitted use, under UCDC 152.276(B)(1). UCDC
16 152.003 defines "automobile service station" as "[a]ny building, land area or other premises
17 or portion thereof, used or intended to be used for the retail dispensing or sale of vehicular
18 fuels; and including as an accessory use the sale and installation of lubricants, tire, batteries
19 and similar accessories."

20 UCDC 152.277 lists the conditional uses allowed in the TC zone, and allows "[o]ther
21 uses similar to the uses permitted or the conditional uses normally located in a Tourist
22 Commercial Zone, providing that it has the approval of the Planning Commission." UCDC
23 152.277(E). In addition to that specific grant of authority to allow a "similar use" in the TC
24 zone, UCDC 152.009 includes a general provision for "Authorization of Similar Uses,"
25 stating that "[t]he Planning Commission may permit as a conditional use in a particular zone

1 a use not listed in this chapter, provided the use is of the same general type as the uses
2 permitted there by this chapter.”

3 The UCDC provides for a “truck stop” in only one zone within the county, the
4 Commercial Rural Center (CRC), at UCDC 152.262(H). The code defines a “truck stop” as
5 [a]ny building, premise or land in which or upon which maintenance, servicing, storage or
6 repair of commercial licensed trucks or motor vehicles is conducted or rendered, including
7 the dispensing of motor fuel or other petroleum products directly into the trucks or motor
8 vehicles, the sale of accessories or equipment for trucks or similar motor vehicles.” Further,
9 a “truck stop” is subject to a special set of conditional use standards that apply only to truck
10 stops, at UCDC 152.616(BBB).

11 Petitioners argued below that the commercial truck fueling and service station and
12 truck wash constitute a “truck stop” as that use is defined at UCDC 152.003. Because those
13 elements of the project constitute a “truck stop,” petitioners argued, and truck stops are not
14 listed uses in the TC zone, the county cannot approve those elements as a “similar use” under
15 UCDC 152.277(E).

16 The county rejected those arguments, finding:

17 “The multiple uses proposed by the applicant are similar, if not identical, to
18 the uses that are specifically allowed as permitted use in the TC zone under
19 UCDC 152.276(B). The only proposed uses that are not expressly listed as
20 permitted uses are the truck service station and truck wash. The Board finds
21 that these uses are similar to an automobile service station, and therefore the
22 entire composite of uses may be approved under UCDC 152.277(E). The
23 Board finds that this interpretation of the code is consistent with long-standing
24 County precedent regarding the application of the ‘similar use’ standard. In
25 fact, the facilities operated by [petitioners] were approved under the same
26 interpretation. * * *.” Record 4-5.

27 The BCC also rejected petitioners’ argument that UCDC 152.009 should be
28 interpreted in context to prohibit approving a “similar use” under UCDC 152.277(E), where
29 the proposed use is a listed use in one or more zones under UCDC chapter 152.

1 “Opponents * * * contend that the proposed travel plaza is not an allowable
2 use in the TC zone because of UCDC 152.009 * * *. Opponents note that at
3 the time the applicant filed its application in 2005, ‘truck stops’ were listed as
4 permitted uses in the Commercial Rural Center (CRC) zone (the UCDC was
5 subsequently amended on November 15, 2005 to remove truck stops from the
6 CRC zone). Opponents argue that because a truck stop was a listed use in
7 another zone when the application was filed, that use cannot be allowed as a
8 conditional use in another zone due to UCDC 152.009. * * *

9 “The Board finds that UCDC 152.009 does not require the opponents’ desired
10 result. First, the language of the code section allows a more reasonable and
11 less restrictive interpretation. * * * [UCDC 152.009] provides a general
12 permissive grant of authority to allow a particular use in a zone, even if that
13 use was not expressly listed by the code. The purpose of this provision is to
14 provide the County with flexibility to allow uses that were not expressly
15 enumerated, so long as they are found to be similar to other listed uses. This
16 section should not be read to require that such similar uses may *never* be
17 allowed (as through the application of UCDC 152.277(E)), if the use *is* listed
18 in another zoning district. In other words, the Board does not interpret the
19 phrase ‘a use not listed in this chapter’ to create a limitation, but rather to
20 expand the universe of uses that could be allowed (and in fact, are allowed by
21 UCDC 152.277(E)). The opponents read this section as if it were written to
22 say that the Planning Commission ‘may not permit as a conditional use any
23 use that is listed elsewhere in this chapter,’ and the Board disagrees with that
24 interpretation.” Record 5 (emphasis in original).

25 Petitioners challenge the BCC’s interpretation of UCDC 152.277(E) and the BCC’s
26 interpretation of UCDC 152.009. According to petitioners, LUBA has consistently held that
27 where a zoning ordinance specifically lists a use as allowed or conditionally allowed in one
28 zoning district, but does not list that same use in a second zoning district, an inference arises
29 that the local government did not intend to allow that use in the second zoning district under
30 an open-ended use category. *O’Shea v. City of Bend*, 49 Or LUBA 498, 506-10 (2005); *Roth*
31 *v. Jackson County*, 40 Or LUBA 531, 535-36 (2001); *Cotter v. Clackamas County*, 36 Or
32 LUBA 172, 179-80 (1999). Petitioners contend that inference is particularly strong in the
33 present case, because the county’s code separately defines and regulates “truck stops” and
34 “automobile service stations.” With respect to UCDC 152.009, petitioners contend that that
35 general provision functions as a limitation on the “similar use” provisions in specific zoning

1 districts, such as UCDC 152.277(E), to ensure that only uses not listed anywhere in UCDC
2 chapter 152 are allowed as “similar uses.”

3 We turn first to the relationship between the general “similar use” provision at UCDC
4 152.009 and the specific “similar use” provision at UCDC 152.277(E) that applies within the
5 TC zone. Petitioners appear to read UCDC 152.277(E) as a specific instance of the general
6 similar use rule at UCDC 152.009, such that the only uses that may be authorized under
7 UCDC 152.277(E) are uses that are not listed in any UCDC chapter 152 zoning district. The
8 BCC, on the contrary, interprets the two provisions as independent, non-overlapping
9 provisions. Under the BCC’s interpretation, UCDC 152.009 authorizes the county to
10 approve uses as “similar uses” if those uses are not listed anywhere in UCDC chapter 152, if
11 those uses are of the same general type as uses permitted in the applicable zone, while UCDC
12 152.277(E) and other zone-specific similar use provisions have an independent function to
13 authorize uses that are similar to listed uses, even if the proposed use is a listed use in a
14 different zone.

15 LUBA must affirm a governing body’s interpretation of local code provisions that are
16 consistent with the express language, purpose or underlying policy. ORS 197.829(1); *Church*
17 *v. Grant County*, 187 Or App 518, 69 P3d 759 (2003). Petitioners’ preferred interpretation
18 subsumes UCDC 152.277(E) into the general similar use provision at UCDC 152.009, and
19 gives the specific provision no independent role or meaning. The county’s interpretation
20 gives meaning to both provisions, and is therefore more consistent with the terms of both
21 provisions. Certainly, we cannot say that the BCC’s interpretation is inconsistent with the
22 express language, purpose or underlying policy. Accordingly, we affirm that interpretation.
23 ORS 197.829(1).

24 Under the county’s interpretation of UCDC 152.009, that provision lends contextual
25 support to the county’s view that UCDC 152.277(E) is not intended to preclude authorizing a
26 use similar to a permitted or conditionally permitted use in the TC, simply because the

1 proposed use is a listed use in a different zone. The above-cited cases that petitioners rely on
2 are all based on our opinion in *Sarti v. City of Lake Oswego*, 20 Or LUBA 387, *rev'd* 106 Or
3 App 594, 597, 809 P2d 701 (1991), which involved a zoning scheme that permitted “dance
4 schools” in some zones but not others. The applicant proposed a dance school in a zone that
5 did not list that use category, but that did permit “cultural facilities.” We rejected the
6 county’s interpretation that the proposed dance school qualifies as a “cultural facility,”
7 applying the inference that the city did not intend to allow a “dance school” in that particular
8 zone, under the broader use category of “cultural facility,” because it specifically allowed
9 dance schools in other zones and chose not to in the zone in question. On appeal, however,
10 the Court of Appeals reversed our interpretation, stating that in the absence of any definition,
11 context or extrinsic evidence of contrary legislative intent, the words “cultural facility”
12 should be construed based on their plain and ordinary meaning, which the Court found to be
13 broad enough to encompass the proposed dance school. 106 Or App at 597.

14 The Court of Appeals’ opinion in *Sarti* did not necessarily reject our approach in
15 drawing an inference of legislative intent from the fact that the zoning scheme allows
16 specified uses in one zone but not others. Nonetheless, such an inference is only that, an
17 inference, not a binding rule of interpretation. Such an inference carries little weight when
18 there is available and relevant text, context or other evidence of a different legislative intent.

19 In the present case, the county’s code includes not one but two provisions that
20 authorize the county to approve uses that are not permitted in a particular zone (or listed
21 anywhere in the zoning code for that matter), if the proposed use is “similar” to or of the
22 same general type as uses permitted in that zone. That strongly suggests that the county is
23 not concerned with maintaining bright lines between use categories. In particular it suggests
24 that the county did not intend, by authorizing a particular use category in one zone but not
25 authorizing that use category in a second zone, to preclude the possibility of approving that

1 particular use category in the second zone, if it is similar to the uses that are listed in the
2 second zone.

3 In this respect, the county's zoning scheme is very different from the zoning schemes
4 at issue in *Sarti* and the other cases cited by petitioners. None of the cases that petitioners
5 cite involve application of code provisions such as UCDC 152.009 and 152.277(E) that
6 authorize the local government to approve uses not listed in the zone, if the proposed use is
7 "similar" to listed uses. In each of the cited cases, the question was whether a *specific* use
8 allowed in some zones but not allowed in the applicable zone fell within a *broader* use
9 category that was allowed in the applicable zone. *O'Shea*, for example, involved whether a
10 proposed convention center could be approved as a facility customarily in conjunction with a
11 hotel. The question in *Roth* was whether a winery could be approved as agriculture. At issue
12 in *Cotter* was whether a full-service recreational vehicle park could be approved as a park or
13 campsite. In each case, we applied and found dispositive the inference described in *Sarti*.
14 However, that inference seems weaker, to the extent it exists at all, when applied to the kind
15 of zoning scheme at issue in the present case, where the county has expressly authorized
16 approval of uses that are not listed in the applicable zone, when the proposed uses are similar
17 to listed uses.

18 Finally, petitioners argue that the county's interpretation is inconsistent with a 2001
19 periodic review report, in which the Department of Land Conservation and Development
20 recommended that the county impose size limits on uses allowed in its rural commercial
21 zones, including the CRC and TC zones, to ensure that those areas remain rural and do not
22 develop at urban-level intensities, and to avoid the necessity for taking an exception to Goal
23 14. Record 224-25. In 2005, the county adopted UCDC amendments that, among other
24 things, removed "trucks stops" as a permitted use in the CRC zone. Record 191. Petitioners
25 argue that the county removed "truck stops" as a permitted use in the CRC zone in order to
26 comply with that DLCD recommendation, and therefore the county's interpretation is

1 inconsistent with that intent, because it effectively permits “truck stops” in all rural
2 commercial zones as “similar uses.”

3 However, the DLCD report petitioners cite to does not specifically discuss truck stops
4 or recommend that the county not allow truck stops in its rural commercial zones. In relevant
5 part it simply recommends that the county apply size limits to uses allowed in the rural
6 commercial zones. Moreover, petitioners have not established that the county’s intent in
7 removing truck stops from the CRC zone was to respond to that DLCD recommendation.
8 Even if we assume that was the county’s intent, as the parties point out the 2005 ordinance
9 was adopted two days after intervenor filed its application. The 2005 ordinance therefore
10 does not govern the application. ORS 215.427(3)(a). Petitioners do not explain why the
11 county’s presumed intent with respect to legislation that was adopted after the application
12 was filed and is therefore inapplicable compels the county to interpret the applicable text and
13 context of UCDC 152.277(E) in a manner consistent with the presumed intent motivating the
14 subsequent legislation.

15 In sum, we disagree with petitioners that the county erred in concluding that the
16 proposed truck service station and truck wash, which appear to be at least elements of a
17 “truck stop” as defined at UCDC 152.003, are permitted as a use similar to an automobile
18 service station under UCDC 152.277(E). Because we affirm the county’s conclusion under
19 UCDC 152.277(E), we need not address petitioners’ challenges to the county’s alternative or
20 non-dispositive findings.

21 The first assignment of error is denied.

1 **SECOND ASSIGNMENT OF ERROR**

2 Petitioners challenge the county's findings of compliance with the conditional use
3 transportation impact standards at UCDC 152.017, and a requirement at UCDC
4 152.616(BBB)(2) that a proposed truck stop "not create a traffic hazard."¹

5 **A. Traffic Impact Study**

6 Intervenor submitted a traffic impact study (TIA) from Lancaster Engineering that
7 estimated trip generation for the project as a whole based on figures from the Institute of
8 Transportation Engineers (ITE) manual, a standard reference document. Specifically, the
9 Lancaster TIA used trip generation figures from category 945 "Gasoline/Service Station with
10 Convenience Market." The ITE manual does not include a category for "truck stops."

11 Petitioners first argue that because the ITE manual includes no category for truck
12 stops, the TIA must take the same approach adopted in a recent similar application in the
13 immediate area that derived trip generation figures from traffic counts at comparable truck
14 stop facilities.² According to petitioners, that approach yields considerably higher trip
15 generation figures than using category 945. Petitioners submitted into the record the TIA
16 from that recent application (the Kittleson TIA), along with a letter from its traffic engineer

¹ UCDC 152.017 provides, in relevant part:

"(A) The proposed use shall not impose an undue burden on the public transportation system. Any increase meeting the definition of significant change in trip generation constitutes an undue burden.

"(B) For developments likely to generate a significant increase in trip generation, applicant shall be required to provide adequate information, such as a traffic impact study or traffic counts, to demonstrate the level of impact to the surrounding system.
* * *

"(C) The applicant or developer may be required to mitigate impacts attributable to the project. Types of mitigation may include such improvements as paving, curbing, bridge improvements, drainage, installation or contribution to traffic signals, construction of sidewalks, bikeways, accessways or paths. * * *"

² See *Western Express v. Umatilla County*, 54 Or LUBA 571, 584-94, *aff'd* 215 Or App 703; 170 P3d 1137 (2007).

1 criticizing the approach taken by the Lancaster TIA to rely on category 945 rather than the
2 empirical approach taken in the Kittleson TIA. Petitioners argue that intervenor's traffic
3 engineer submitted no response to that criticism, nor proffered any explanation for why it is
4 reasonable to rely solely on category 945.³

5 Relatedly, petitioners argue that the Lancaster TIA failed to account for traffic from
6 the proposed restaurant. According to petitioners, its engineer noted that the ITE manual
7 includes appropriate categories for a restaurant and criticized the Lancaster TIA for failing to
8 account for traffic generated by the restaurant. Petitioners contend that the county failed to
9 address this issue or explain why it need not resolve the issue.

10 Third, petitioners note that the county's findings in fact conclude that the appropriate
11 ITE category is not category 945, but instead category 946, which is a "Gasoline/Service
12 Station with Convenience Market and Car Wash."⁴ Because the project includes a truck
13 wash, petitioners argue that category 946 is clearly more appropriate than category 945, but
14 the Lancaster TIA instead relied solely on category 945, without accounting for traffic
15 generated by the truck wash.

16 Intervenor responds that the reference to ITE category 946 in the findings is a simple
17 typographic error. With respect to the proposed restaurant, intervenor argues that the
18 Lancaster TIA properly accounts for any trips generated by the restaurant as "internal" trips,
19 by presuming that all restaurant patrons would also stop for fuel or to shop at the convenience
20 market and therefore the restaurant would not generate any new trips. In any case, intervenor
21 argues, the Lancaster TIA considered trip generation for all of the proposed fueling stations,
22 resulting in a conservatively high number of trips, which would render harmless any error in

³ Petitioners note that intervenor attempted to submit a response from its traffic engineer after the record had closed, but the county rejected it.

⁴ The county found, in relevant part, that "the appropriate use category for the project is ITE Category 946, as described in the Lancaster TIA and addendum." Record 11.

1 failing to account for trips generated by the restaurant. Finally, with respect to reliance on
2 ITE category 945 rather than comparable studies, intervenor argues that the county is entitled
3 to choose between conflicting expert testimony, as long as the evidence it relies on is
4 substantial evidence, *i.e.*, evidence a reasonable person would rely on, considering the
5 evidence in the whole record. *Younger v. City of Portland*, 305 Or 346, 358-60, 752 P2d 262
6 (1988); *Molalla River Reserve, Inc. v. Clackamas County*, 42 Or LUBA 251, 268 (2002).

7 Intervenor is probably correct that the findings' reference to ITE category 946 rather
8 than 945 was unintentional, but petitioners' larger point also seems correct, that it is not clear
9 why ITE category 945 applies rather than or in addition to other apparently appropriate
10 categories. Category 945 does not take into account trips generated by either the proposed
11 truck wash or the proposed restaurant. It may be true, as intervenor argues, that some or all
12 of the trips associated with the truck wash or restaurant can be offset by or subsumed into the
13 trip generation figures supplied by category 945, under the assumption that restaurant or wash
14 patrons would likely also stop for fuel, and therefore those uses would generate only new
15 "internal" trips.⁵ However, nothing cited to us in the Lancaster TIA or elsewhere in the
16 record provides that analysis or supports that conclusion. We also cannot verify from the
17 record intervenor's assertion that the Lancaster TIA's figures are sufficiently conservative
18 that any error in failing to account for traffic generated by the restaurant or truck wash is
19 harmless. We conclude that remand is necessary for the county to address the issue of which
20 ITE categories are appropriate.

21 Whether the TIA cannot rely on the ITE manual at all, because the ITE manual has no
22 category for truck stops, is a closer question. As noted, petitioners' traffic expert offered
23 detailed testimony critiquing reliance on the ITE manual and arguing that the only reliable

⁵ However, the fact that the ITE manual has separate categories for "Gasoline/Service Station with Convenience Market" with and without a car wash suggests that the car wash generates additional traffic, above and beyond that generated by the service station and market. Whether a truck wash would have the same effect is not clear.

1 source of information for the proposed facility is an empirical study of comparable facilities,
2 the same approach the county approved in a recent decision involving a similar facility.
3 Intervenor's traffic engineer submitted no response to that critique, and the findings do not
4 clearly address the issue. Because remand is necessary in any event, we deem it appropriate
5 to remand for reconsideration of this issue as well.

6 This subassignment of error is sustained.

7 **B. Safety of Lamb/Walker/Westland Road intersection**

8 As noted UCDC 152.017(A) requires a finding that the proposed use shall not impose
9 an "undue burden on the public transportation system," and UCDC 152.616(BBB)(2)
10 requires a finding that a proposed truck stop "not create a traffic hazard."
11 Lamb/Walker/Westland Road is a three-way intersection near the subject property. The TIA
12 found, and petitioners do not dispute, that the traffic generated by the proposed facility will
13 not exceed the capacity of the intersection. With respect to safety, the TIA found that the
14 five-year crash history for the intersections is 1.01 crashes per million entering vehicles,
15 which is slightly higher than the threshold of 1.0 crashes per million entering vehicles used to
16 trigger evaluation for potential safety measures. The TIA concluded that the intersection
17 "shows marginal support for near-term mitigation," discussed possible safety improvements
18 at the intersection, and proposed that intervenor pay a proportionate share of any future
19 improvements. The BCC found that the intersection will function safely with the proposed
20 development, but as discussed below required intervenor to pay a proportionate share of
21 future improvements to the intersection.⁶

⁶ The county found:

"Opponents also contend that the intersections are hazardous today. The Lancaster TIA expressly examined the intersections' crash history. In an analysis of a five-year crash study, the TIA found only eight (8) accidents over five (5) years and three (3) of those occurred during winter conditions. Based on the small number of crashes, the fact that three (3) of them occurred during winter conditions, the TIA concluded that all studied intersections are expected to operate at acceptable levels of service with the development. Based on the TIA,

1 Petitioners argue, however, that the TIA failed to account for the nearly 1,000
2 additional daily trips the proposed facility would send through the intersection, many of
3 which will be large trucks, in evaluating the safety of the intersection and the need for safety
4 improvements. Petitioners contend that, given the significant increase in traffic the proposed
5 facility will send through the intersection, an analysis of the history of crashes at the
6 intersection is insufficient to evaluate the impact of the proposed development with respect to
7 safety.

8 Intervenor does not dispute that the TIA did not consider the safety impacts of the
9 nearly 1,000 daily trips the facility will send through the intersection, but argues that the
10 intersection currently presents only a “marginal” safety concern and that the county’s findings
11 that the facility will function safely with the proposed development is supported by
12 substantial evidence. However, we do not see how the county can reach a sustainable
13 conclusion to that effect when the TIA it relies upon does not take into account the additional
14 traffic the proposed facility will send through the intersection. It may be that the additional
15 traffic will not significantly decrease the safety of the intersection or significantly increase the
16 crash rate. However, we are not cited to any evidence to that effect.

17 This subassignment of error is sustained.

18 **C. Mitigation**

19 The county imposed a condition requiring intervenor to execute a development
20 agreement with the county outlining improvements and responsibilities to mitigate impacts of
21 the proposed development on adjacent roads, including the Lamb/Walker/Westland Road
22 intersection, and to pay for a proportionate share of the improvements. Petitioners argue that
23 UCDC 152.017(C) requires actual improvements, and does not contemplate allowing an

the Board finds that the intersections will function safely with the travel plaza in place.”
Record 11.

1 applicant to “mitigate impacts” by simply agreeing to pay a proportionate share of the cost of
2 installing improvements, at some undetermined time in the future.

3 UCDC 152.017(C) provides in relevant part that “[t]ypes of mitigation may include
4 such improvements as paving, curbing, bridge improvements, drainage, installation or
5 *contribution to traffic signals*, construction of sidewalks, bikeways, accessways or paths.”
6 (Emphasis added.) See n 1. According to petitioners, the only type of mitigation that can be
7 satisfied by contribution of money toward an improvement project is with respect to “traffic
8 signals.” Petitioners argue that all other types of mitigation authorized by UCDC 152.017(C)
9 require the applicant to construct actual improvements.

10 Intervenor responds that UCDC 152.017(C) provides a broad and representative list
11 of mitigation types, and is not intended to preclude funding contributions to transportation
12 improvement projects other than traffic signals. We agree with intervenor. UCDC
13 152.017(C) provides that “[t]ypes of mitigation may include” the listed projects, and that
14 language does not suggest that it is an exclusive list.

15 Petitioners also argue that the condition requiring a proportionate financial
16 contribution to future improvement of Lamb/Walker/Westland Road intersection is
17 inadequate, because the intersection is currently unsafe, and there is no guarantee that the
18 contemplated improvements will be constructed within any foreseeable timeframe.
19 Petitioners argue that under the draft development agreement, intervenor will pay only 7.6
20 percent of the cost of improving the intersection, leaving the county with 92.4 percent of the
21 cost. According to petitioners, there is a significant funding deficit with respect to the
22 county’s transportation improvement projects, and it is reasonable to assume that the
23 intersection will not be improved, if ever, until long after the proposed travel plaza is
24 operational and contributing a significant amount of traffic to the intersection.

25 However, UCDC 152.017(C) does not explicitly require mitigation prior to
26 development or within any particular timeframe, and in fact appears to contemplate

1 contributions toward future improvements, which suggests that the code provision does not
2 impose an implicit concurrency requirement. Petitioners' arguments based on UCDC
3 152.017(C) do not provide a basis for reversal or remand. This subassignment of error is
4 denied.

5 The second assignment of error is sustained, in part.

6 **THIRD ASSIGNMENT OF ERROR**

7 Petitioners challenge the county's findings regarding the water supply for the
8 proposed travel plaza.

9 Intervenor obtained water rights to withdraw up to 50 gallons of groundwater per
10 minute, with a total annual volume of approximately 13 million gallons. Intervenor's
11 engineer testified that, based on his experience with 214 Flying J travel plazas around the
12 country, maximum water use at the proposed facility would be less than 12 million gallons
13 per year. Record 490. In addition, intervenor proposed to install two 40,000-gallon tanks on
14 site to satisfy fire department requirements. The opponents submitted testimony from a water
15 expert critiquing the engineer's estimates of water need, and a detailed analysis of two Flying
16 J travel plazas that are similarly sized and located in a similar climate, indicating that
17 maximum water use at those plazas to be nearly twice what is available from the applicant's
18 water rights. Record 121-48.

19 The county chose to rely on intervenor's engineer, and found that intervenor has
20 demonstrated that it is feasible to provide an adequate water supply for the proposed use.
21 Perhaps in response to the opposing expert testimony, the county also imposed a condition
22 requiring intervenor to provide documentation that an adequate water supply has been
23 obtained. Record 17.

24 Petitioners argue that the county's choice between conflicting expert evidence is not
25 reasonable, noting that the one-page letter from intervenor's expert includes no analysis,
26 explanation or documentation to support the conclusion that the proposed facility would use

1 less than 12 million gallons per year. In contrast, petitioners note, their expert demonstrated
2 in detail that two similar facilities use considerably more water than provided under the water
3 right, which undermines the undocumented assertions of intervenor's expert that the water
4 right is more than adequate to meet the projected needs of the proposed facility. Petitioners
5 contend that the county failed to address the conflicting evidence, or explain why it chose to
6 rely on intervenor's expert in light of the overwhelming contrary evidence. Further, with
7 respect to the condition of approval, petitioners argue that the condition improperly defers a
8 finding that the water source is adequate to a future proceeding that does not provide for
9 public notice or opportunity to request a hearing. *Rhyne v. Multnomah County*, 23 OR LUBA
10 442, 447 (1992).

11 Intervenor responds, initially, that there is no applicable approval criterion that
12 requires an "adequate water supply," and therefore any inadequacy in the findings or lack of
13 evidentiary support on that point is not a basis for remanding the challenged decision.
14 Petitioners argued below (and on appeal) that UCDC 152.615(K) is an applicable approval
15 criterion. UCDC 152.615(K) is part of a list of "additional conditional use permit
16 restrictions" that the county may choose to impose, in order to protect and preserve "water
17 resources," among other things. The county agreed with intervenor that that UCDC
18 152.615(K) is not a "mandatory approval standard," but concluded, nonetheless, that the
19 applicant must show that there is a sufficient water supply and adopted the findings of
20 feasibility and the condition of approval that petitioners challenge.⁷

⁷ The BCC found, in relevant part:

"Opponents contend that the applicant has failed to establish that it can provide an adequate water supply for the proposed travel plaza, in violation of UCDC 152.615(K). The Board notes that the code section cited by opponents does not create a mandatory approval standard regarding the availability of water. UCDC 152.615 provides for a list of 'additional conditional use permit restrictions' which the County *may* impose * * * upon a finding that circumstances warrant such additional restrictions.' Under the subsection relied upon by opponents, the County 'may impose' such an additional restriction 'protecting and preserving

1 Petitioners argue that while UCDC 152.615(K) may not be a traditional “mandatory”
2 approval criterion, it nonetheless authorizes the county to impose conditions of approval to
3 protect water resources, and the county made findings and imposed conditions intended to
4 ensure that there is an adequate water supply. Petitioners note that the subject property is
5 located in a critical groundwater area, and the planning commission and the BCC were both
6 concerned that the applicant demonstrate that a sufficient supply of water is available, to
7 protect the groundwater resource and to ensure compliance with fire department
8 requirements. Under these circumstances, petitioners argue, UCDC 152.615(K) effectively
9 functions as an “approval standard.” Petitioners cite *Davenport v. City of Tigard*, 121 Or
10 App 135, 141, 854 P2d 483 (1993), for the proposition that approval standards include not
11 only regulations the local government must apply, but also substantive code or
12 comprehensive plan provisions that the local government applies and that have a meaningful
13 impact on the decision.

14 We agree with petitioners that UCDC 152.615(K) functions like an approval standard,
15 in the sense that it authorizes the county to impose additional conditions of approval if
16 necessary to address development impacts on protected resources, and the county could,
17 presumably, deny the application if it concluded that no feasible conditions could be crafted
18 that the county deems are necessary to protect the identified resources. Intervenor is correct,

existing trees, vegetation, water resources, wildlife habitat, or other significant natural resources.’ UCDC 152.615(K).

“Nevertheless, based on the Oregon Water Resources Department’s Final Order approving a water right transfer to the applicant, dated March 25, 2008, and on evidence submitted by the applicant * * * the Board finds that there is substantial evidence in the record to support a finding that it is feasible for the applicant to obtain sufficient water for its proposed use. Specifically, evidence submitted indicates that the applicant can obtain up to 50 gallons per minute (gpm) of water and that the proposed development anticipated needing only thirty-five (35) gpm. In addition, the applicant will have two (2) 40,000-gallon tanks on-site providing 80,000 gallons of stored water, which the Hermiston Fire and Emergency Services District has stated is sufficient to meet the Fire District’s on-site water requirements.

“The Board finds that the applicant has demonstrated that it has obtained a water right transfer and that it is feasible to provide an adequate water supply for the proposed use.” Record 12 (emphasis in original).

1 however, that UCDC 152.615(K) is only obliquely concerned, if at all, with whether the
2 applicant has obtained water rights to a sufficient supply of water. Intervenor can withdraw
3 only 13 million gallons per year under its existing water right. If that quantity turns out to be
4 insufficient, intervenor will have no choice but to either use less water in its operation or
5 acquire additional water rights. Under these circumstances, it seems less critical for the
6 county to determine whether the proposed facility will use less than 13 million gallons per
7 year, as intervenor's expert claims, or more than that amount, as petitioners' expert claims.
8 To the extent it is necessary to resolve the evidentiary dispute on that point, we cannot say
9 that the more detailed evidence petitioners submitted so undermines the testimony of
10 intervenor's engineer that no reasonable decision maker could rely on that testimony, to
11 conclude the water right is sufficient to supply the proposed development. Because the
12 county reached that conclusion in this decision, and that conclusion is supported by findings
13 and substantial evidence, the fact that the county imposed a condition of approval under
14 UCDC 152.615(K) to ensure that the applicant has a sufficient water right is not a "deferral"
15 of findings addressing that code provision.

16 The third assignment of error is denied.

17 **FOURTH ASSIGNMENT OF ERROR**

18 Petitioners challenge the county's findings regarding the proposed septic wastewater
19 systems. According to petitioners, intervenor's site plan proposed placing the wastewater
20 system in the southwest corner of the site, but that proposal was undermined by a subsequent
21 letter from the Department of Environmental Quality (DEQ), concluding that the proposed
22 site is not suitable for an on-site wastewater treatment system. Record 545. Therefore,
23 petitioners argue, the county's finding that the proposed wastewater system is feasible is not
24 supported by substantial evidence.

25 Intervenor responds in part that following the DEQ letter it submitted a revised site
26 plan proposing that the wastewater treatment system be located on the eastern portion of the

1 property, a location DEQ had suggested based on soils conditions. Record 280, 545.
2 Intervenor argues that the county approved the revised site plan, and therefore petitioners'
3 arguments based on the original site plan do not provide a basis for reversal or remand. We
4 agree with intervenor.

5 The fourth assignment of error is denied.

6 **FIFTH ASSIGNMENT OF ERROR**

7 UCDC 152.304(A) provides that all activities in the LI zone "shall be conducted
8 wholly within a building or shall be screened from view from adjacent public roads or
9 surrounding properties in farm, residential or commercial zones, unless the entire activity is
10 conducted more than 500 feet from said property or road." Intervenor proposed locating
11 truck scales and accessory uses within the LI-zoned portion of the property.

12 The county found that all of the proposed activities are more than 500 feet from
13 adjacent properties, and that compliance with UCDC 152.304(A) would be assured through a
14 condition of approval requiring a "screening fence where appropriate in the LI and TC zoning
15 districts." Record 6.

16 Petitioners argue that the finding of compliance with UCDC 152.304(A) is
17 inadequate, because it fails to address whether proposed activities are conducted more than
18 500 feet from a public road. According to petitioners, the proposed truck scale area in the LI-
19 zoned portion is within 500 feet of Lamb Road. In addition, petitioners object that the county
20 in fact imposed no condition of approval requiring a "screening fence." The closest the
21 county comes, petitioners argue, is subsequent condition C, which requires that "[o]utside
22 storage areas shall be screened with a site-obscuring fence," which addresses a different
23 approval criterion. Record 18.

24 Intervenor responds that the county's failure to address whether the proposed truck
25 scale is 500 feet from Lamb Road is harmless error, because the county required intervenor to
26 submit a final site plan that includes a proposed "perimeter fence," and the county imposed a

1 condition to that effect. Intervenor argues that the required perimeter fence will ensure that
2 the truck scales are “screened from view” from the public road, for purposes of UCDC
3 152.304(A).

4 Neither the decision nor the conditions require that the perimeter fence be a screening
5 or sight-obscuring fence, and we cannot agree with intervenor that the county’s failure to
6 address whether the truck scales are within 500 feet of Lamb Road and whether a condition
7 requiring a “screening fence” or other method of screening the truck scales is required by
8 UCDC 152.304(A) is mere harmless error. Remand is warranted for the county to address
9 the issue and impose any necessary conditions of approval to satisfy UCDC 152.304(A).

10 The fifth assignment of error is sustained.

11 **SIXTH ASSIGNMENT OF ERROR**

12 During its deliberations, one commissioner moved to approve the application “with
13 the understanding that the Board wanted [petitioners’] review and input on the language for
14 the condition precedent under #12” in the draft findings submitted by intervenor. Record 37.
15 The motion was seconded and approved.

16 Thereafter, petitioners submitted two e-mail messages to the county counsel with
17 comments on the disputed condition precedent, which involves proposed mitigation to offset
18 impacts on the Lamb/Walker/Westland Road intersection. Although county counsel
19 discussed the content of the messages with the commissioners, he did not submit copies of
20 the messages to the BCC for review, and those e-mail messages are not present in the record.
21 Petitioners first learned that the BCC did not review the e-mail messages when resolving
22 objections to the record in this appeal. *Western Land & Cattle v. Umatilla County*, __ Or
23 LUBA __ (LUBA No. 2008-144, Order Clarifying Record), slip op 1.

24 Under the sixth assignment of error, petitioners argue that the county committed
25 procedural error in failing to submit the e-mail messages to the BCC for review, as
26 contemplated in the motion tentatively approving the application. Petitioners argue that the

1 county counsel's discussion with the BCC is not reflected in the record, and there is no way
2 to determine if that discussion accurately conveyed the substance of petitioners' e-mails.

3 Intervenor observes that petitioners had no right under the county's code or any other
4 authority to comment on the proposed findings and conditions. Further, intervenor argues
5 that the motion that led to the BCC's tentative approval did not require that the BCC itself (as
6 opposed to county counsel) review any e-mail messages petitioners submitted to the county
7 regarding the terms of the disputed condition. Therefore, intervenor argues, the county
8 committed no procedural error, much less error that prejudiced petitioners' substantial rights.
9 ORS 197.835(9)(a)(B).

10 We agree with intervenor that petitioners have not established that the county
11 committed procedural error. Petitioners had no right under the county's code to comment on
12 the proposed findings or conditions, and any opportunity to comment that existed was a result
13 of the BCC's expressed desires on that point. As intervenor notes, the motion that led to the
14 tentative approval did not specify that the BCC wanted to review petitioners' comments.
15 Arguably, the BCC's wishes in that regard were met by county counsel review of those
16 comments, followed by discussion with the BCC. Even if the BCC initially wanted to
17 directly review petitioners' comments, petitioners do not explain why the BCC cannot change
18 its mind on that point, and adopt the proposed findings without considering petitioners'
19 comments.

20 The sixth assignment of error is denied.

21 The county's decision is remanded.

Certificate of Mailing

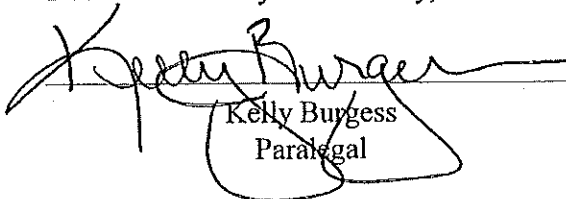
I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2008-144 on February 4, 2009, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Douglas R. Olsen
Umatilla County Counsel
216 SE 4th Street
Pendleton, OR 97801

E. Michael Connors
Davis Wright Tremaine LLP
1300 SW 5th Avenue Suite 2300
Portland, OR 97201

Michael C. Robinson
Perkins Coie LLP
1120 NW Couch Street 10th Floor
Portland, OR 97209-4128

Dated this 4th day of February, 2009.


Kelly Burgess
Paralegal

Debra A. Frye
Executive Support Specialist

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ONE (1) WELL in the
UMATILLA RIVER BASIN for IRRIGATION OF 38.3 ACRES.

This right was perfected under Permit U-649. The date of priority
is AUGUST 9, 1954. The amount of water to which this right is
entitled is limited to an amount actually beneficially used and
shall not exceed 0.48 CUBIC FOOT PER SECOND or its equivalent in
case of rotation, measured at the well.

The well is located as follows:

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET
SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 36

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

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

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

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 4.7 ACRES
SECTION 35

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 28.3 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 5.3 ACRES
SECTION 36

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

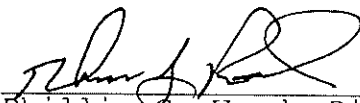
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74109, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275

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 NOVEMBER 24, 2004.


for Phillip C. Ward, Director

SUPERSEDED BY
CERT. NO. **83418**

Recorded in State Record of Water Right Certificates numbered 80913

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of SEVEN (7) WELLS in the UMATILLA RIVER BASIN for IRRIGATION OF 1250.1 ACRES.

This right was perfected under Permit G-10505. The date of priority is JANUARY 9, 1970. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 15.63 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

WELL #3 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27;

WELL #4 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 230 FEET NORTH AND 1210 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 27;

WELL #5 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 960 FEET NORTH AND 1850 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 27;

WELL #6 & 7 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, T 4 N, R 27 E, W.M.; 1130 FEET NORTH AND 60 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 26;

WELL #8 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, T 4 N, R 27 E, W.M.; 1160 FEET NORTH AND 370 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 26;

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET SOUTH AND 1315 EAST FROM NW CORNER, SECTION 36

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

Morrow and Umatilla counties, Oregon, by special order recorded at Volume 27, Pages 40 through 79, dated the 2nd day of April 1976.

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

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

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, 8, AND 9

SW ¹ / ₄ NW ¹ / ₄	9.8 ACRES
SE ¹ / ₄ NW ¹ / ₄	8.9 ACRES
NE ¹ / ₄ SW ¹ / ₄	35.9 ACRES
NW ¹ / ₄ SW ¹ / ₄	39.4 ACRES
SW ¹ / ₄ SW ¹ / ₄	13.5 ACRES
SE ¹ / ₄ SW ¹ / ₄	12.6 ACRES
SW ¹ / ₄ SE ¹ / ₄	16.6 ACRES
SE ¹ / ₄ SE ¹ / ₄	14.7 ACRES

SECTION 27

NE ¹ / ₄ NE ¹ / ₄	37.5 ACRES
NW ¹ / ₄ NE ¹ / ₄	39.5 ACRES
SW ¹ / ₄ NE ¹ / ₄	10.1 ACRES
SE ¹ / ₄ NE ¹ / ₄	7.1 ACRES
NE ¹ / ₄ NW ¹ / ₄	2.6 ACRES

SECTION 34

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 5; SUPPLEMENTAL FROM WELLS 3, 4, 6, 7, 8, AND 9

NE ¹ / ₄ NW ¹ / ₄	10.3 ACRES
NW ¹ / ₄ NW ¹ / ₄	15.2 ACRES
SW ¹ / ₄ NW ¹ / ₄	3.5 ACRES
SE ¹ / ₄ NW ¹ / ₄	9.2 ACRES

SECTION 27

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 7; SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 8, AND 9

SW ¹ / ₄ NE ¹ / ₄	8.4 ACRES
SE ¹ / ₄ NE ¹ / ₄	13.4 ACRES
SE ¹ / ₄ NW ¹ / ₄	4.7 ACRES
NE ¹ / ₄ SW ¹ / ₄	9.2 ACRES
SE ¹ / ₄ SW ¹ / ₄	22.1 ACRES
NE ¹ / ₄ SE ¹ / ₄	24.4 ACRES
NW ¹ / ₄ SE ¹ / ₄	8.7 ACRES
SW ¹ / ₄ SE ¹ / ₄	22.5 ACRES
SE ¹ / ₄ SE ¹ / ₄	1.2 ACRES

SECTION 26

SE ¹ / ₄ SW ¹ / ₄	0.5 ACRE
NW ¹ / ₄ SE ¹ / ₄	3.4 ACRES
SW ¹ / ₄ SE ¹ / ₄	10.5 ACRES

SECTION 27

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

NE ¹ / ₄ NE ¹ / ₄	27.1 ACRES
NW ¹ / ₄ NE ¹ / ₄	4.9 ACRES
SE ¹ / ₄ NE ¹ / ₄	22.1 ACRES
NE ¹ / ₄ NW ¹ / ₄	2.1 ACRES
NE ¹ / ₄ SE ¹ / ₄	31.4 ACRES
NW ¹ / ₄ SE ¹ / ₄	31.4 ACRES
SW ¹ / ₄ SE ¹ / ₄	31.4 ACRES
SE ¹ / ₄ SE ¹ / ₄	31.4 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, 8, AND 9

SW ¹ / ₄ NW ¹ / ₄	30.3 ACRES
SE ¹ / ₄ NW ¹ / ₄	14.0 ACRES
NE ¹ / ₄ SW ¹ / ₄	9.8 ACRES
NW ¹ / ₄ SW ¹ / ₄	24.9 ACRES
SW ¹ / ₄ SW ¹ / ₄	40.0 ACRES
SE ¹ / ₄ SW ¹ / ₄	13.5 ACRES
SE ¹ / ₄ SE ¹ / ₄	16.1 ACRES

SECTION 26

NE ¹ / ₄ SE ¹ / ₄	2.8 ACRES
SE ¹ / ₄ SE ¹ / ₄	16.9 ACRES

SECTION 27

NE ¹ / ₄ NE ¹ / ₄	5.8 ACRES
NW ¹ / ₄ NW ¹ / ₄	2.6 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 9

NW ¹ / ₄ NE ¹ / ₄	28.1 ACRES
SW ¹ / ₄ NE ¹ / ₄	31.4 ACRES
SE ¹ / ₄ NE ¹ / ₄	9.3 ACRES
NE ¹ / ₄ NW ¹ / ₄	31.4 ACRES
NW ¹ / ₄ NW ¹ / ₄	31.4 ACRES
SW ¹ / ₄ NW ¹ / ₄	31.4 ACRES
SE ¹ / ₄ NW ¹ / ₄	31.4 ACRES
NE ¹ / ₄ SW ¹ / ₄	31.4 ACRES
NW ¹ / ₄ SW ¹ / ₄	31.4 ACRES
SW ¹ / ₄ SW ¹ / ₄	31.4 ACRES
SE ¹ / ₄ SW ¹ / ₄	31.4 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 8, AND 9

NW¼ NE¼ 3.3 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 9; SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 8

NE¼ NW¼ 33.9 ACRES

NW¼ NW¼ 3.9 ACRES

SW¼ NW¼ 23.0 ACRES

SE¼ NW¼ 28.3 ACRES

NW¼ SW¼ 30.2 ACRES

SECTION 36

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 8

NW¼ NW¼ 28.3 ACRES

SW¼ NW¼ 5.3 ACRES

SECTION 36

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74185, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275 and corrects a scrivener's error in the description of the location of Well #5.

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 NOVEMBER 24, 2004.


Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates numbered 80915

9. PETITION FOR REVIEW AND RECONSIDERATION IN SUPREME COURT

RULE 9.05 Petition for Supreme Court review of court of appeals decision¹

(1) Reviewable Decisions

As used in this rule, "decision" means a decision of the Court of Appeals in the form of an opinion, per curiam opinion, or affirmance without opinion, or an order ruling on a motion, own motion matter, petition for attorney fees, or statement of costs and disbursements, including an order of the appellate commissioner together with the decision of the Chief Judge or Motions Department under ORAP 7.55(4)(b).

(2) Time for Filing and for Submitting Petition for Review

(a) Any party seeking to obtain review of a decision of the Court of Appeals shall file a petition for review in the Supreme Court within 35 days after the date of the decision of the Court of Appeals. The Supreme Court may grant an extension of time to file a petition for review.²

(b) (i) If a timely petition for reconsideration of a decision of the Court of Appeals is filed by any party, the time for filing a petition for review concerning that decision for all parties shall not begin to run until the Court of Appeals issues its written disposition of the petition for reconsideration. If a party obtains an extension of time to file a petition for reconsideration and does not file a petition for reconsideration within the time allowed, the time for filing a petition for review shall begin to run on expiration of the extension of time.

(ii) If a petition for review is filed during the time in which a petition for reconsideration in the Court of Appeals may be filed, the petition for review will not be submitted to the Supreme Court until the time for filing a petition for reconsideration expires.

(iii) If a petition for review is filed after the filing of a timely petition for reconsideration, the petition for review will not be submitted to the Supreme Court until the Court of Appeals issues its written disposition of the petition for reconsideration.³

(c) (i) If the Administrator has issued the appellate judgment based on the Court of Appeals' disposition of a case, within a reasonable time thereafter, a party may move to reinstate the appeal for the purpose of seeking review. The party shall file in the Supreme Court a motion requesting relief from default, to reinstate the appeal, to recall the appellate judgment, and to establish a new due date for the petition for review.

(ii) A party filing a motion to recall the appellate judgment in a criminal case, in addition to serving all other parties to the appeal, shall serve a copy of the motion on the district attorney.

(3) Form and Service of Petition for Review

(a) The petition shall be in the form of a brief, prepared in conformity with ORAP 5.05, except that the petition shall not exceed 15 pages in length, and ORAP 5.35. The cover of the petition shall:

(i) Identify which party is the petitioner on review, including the name of the specific party or parties on whose behalf the petition is filed, if there are multiple parties on the same side in the case;

(ii) Identify which party is the respondent on review;

(iii) Identify the date of the decision of the Court of Appeals;

(iv) Identify the means of disposition of the case by the Court of Appeals:

(A) If by opinion, the author of the challenged opinion and the other members of the court who concurred in or dissented from the court's decision;

(B) If by per curiam opinion, affirmance without opinion, or by order, the members of the court who decided the case.⁴

(v) Contain a notice whether, if review is allowed, the petitioner on review intends to file a brief on the merits or to rely on the petition for review and brief or briefs filed in the Court of Appeals.⁵

(vi) For a case expedited under ORAP 10.15, prominently display the words "JUVENILE DEPENDENCY CASE EXPEDITED UNDER ORAP 10.15," "TERMINATION OF PARENTAL RIGHTS CASE EXPEDITED UNDER ORAP 10.15," or "ADOPTION CASE EXPEDITED UNDER ORAP 10.15," as appropriate.

(vii) Comply with the requirements in ORAP 5.95 governing briefs containing confidential material.

(b) Any party filing a petition for review shall serve two copies of the petition on every other party to the appeal or judicial review, and file with the Administrator an original petition, marked as such, and 12 copies, together with proof of service.

(4) Contents of Petition for Review

The petition shall contain in order:

(a) A short statement of the historical and procedural facts relevant to the review, but facts correctly stated in the decision of the Court of Appeals should not be restated.

(b) Concise statements of the legal question or questions presented on review and of the rule of law that the petitioner on review proposes be established, if review is allowed.

(c) A statement of specific reasons why the legal question or questions presented on review have impor-

Water Right Transfer Checklist

Transfer T-10427

Transfer Specialist: Reimbursement Authority

Transfer Type: Regular

Applicant Name/Address: Craig Coleman, 33896 E Walls Rd, Hermiston, OR 97838

Agent Name/Address: Bill Porfily, PO box 643, Stanfield, OR 97878

CWRE Name/Number: SCM Consultants, Inc.

Rec Landowner Name/Address: NONE

Irr. District Name/Address: NONE

Affected Gov'ts Name/Address: NONE

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.
☒	☒	U 736	U 649	80913	☒ Yes ☐ No	83836
☐	☐	G-8649	G-10836	82596	☒ Yes ☐ No	83844
☐	☐			(Partial Cancellation)	☐ Yes ☐ No	

Key Dates & Initial Actions

Rec'd: <u>07/02/07</u>	Proposed Action(s): POU POD HST APOD USE OTHER: USE/POU	
Fees Pd: <u>800.00</u>	WM District: <u>5</u>	ODFW District: <u>NONE</u>
Initial Notice: <u>07/17/07</u>	WM Review sent: <u>07/12/07</u>	ODFW Review sent: <u>NONE</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: 3/5/08

Reminder Deadline: _____

Preliminary Determination

☒ Electronic Files uploaded

☒ Preliminary Determination

☒ PD Cover letter

☐ Fee Refund Due

☒ PD Notice

☒ Remaining Rights

☐ File Assigned/ ModPod updated

DPD Review (Optional)	PD Review (Salem)	Final Order Review (Salem)
Reviewer: _____	Reviewer: <u>PKS</u>	Reviewer: _____
Date: _____	Date: <u>1/29/08</u>	Date: _____
Coordinator: _____	Coordinator: <u>DDP</u>	Coordinator: <u>DDP</u>
Date: _____	Date: <u>1/25/08</u>	Date: <u>3/25/08</u>

Comments/Special Issues: There is an Affidavit for Partial Cancellation of G-5209/Permit G-10505, transferred under T-9996 that is inchoate. Copies of the affidavit have been placed in the G-5209 file and T-9996 file. Copies of FO should also be put in those files. Reimbursement Authority

Special Order Volume: Vol 74 Pages 424

Final Order Signature Date: 3-25-08

Notice of FO email'd to processors Dorothy

Review ChecklistT- 104/27Processor: RA**Application**

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

Water right subject to transfer

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

Application Map

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

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

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

Ownership

- ☐ The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- ☐ Have current tax lot map. (*If transfer application is several years old, contact assessor's office*)
- ☐ The applicant is the owner of the "from" lands.
- ☐ All owners on the deed/ROLI have signed the application.
- ☐ 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? ☐ Watermaster ☐ ODFW ☐ GW

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

Injury: Y N Enlargement: Y N

Conditions to avoid enlargement/injury –

EO-31 48
NOTICE OF PRELIMINARY DETERMINATION

for Water Right
Transfer T-10427

T-10427 filed by Craig Coleman, 33896 E. Walls Road, Hermiston, Oregon, 97838, proposes changes in character of use, place of use, and point of appropriation under Certificate 80913. The right allows the use of 0.11 cfs (priority date August 9, 1954) from a well in Sec. 36, T4N, R27E, W.M. (Umatilla River Basin) for irrigation in Sec. 36. The applicant proposes to change the point of appropriation to a well approximately 1.4 miles northeast (Sec. 25, T4N, R27E, W.M.); and to change the place of use to within Sec. 25, T4N, R27E, W.M.; and to change the character of use to industrial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

Any person may file, jointly or severally, with the Department a protest or standing statement within 30 days after the date of final publication of notice in the Department's weekly notice or newspaper notice, whichever is later. Additional information on filing protests may be obtained by calling (503) 986-0881. Last date of publication is Feb. 23, 2008. If no protests are filed, the Department will issue a final order consistent with the preliminary determination.

Feb. 9, 16, 23, 2008

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

} AFFIDAVIT OF PUBLICATION

STATE OF OREGON
County of Umatilla } ss

I, Dayle Stinson being duly sworn, depose and say that I am the principal clerk of the publisher of the East Oregonian, a newspaper of general circulation, as defined by ORS 193.010 and 193.020; printed and published at Pendleton in the aforesaid county and state; that the

EO-3048- NOTICE OF PRELIMINARY DETERMINATION

a printed copy of which is hereto annexed; was published in the entire issue of said newspaper for 3 successive and consecutive issues in the following issues:

FEBRUARY 9, 16, 23, 2008

Subscribed and sworn to before me on this, 19 day of

MARCH, 2008

Dayle Stinson

Lucy A. Hearn

Notary Public of Oregon



RECEIVED

MAR 21 2008

WATER RESOURCES DEPT
SALEM, OREGON

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR UMATILLA COUNTY

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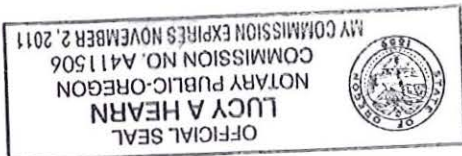
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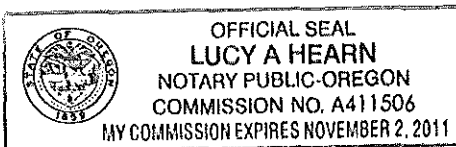
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Lucy A. Hearn

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EO-3048
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for Water Right
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Feb. 9, 16, 23, 2008



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

January 29, 2008

William Porfily
P.O. Box 643
Stanfield, Oregon 97878

SUBJECT: Transfer Application T-10427

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-10427. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

A public notice is being published in the Department's weekly publication simultaneously with issuance of the Preliminary Determination. The notice initiates a 30-day period in which any person may file either a protest opposing the decision proposed by the Department in the Preliminary Determination or a standing statement supporting the Department's decision.

Because of the change in character of use, and the new point of appropriation is more than ¼ mile from the authorized point of appropriation, the applicant is responsible for giving public notice of the transfer changes in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We have prepared the notice for you (enclosed). The deadline for individuals to file protests or standing statements is 30 days after the date of last publication. Please have the newspaper insert the date of last publication in the proper place. After publication, the Department needs to receive an affidavit specifying the dates the notice was published. Please have the newspaper prepare and mail an original *affidavit of publication* to the Department, to me at the address above by **March 14, 2008**.

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

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

Sincerely,

Dorothy I. Pedersen
Field Services Division

cc: Tony Justus, District 5 Watermaster
Craig Coleman, applicant
Flying J. Inc., receiving landowner
Dale VanShoiack, CWRE #333

encs

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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-10427, Umatilla County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF
	)	APPROPRIATION, PLACE OF USE,
	)	AND CHARACTER OF USE, AND
	)	PARTIAL CANCELLATION OF A
	)	WATER RIGHT

Authority

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

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

CRAIG COLEMAN
33896 E. WALLS ROAD
HERMISTON, OREGON 97838

Receiving Landowner

FLYING J INC.
1104 COUNTRY HILLS DRIVE
OGDEN, UTAH 84403

Findings of Fact

Background

1. On July 2, 2007, Craig Coleman filed an application to change the character of use, place of use, and point of appropriation under Certificate 80913. The Department assigned the application number T-10427.
2. On July 2, 2007, the applicant submitted an Affidavit for Partial Cancellation of a Water Right Certificate requesting to voluntarily cancel 13.5 acres of supplemental irrigation use under Certificate 80915 appurtenant to tax lot 2300, in the NW ¼ of the NW ¼ of Section 36, T4N, R27E (the same lands listed in Finding of Fact No. 16). The supplemental right under Certificate 80915 which the applicant has proposed to cancel is a part of the lands affected by Transfer T-9996, and is currently in an inchoate state.

Pursuant to OAR 690-380-4030, any person may file a protest or standing statement within 30 days after the last date of publication of notice of this preliminary determination.
--

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

Certificate: 80913 in the name of HANSELL BROTHERS, INC. (perfected under Permit U-649)

Use: IRRIGATION of 13.5 ACRES

Priority Date: AUGUST 9, 1954

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	36	SW NW	Well #9 - 1884 FEET SOUTH AND 1315 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

4. Application T-10427 proposes to move the authorized point of appropriation approximately 1.4 miles northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	25	NW NE	590 FEET SOUTH AND 1420 FEET WEST FROM THE NE CORNER OF SECTION 25

5. Application T-10427 proposes to change the character of use from irrigation to industrial use.
6. Application T-10427 also proposes to change the place of use of the right to:

INDUSTRIAL				
Twp	Rng	Mer	Sec	Q-Q
4 N	27 E	WM	25	NE NE
4 N	27 E	WM	25	NW NE
4 N	27 E	WM	25	SW NE
4 N	27 E	WM	25	SE NE

7. Notice of the application for transfer was published on July 17, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
8. On October 15, 2007, the Department mailed a copy of the draft Preliminary Determination proposing to approve Transfer Application T-10427 to the applicant. The draft Preliminary Determination set forth a deadline of November 30, 2007, for the applicant to respond. The applicant requested that the Department proceed with issuance of a Preliminary Determination and provided the necessary information to demonstrate that the applicant is authorized to pursue the transfer.

Transfer Review Criteria (OAR 690-380-4010)

9. Water has been used within the last five years according to the terms and conditions of the right, and there is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
10. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10427.
11. The proposed change would not result in enlargement of the right, as long as the new use is limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and does not exceed the maximum annual duty allowed for the original use, being 40.5 acre-feet per year.
12. The proposed change would not result in injury to other water rights.
13. The receiving landowner is Flying J Inc., who will be responsible for proving up on the changes from 13.5 acres of irrigation use to industrial use.

Partial Cancellation of Water Rights

14. ORS 540.510(1) and OAR 690-380-2250(5) provide that the order approving the transfer of a primary right shall cancel the portion of a supplemental right appurtenant to the same lands if the supplemental right is not included in the transfer. The supplemental right under Certificate 82596 is not included in transfer application T-10427, and will be cancelled upon issuance of a final order approving T-10427, unless the applicant amends the application to include the supplemental rights in the transfer, or withdraws those lands from the transfer.
15. Consistent with OAR 690-380-2250, the Department in the draft preliminary determination notified the applicant of the Department's intent to cancel the portion of the supplemental water right described below unless within 30 days of the date of the notification the applicant modified the application to include the supplemental right or withdrew the application. The applicant did not respond to the notice by withdrawing the application or modifying it to include the supplemental right. Therefore, the following portion of the supplemental right will be cancelled upon issuance of a final order approving T-10427.
16. The portion of the following right is proposed to be cancelled:
Certificate: 82596 in the name of COUNTY LINE WATER IMPROVEMENT DISTRICT (perfected under Permit G-10836)
Use: SUPPLEMENTAL IRRIGATION of 13.5 ACRES
Priority Date: FEBRUARY 15, 1978
Rate: 0.16 CUBIC FOOT PER SECOND
Limit/Duty: 0.0118 cfs per acre, not to exceed 2.89 acre-feet per acre per year of artificially and naturally recharged ground water.
Source: ARTIFICALLY RECHARGED GROUND WATER FROM WELLS IN THE ORDINANCE CRITICAL GROUND WATER AREA

Authorized Points of Appropriation (Coleman Wells):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	26	SW NW	1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	26	SW NW	1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	27	SW NW	230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27
4 N	27 E	WM	27	SE NW	2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27
4 N	27 E	WM	27	SE NW	960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

Determination and Proposed Action

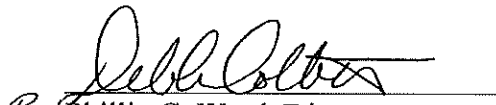
The changes in character of use, place of use, and point of appropriation proposed in application T-10427 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10427 is approved, the final order will include the following:

- 1. The changes in character of use, place of use, and point of appropriation proposed in application T-10427 are approved.*
- 2. The portion of Certificate 82596 listed in Finding of Fact No. 16 is cancelled. A new certificate will be issued to describe the remaining portion of the right not affected by the cancellation.*
- 3. Water right certificate 80913 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 4. The 13.5 acre portion of the inchoate water right described in Finding of Fact No. 2, perfected under Permit G-10505 and transferred under T-9996 is cancelled, and shall not included in a Claim of Beneficial Use for T-9996.*
- 5. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80913 and any related decree.*
- 6. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*

7. *The quantity of water diverted at the new point of appropriation shall not exceed the quantity of water lawfully available at the original point of appropriation.*
8. *The former place of use of the transferred right shall no longer receive water under the right.*
9. *The diversion for industrial use shall be limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and an annual amount not to exceed 40.5 acre-feet.*
10. *Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*
11. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
12. *When satisfactory proof of the completed changes is received, a new certificate confirming portion of the right transferred will be issued.*

Dated at Salem, Oregon this 28th day of January 2008.


Phillip C. Ward, Director

This Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us.

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

**Notice of Preliminary Determination for
Water Right Transfer T-10427**

T-10427 filed by Craig Coleman, 33896 E. Walls Road, Hermiston, Oregon 97838, proposes changes in character of use, place of use, and point of appropriation under Certificate 80913. The right allows the use of 0.11 cfs (priority date August 9, 1954) from a well in Sec. 36, T 4 N, R 27 E, W.M. (Umatilla River Basin) for irrigation in Sec. 36. The applicant proposes to change the point of appropriation to a well approximately 1.4 miles northeast (Sec. 25, T 4 N, R 27 E, W.M.); and to change the place of use to within Sec. 25, T 4 N, R 27 E, W.M.; and to change the character of use to industrial use. The Water Resources Department has concluded that the proposed transfer appears to be consistent with the requirements of ORS Chapter 540 and OAR 690-380-5000.

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STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ONE (1) WELL in the
UMATILLA RIVER BASIN for IRRIGATION OF 38.3 ACRES.

This right was perfected under Permit U-649. The date of priority
is AUGUST 9, 1954. The amount of water to which this right is
entitled is limited to an amount actually beneficially used and
shall not exceed 0.48 CUBIC FOOT PER SECOND or its equivalent in
case of rotation, measured at the well.

The well is located as follows:

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET
SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 36

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

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

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

NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.7 ACRES
SECTION 35	
NW $\frac{1}{4}$ NW $\frac{1}{4}$	28.3 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.3 ACRES
SECTION 36	
TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.	

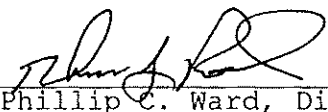
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74109, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275

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 NOVEMBER 24, 2004.


for Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates numbered 80913

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 either 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.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTIES OF MORROW AND UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDINANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION OF ~~5087.98~~ ACRES. $-13.5 = 5074.48$

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. This right is limited to $59.91 - .16 = 59.75$ CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed ~~14,688.0~~ ACRE-FEET of 14649 ACF of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

G-8649.LHN

$$\frac{14688}{5087.98} = 2.8868038 \text{ ac/af}$$

$$5087.98 - 13.5 = 5074.48 \times \frac{14649}{5074.48} = 14649.0 \text{ ac.ft}$$

CERTIFICATE NUMBER 82596

The wells are located as follows:

AYLETT	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3700 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1650 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 90 FEET NORTH AND 40 FEET WEST FROM THE S $\frac{1}{4}$, SECTION 28.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1130 FEET NORTH AND 60 EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH RANGE 27 EAST, W.M.; 2740 FEET NORTH AND 1890 FEET EAST FROM THE SW CORNER, SECTION 27.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 230 FEET NORTH AND 1210 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 27.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 960 FEET NORTH AND 1850 FEET EAST FROM THE W $\frac{1}{4}$ CORNER SECTION 27. There are two wells at this location within 20 feet.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1160 FEET NORTH AND 370 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
12H	SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER, SECTION 28..
12H	SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER, SECTION 28.
12H	NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER, SECTION 33.

12H SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1940 FEET SOUTH AND 1350 WEST FROM THE
NE CORNER, SECTION 33.

HOLZAPFEL NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 50 FEET SOUTH AND 1450 FEET WEST FROM
THE NE CORNER, SECTION 32.

HOLZAPFEL NE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 70 FEET SOUTH AND 2520 FEET EAST FROM
THE NW CORNER, SECTION 32.

HOLZAPFEL NE $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 340 FEET SOUTH AND 1190 FEET WEST FROM
THE NE CORNER, SECTION 32.

KEY SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 290 FEET NORTH AND 50 FEET WEST FROM
THE SE CORNER, SECTION 30.

KEY SE $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 100 FEET NORTH AND 40 FEET WEST FROM
THE SE CORNER, SECTION 30.

MANN SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 190 FEET NORTH AND 1250 FEET EAST FROM
THE SW CORNER, SECTION 20

SOLANO SW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 10 FEET NORTH AND 90 FEET EAST FROM
THE SW CORNER, SECTION 20.

WOOD NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1190 FEET SOUTH AND 4170 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD NW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 3830 FEET SOUTH AND 4160 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD LOT 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 3875 FEET SOUTH AND 1385 FEET
EAST FROM THE NW CORNER, SECTION 30.

WOOD LOT 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 1280 FEET SOUTH AND 1350 FEET
EAST FROM THE NW CORNER, SECTION 30.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

NW¼ NW¼ 28.6 ACRES
SW¼ NW¼ 17.8 ACRES

SECTION 2

NE¼ NE¼ 32.3 ACRES
NW¼ NE¼ 34.1 ACRES
SW¼ NE¼ 14.0 ACRES
SE¼ NE¼ 21.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 27.5 ACRES
SW¼ NW¼ 33.6 ACRES
SE¼ NW¼ 15.7 ACRES
NE¼ SW¼ 33.1 ACRES
NW¼ SW¼ 29.1 ACRES
SW¼ SW¼ 37.8 ACRES
SE¼ SW¼ 31.1 ACRES
NE¼ SE¼ 36.1 ACRES
NW¼ SE¼ 36.0 ACRES

SECTION 3

NE¼ NE¼ 29.3 ACRES
NW¼ NE¼ 35.4 ACRES
SW¼ NE¼ 35.5 ACRES
SE¼ NE¼ 29.6 ACRES
NE¼ NW¼ 31.1 ACRES
NW¼ NW¼ 31.0 ACRES
SW¼ NW¼ 26.5 ACRES
SE¼ NW¼ 31.2 ACRES
NE¼ SE¼ 31.3 ACRES
NW¼ SE¼ 30.8 ACRES
SW¼ SE¼ 31.5 ACRES
SE¼ SE¼ 31.5 ACRES

SECTION 4

NE¼ NE¼ 32.8 ACRES
NW¼ NE¼ 32.5 ACRES
SW¼ NE¼ 32.6 ACRES
SE¼ NE¼ 32.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 32.7 ACRES
SW¼ NW¼ 32.9 ACRES
SE¼ NW¼ 32.9 ACRES

SECTION 5

NE¼ NE¼ 31.5 ACRES
NW¼ NE¼ 35.5 ACRES
SW¼ NE¼ 23.5 ACRES
SE¼ NE¼ 19.5 ACRES

SECTION 9

SE¼ NE¼ 10.4 ACRES
 NE¼ NW¼ 39.0 ACRES
 NW¼ NW¼ 38.7 ACRES
 SW¼ NW¼ 9.0 ACRES
 SE¼ NW¼ 12.9 ACRES

SECTION 10
 TOWNSHIP 3 NORTH,
 RANGE 27 EAST, W.M.

NE¼ SW¼ 10.1 ACRES
 LOT 3 (NW¼ SW¼) 20.8 ACRES
 Lot 4 (SW¼ SW¼) 32.6 ACRES
 SE¼ SW¼ 33.6 ACRES
 NW¼ SE¼ 1.0 ACRE
 SW¼ SE¼ 35.8 ACRES
 SE¼ SE¼ 2.9 ACRES

SECTION 19

SW¼ SW¼ 7.7 ACRES
 LOT 4 (SE¼ SW¼) 2.5 ACRES

SECTION 20

LOT 6 (SW¼ NE¼) 8.4 ACRES
 LOT 8 (SE¼ NE¼) 13.4 ACRES
 LOT 2 (SW¼ NW¼) 30.3 ACRES
 LOT 4 (SE¼ NW¼) 18.7 ACRES
 NE¼ SW¼ 19.0 ACRES
 NW¼ SW¼ 24.9 ACRES
 SW¼ SW¼ 40.0 ACRES
 SE¼ SW¼ 35.6 ACRES
 LOT 9 (NE¼ SE¼) 24.4 ACRES
 LOT 10 (NW¼ SE¼) 7.4 ACRES
 LOT 11 (NW¼ SE¼) 1.3 ACRES
 SW¼ SE¼ 22.5 ACRES
 LOT 12 (SE¼ SE¼) 17.3 ACRES

SECTION 26

NE¼ NW¼ 10.3 ACRES
 NW¼ NW¼ 15.2 ACRES
 SW¼ NW¼ 13.3 ACRES
 SE¼ NW¼ 18.1 ACRES
 NE¼ SW¼ 35.9 ACRES
 NW¼ SW¼ 39.4 ACRES
 SW¼ SW¼ 13.5 ACRES
 SE¼ SW¼ 13.1 ACRES
 NE¼ SE¼ 2.8 ACRES
 NW¼ SE¼ 3.4 ACRES
 SW¼ SE¼ 27.1 ACRES
 SE¼ SE¼ 31.6 ACRES

SECTION 27

NW¼ NE¼ 1.0 ACRE
 SW¼ NE¼ 37.1 ACRES
 SE¼ NE¼ 24.8 ACRES
 NE¼ NW¼ 2.4 ACRES
 NW¼ NW¼ 13.8 ACRES
 SW¼ NW¼ 36.4 ACRES
 SE¼ NW¼ 39.1 ACRES
 NE¼ SW¼ 34.72 ACRES
 NW¼ SW¼ 34.42 ACRES
 SW¼ SW¼ 31.42 ACRES
 SE¼ SW¼ 31.72 ACRES
 NE¼ SE¼ 39.1 ACRES
 NW¼ SE¼ 39.9 ACRES
 SW¼ SE¼ 38.6 ACRES
 SE¼ SE¼ 40.0 ACRES

SECTION 28

		NE¼ NE¼	34.7 ACRES
		NW¼ NE¼	37.6 ACRES
		SW¼ NE¼	29.0 ACRES
		SE¼ NE¼	27.1 ACRES
		NE¼ NW¼	31.9 ACRES
LOT	1	(NW¼ NW¼)	42.7 ACRES
LOT	2	(SW¼ NW¼)	34.2 ACRES
		SE¼ NW¼	25.2 ACRES
		NE¼ SW¼	29.5 ACRES
LOT	3	(NW¼ SW¼)	40.5 ACRES
LOT	4	(SW¼ SW¼)	37.3 ACRES
		SE¼ SW¼	28.2 ACRES
		NE¼ SE¼	32.8 ACRES
		NW¼ SE¼	36.2 ACRES
		SW¼ SE¼	32.6 ACRES
		SE¼ SE¼	30.6 ACRES

SECTION 30

		NE¼ NE¼	27.6 ACRES
		NW¼ NE¼	2.6 ACRES
		SW¼ NE¼	34.1 ACRES
		SE¼ NE¼	30.5 ACRES
		NE¼ NW¼	32.0 ACRES
		NW¼ NW¼	32.0 ACRES
		SW¼ NW¼	32.0 ACRES
		SE¼ NW¼	32.0 ACRES
		NE¼ SW¼	32.0 ACRES
		NW¼ SW¼	32.0 ACRES
		SW¼ SW¼	32.0 ACRES
		SE¼ SW¼	32.0 ACRES
		NE¼ SE¼	31.0 ACRES
		NW¼ SE¼	29.0 ACRES
		SW¼ SE¼	33.2 ACRES
		SE¼ SE¼	35.4 ACRES

SECTION 32

		NE¼ NE¼	34.3 ACRES
		NW¼ NE¼	32.0 ACRES
		SW¼ NE¼	32.0 ACRES
		SE¼ NE¼	32.0 ACRES
		NE¼ NW¼	24.42 ACRES
		NW¼ NW¼	22.83 ACRES
		SW¼ NW¼	22.83 ACRES
		SE¼ NW¼	24.42 ACRES
		NE¼ SW¼	29.0 ACRES
		NW¼ SW¼	29.0 ACRES
		SW¼ SW¼	31.0 ACRES
		SE¼ SW¼	31.0 ACRES
		NE¼ SE¼	32.2 ACRES
		NW¼ SE¼	31.6 ACRES
		SW¼ SE¼	34.4 ACRES
		SE¼ SE¼	27.2 ACRES

SECTION 33

		NE¼ NE¼	37.5 ACRES
		NW¼ NE¼	39.5 ACRES
		SW¼ NE¼	10.1 ACRES
		SE¼ NE¼	7.1 ACRES
		NE¼ NW¼	32.8 ACRES
		NW¼ NW¼	30.2 ACRES
		SW¼ NW¼	30.2 ACRES
		SE¼ NW¼	35.6 ACRES
		NE¼ SW¼	39.7 ACRES
		NW¼ SW¼	34.0 ACRES
		SW¼ SW¼	30.8 ACRES
		SE¼ SW¼	39.8 ACRES
		NE¼ SE¼	32.3 ACRES
		NW¼ SE¼	41.2 ACRES
		SW¼ SE¼	39.3 ACRES
		SE¼ SE¼	39.3 ACRES

SECTION 34

NE¼ NE¼ 32.9 ACRES
 NW¼ NE¼ 36.3 ACRES
 SW¼ NE¼ 31.4 ACRES
 SE¼ NE¼ 31.4 ACRES
 NE¼ NW¼ 33.5 ACRES
 NW¼ NW¼ 34.0 ACRES
 SW¼ NW¼ 31.4 ACRES
 SE¼ NW¼ 31.4 ACRES
 NE¼ SW¼ 31.4 ACRES
 NW¼ SW¼ 31.4 ACRES
 SW¼ SW¼ 31.4 ACRES
 SE¼ SW¼ 31.4 ACRES
 NE¼ SE¼ 31.4 ACRES
 NW¼ SE¼ 31.4 ACRES
 SW¼ SE¼ 31.4 ACRES
 SE¼ SE¼ 31.4 ACRES

SECTION 35

NE¼ NW¼ 33.9 ACRES
 NW¼ NW¼ 32.2 ACRES
 SW¼ NW¼ 28.3 ACRES
 SE¼ NW¼ 28.3 ACRES
 NW¼ SW¼ 30.2 ACRES
 SW¼ SW¼ 26.0 ACRES

SECTION 36
 TOWNSHIP 4 NORTH,
 RANGE 27 EAST, W.M.

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

<u>Well Location</u>	<u>Common Names (Per Order, 1976)</u>	<u>Target Levels (Ft below LSD)</u>	
		<u>Upper</u>	<u>Lower</u>
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordnance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordnance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordnance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.
6. Annual Reports:
 - (A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.
 - (B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.

7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.
8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.

(A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.

(B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.

(C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.
9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.

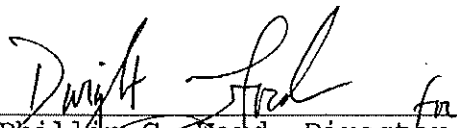
10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.
11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

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

WITNESS the signature of the Water Resources Director, affixed

DEC 15 2006



Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 82596

G-8649.LHN

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of SEVEN (7) WELLS in the UMATILLA RIVER BASIN for IRRIGATION OF 1250.1 ACRES.

This right was perfected under Permit G-10505. The date of priority is JANUARY 9, 1970. The amount of water to which this right is entitled is limited to an amount actually beneficially used and shall not exceed 15.63 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

WELL #3 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27;

WELL #4 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 230 FEET NORTH AND 1210 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 27;

WELL #5 - SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, T 4 N, R 27 E, W.M.; 960 FEET NORTH AND 1850 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 27;

WELL #6 & 7 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, T 4 N, R 27 E, W.M.; 1130 FEET NORTH AND 60 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 26;

WELL #8 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, T 4 N, R 27 E, W.M.; 1160 FEET NORTH AND 370 FEET EAST FROM W $\frac{1}{4}$ CORNER, SECTION 26;

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET SOUTH AND 1315 EAST FROM NW CORNER, SECTION 36

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

Morrow and Umatilla counties, Oregon, by special order recorded at Volume 27, Pages 40 through 79, dated the 2nd day of April 1976.

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

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

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, 8, AND 9

SW ¹ / ₄ NW ¹ / ₄	9.8 ACRES
SE ¹ / ₄ NW ¹ / ₄	8.9 ACRES
NE ¹ / ₄ SW ¹ / ₄	35.9 ACRES
NW ¹ / ₄ SW ¹ / ₄	39.4 ACRES
SW ¹ / ₄ SW ¹ / ₄	13.5 ACRES
SE ¹ / ₄ SW ¹ / ₄	12.6 ACRES
SW ¹ / ₄ SE ¹ / ₄	16.6 ACRES
SE ¹ / ₄ SE ¹ / ₄	14.7 ACRES

SECTION 27

NE ¹ / ₄ NE ¹ / ₄	37.5 ACRES
NW ¹ / ₄ NE ¹ / ₄	39.5 ACRES
SW ¹ / ₄ NE ¹ / ₄	10.1 ACRES
SE ¹ / ₄ NE ¹ / ₄	7.1 ACRES
NE ¹ / ₄ NW ¹ / ₄	2.6 ACRES

SECTION 34

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 5; SUPPLEMENTAL FROM WELLS 3, 4, 6, 7, 8, AND 9

NE ¹ / ₄ NW ¹ / ₄	10.3 ACRES
NW ¹ / ₄ NW ¹ / ₄	15.2 ACRES
SW ¹ / ₄ NW ¹ / ₄	3.5 ACRES
SE ¹ / ₄ NW ¹ / ₄	9.2 ACRES

SECTION 27

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 7; SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 8, AND 9

SW ¹ / ₄ NE ¹ / ₄	8.4 ACRES
SE ¹ / ₄ NE ¹ / ₄	13.4 ACRES
SE ¹ / ₄ NW ¹ / ₄	4.7 ACRES
NE ¹ / ₄ SW ¹ / ₄	9.2 ACRES
SE ¹ / ₄ SW ¹ / ₄	22.1 ACRES
NE ¹ / ₄ SE ¹ / ₄	24.4 ACRES
NW ¹ / ₄ SE ¹ / ₄	8.7 ACRES
SW ¹ / ₄ SE ¹ / ₄	22.5 ACRES
SE ¹ / ₄ SE ¹ / ₄	1.2 ACRES

SECTION 26

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRE
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.4 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 10.5 ACRES

SECTION 27

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 27.1 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 4.9 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 22.1 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.1 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.4 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, 8, AND 9

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 30.3 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 14.0 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 9.8 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.9 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 13.5 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 16.1 ACRES

SECTION 26

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.8 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 16.9 ACRES

SECTION 27

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 5.8 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 2.6 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 9

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 28.1 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 31.4 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 9.3 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.4 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.4 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 31.4 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.4 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.4 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.4 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.4 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.4 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 8, AND 9

NW¼ NE¼ 3.3 ACRES

SECTION 35

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

PRIMARY FROM WELL 9; SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 8

NE¼ NW¼ 33.9 ACRES

NW¼ NW¼ 3.9 ACRES

SW¼ NW¼ 23.0 ACRES

SE¼ NW¼ 28.3 ACRES

NW¼ SW¼ 30.2 ACRES

SECTION 36

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

SUPPLEMENTAL FROM WELLS 3, 4, 5, 6, 7, AND 8

NW¼ NW¼ 28.3 ACRES

SW¼ NW¼ 5.3 ACRES

SECTION 36

TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74185, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275 and corrects a scrivener's error in the description of the location of Well #5.

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 NOVEMBER 24, 2004.


Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates numbered 80915



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

Application for Water Right Transfer

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

1. TYPE OF TRANSFER APPLICATION

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

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WATER RESOURCES DEPT
SALEM, OREGON

2. APPLICANT INFORMATION

Name: Craig Coleman
First Last

Address: 33896 E. Walls Road

Hermiston OR 97838
City State Zip

Phone: (541)567-1605 (503)209-4530 (Cell)
Home Work Other

Fax: _____ E-Mail address: _____

3. AGENT INFORMATION

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

Name: William Porfily
First Last

Address: P.O. Box 643

Stanfield OR 97878
City State Zip

Phone: (541)449-1327 (541)449-1327 (541)561-7259 (Cell)
Home Work Other

Fax: (541)449-1327 E-Mail address: bporfily@my180.net

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

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

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T 10427

Transfer Application/1

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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.		Permit U-649/T-9275	80913
2.			
3.		Permit G-10505/ T-9275	80915**
4.			
5.			
6.			

**** 13.5 acres of supplemental water rights described in this water right will be cancelled with approval of this transfer. These water rights are supplemental to the 13.5 acres of water right being transferred.**

- 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): **Flying J, Inc. has acquired 13.5 acres (50 gpm) described in Certificate 80913 for Industrial Use is(operation of a Truck stop).**

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.

See attached "Craig Coleman Delivery System Map".

- System capacity: **10+** cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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SALEM, OREGON

Transfer Application/2

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6. EVIDENCE OF BENEFICIAL WATER USE

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

7. AFFECTED DISTRICTS AND LOCAL GOVERNMENTS

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

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

County Line Improvement District, P. O. Box 631, Hermiston, OR 97838

The County Line Improvement District serves recharge water to the alluvial wells in their Boundaries. The well involved in this transfer is within the boundaries of the County Line Improvement District but is a basalt well thus is not being served by the District. The land under this transfer is also within the boundaries of the County Line Improvement District but is not served by the District.

OK

- 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).

Umatilla County, 216 SE 4th, Pendleton, Oregon 97801

✓

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WATER RESOURCES DEPT
SALEM, OREGON

Last revised: 10/13/2006

Transfer Application/3

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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): Flying J Inc.*
First Last

Address: 1104 Country Hills Drive

Ogden Utah 84403
City State Zip

***Flying J Inc is the land owner receiving the 13.5 Acres (50 gpm) of Certificate 80913 being transfer to Industrial Use (operation of a truck stop).**

- 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.

Copies of all notices and correspondence should also be sent the applicant's agent.

- ☐ 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:
- ① In EFU zone or irrigation district,
 - ② Change in place of use only,
 - ③ No structural changes needed, including diversion works, delivery facilities, other structures, *and*
 - ④ Irrigation only.

Fees:

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

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

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

Temporary Transfers, also include:

Recorded Deed:

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

Affidavit of Consent:

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

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

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

10. SIGNATURES

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

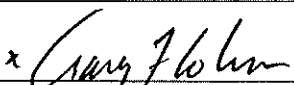
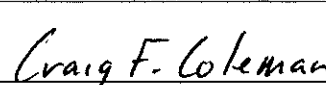
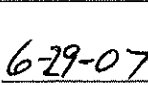
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership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

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

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

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

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

 applicant signature	 name (print)	 date
_____ applicant signature	_____ name (print)	_____ date

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WATER RESOURCES DEPT
SALEM, OREGON
Last revised: 10/13/2006

Transfer Application/6

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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: 80913

1. TYPE OF CHANGE(S) PROPOSED

(Check *all* that apply.)

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

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2. CURRENT WATER RIGHT INFORMATION

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

☒ Certificated Right	<u>80913</u> Certificate Number	<u>U-649</u> Permit Number or Decree Name
☐ Adjudicated, Non-certificated Right	 Name of Decree	 Page Number
☐ Permit for which Proof has been Approved	 Permit Number	 Date Claim of Beneficial Use Submitted
☐ Transferred Right for which Proof has been Filed	 Previous Transfer Number	 Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: HANSELL Brothers, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): August 9, 1954

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: Basalt Well #9

Tributary to: Umatilla River

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

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

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

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

If "Yes", what are the Permit, Registration or Certificate Numbers? Permit G-10505 former Certificate 80915 for supplemental irrigation is associated with this land. The portion of this supplemental permit associated with this transfer will be cancelled with the order approving this transfer. An affidavit is attached cancelling the 13.5 acre supplemental water right described in this Permit.

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WATER RESOURCES DEPT
SALEM, OREGON

Supplemental Form A

O.K.
but 80915
already
cancelled
per T-9996

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

■ Certificate Number or other identifying number: 80913

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)
UMA #1806	Well # 9 August 9, 1954	4N	27E	WM	36	SW NW	3300	1884 ft S & 1315 ft E from the NW Cor. Sec. 36

■ 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
See attached Well Log UMA #1806									

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■ Certificate Number or other identifying number: 80913

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)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Well # 9 August 9, 1954	4N	27E	WM	36	NW NW	2300	13.5 Acres

■ Certificate Number or other identifying number: _____

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)
Basalt Wells	4N	27E	W M	25	NE NE NW	200	590 ft. S & 1420 ft. W from the NE Corner of Section 25

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WATER RESOURCES DEPT
SALEM, OREGON

Supplemental Form A

- 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
NO		Proposed 8"	Steel 8"	150 ft		150 ft	200 ft.	200 ft to 300 ft	2" nipple Top of Casing	300 ft

OK

See also GW Section Review

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WATER RESOURCES DEPT
SALEM, OREGON

Supplemental Form A

- 5 -

Description of Proposed Change(s) to a Water Right

▪ Certificate Number or other identifying number: 80913

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)
New Basalt Well	4N	27E	W M	25	NE NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	NW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SE NE	200 & 202	Industrial Use

Remarks: _____

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WATER RESOURCES DEPT
SALEM, OREGON

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

State of Oregon)
) ss
County of Umatilla)

I, Craig Coleman, in my capacity as _____,

mailing address 33896 E. Walls Road, Hermiston, OR 97838

telephone number (541)567-1605, 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)
4	N	27	E	W M	36	SW NW	N W	2300	13.5

*TL does not
match Tax
assessor's map*

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WATER RESOURCES DEPT
SALEM, OREGON

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

I have grown Alfalfa the last couple of years

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

Well 9 has a 15 hp submersible pump and it pumps water to the 120 acre circle #19 as shown on the delivery system map

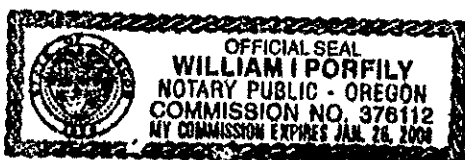
6. One or more of the following documentation supporting the above statements is attached:

- ☐ 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: _____

Craig F. Colman
Signature of Affiant

6-29-07
Date

Signed and sworn to (or affirmed) before me this 29 day of June, 2007.



William I. Porfily
Notary Public for Oregon

My Commission Expires: Jan 26 2008

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JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON



Oregon Water Resources Department Land Use Information Form

Look OK
Wm
10/2/07

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. WRD will use this and other information to evaluate the water use application. **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, or exchange 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.

To Be Completed By Applicant

This section must be completed by the individual or group that is filing an application with the Water Resources Department. Attach a copy of the map from the application to this form.

- A. Applicant

Name: Craig Coleman

Address: 33896 Walls Road

City: Hermiston State: OR Zip: 97875 Day Phone: (541)567-1605

- B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Tax Lot I.D.	Plan Designated (e.g. Rural Residential/RR-5)	Water to be: (Check all that apply)	Proposed Land Use
TL 200, 202, Sec. 25 T4N R27E WM		☒ Diverted ☒ Conveyed ☒ Used	Industrial- Truck Stop
		☐ Diverted ☐ Conveyed ☐ Used	
		☐ Diverted ☐ Conveyed ☐ Used	
		☐ Diverted ☐ Conveyed ☐ Used	
		☐ Diverted ☐ Conveyed ☐ Used	
		☐ Diverted ☐ Conveyed ☐ Used	

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

- C. Description of Proposed Use

Indicate the type of application to be filed with the Water Resources Department.

☐ Water Use Permit ☒ Water Right Transfer ☐ Allocation of Conserved Water ☐ Exchange

Indicate the intended use of water and describe the key characteristics of the project.

☐ Commercial ☒ Industrial ☐ Instream ☐ Irrigation
☐ Municipal ☐ Quasi-municipal ☐ Domestic (indicate number of households)
☐ Other _____

Briefly describe: _____

Indicate the source of the water to be used.

☐ Reservoir/Pond ☒ Ground Water ☐ Surface Water _____

(Source)

Indicate the estimated quantity of water the use will require: 50 ☒ CFS ☒ GPM ☐ Acre-Feet

Last Revised: 04/06/04

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SALEM, OREGON

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 this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

- A. Allowed Use

Check the appropriate box below and provide 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): _____ Go to section B "Approval" below.
- ☒ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Type of Land Use Approval Needed (3.g. plan amendments, rezones, conditional use permits, etc.)	City Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval	
Conditional Use Permit	152.203, 152.277 & UCDC	☐ 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

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action/land use decision and accompanying findings are sufficient.)

- B. Approval

Please provide printed name and written signature.

Name: J.R. Cook Date: 6-29-07

Title: Asst. Planning Dir. Phone: 541.278.6251

Signature: _____

- C. Additional Comments

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

Land use only

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or to resume the land use associated with the proposed use of water is compatible with local comprehensive plans.

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JUL 02 2007

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 either 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.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTIES OF MORROW AND UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

$$\frac{59.81 \text{ cfs}}{5087.98 \text{ Ac}} = 0.0118 \text{ cfs/Ac}$$

$$0.0118 \text{ cfs/Ac} \times 13.5 \text{ Ac} = 0.16 \text{ cfs}$$

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDINANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION OF 5087.98 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. This right is limited to 59.81 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14,688.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

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OCT 09 2007

WATER RESOURCES DEPT
SALEM, OREGON

G-8649.LHN

CERTIFICATE NUMBER 82596

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 either 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.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTIES OF MORROW AND UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDINANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION OF 5087.98 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. This right is limited to 59.81 - 0.16 cfs = 59.65 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.
-13.52 ac = 5074.48 ac

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14,688.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

G-8649.LHN

CERTIFICATE NUMBER 82596

The wells are located as follows:

AYLETT	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3700 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1650 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 90 FEET NORTH AND 40 FEET WEST FROM THE S $\frac{1}{4}$, SECTION 28.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1130 FEET NORTH AND 60 EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH RANGE 27 EAST, W.M.; 2740 FEET NORTH AND 1890 FEET EAST FROM THE SW CORNER, SECTION 27.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 230 FEET NORTH AND 1210 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 27.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 960 FEET NORTH AND 1850 FEET EAST FROM THE W $\frac{1}{4}$ CORNER SECTION 27. There are two wells at this location within 20 feet.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1160 FEET NORTH AND 370 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
12H	SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER, SECTION 28..
12H	SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER, SECTION 28.
12H	NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER, SECTION 33.

12H SW¼ NE¼, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1940 FEET SOUTH AND 1350 WEST FROM THE
NE CORNER, SECTION 33.

HOLZAPFEL NW¼ NE¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 50 FEET SOUTH AND 1450 FEET WEST FROM
THE NE CORNER, SECTION 32.

HOLZAPFEL NE¼ NW¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 70 FEET SOUTH AND 2520 FEET EAST FROM
THE NW CORNER, SECTION 32.

HOLZAPFEL NE¼ NE¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 340 FEET SOUTH AND 1190 FEET WEST FROM
THE NE CORNER, SECTION 32.

KEY SE¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 290 FEET NORTH AND 50 FEET WEST FROM
THE SE CORNER, SECTION 30.

KEY SE¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 100 FEET NORTH AND 40 FEET WEST FROM
THE SE CORNER, SECTION 30.

MANN SE¼ SW¼, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 190 FEET NORTH AND 1250 FEET EAST FROM
THE SW CORNER, SECTION 20

SOLANO SW¼ SW¼, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 10 FEET NORTH AND 90 FEET EAST FROM
THE SW CORNER, SECTION 20.

WOOD NW¼ NE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1190 FEET SOUTH AND 4170 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD NW¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 3830 FEET SOUTH AND 4160 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD LOT 4 (SW¼ SW¼), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 3875 FEET SOUTH AND 1385 FEET
EAST FROM THE NW CORNER, SECTION 30.

WOOD LOT 2 (SW¼ NW¼), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 1280 FEET SOUTH AND 1350 FEET
EAST FROM THE NW CORNER, SECTION 30.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

NW¼ NW¼ 28.6 ACRES
SW¼ NW¼ 17.8 ACRES
SECTION 2

NE¼ NE¼ 32.3 ACRES
NW¼ NE¼ 34.1 ACRES
SW¼ NE¼ 14.0 ACRES
SE¼ NE¼ 21.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 27.5 ACRES
SW¼ NW¼ 33.6 ACRES
SE¼ NW¼ 15.7 ACRES
NE¼ SW¼ 33.1 ACRES
NW¼ SW¼ 29.1 ACRES
SW¼ SW¼ 37.8 ACRES
SE¼ SW¼ 31.1 ACRES
NE¼ SE¼ 36.1 ACRES
NW¼ SE¼ 36.0 ACRES

SECTION 3

NE¼ NE¼ 29.3 ACRES
NW¼ NE¼ 35.4 ACRES
SW¼ NE¼ 35.5 ACRES
SE¼ NE¼ 29.6 ACRES
NE¼ NW¼ 31.1 ACRES
NW¼ NW¼ 31.0 ACRES
SW¼ NW¼ 26.5 ACRES
SE¼ NW¼ 31.2 ACRES
NE¼ SE¼ 31.3 ACRES
NW¼ SE¼ 30.8 ACRES
SW¼ SE¼ 31.5 ACRES
SE¼ SE¼ 31.5 ACRES

SECTION 4

NE¼ NE¼ 32.8 ACRES
NW¼ NE¼ 32.5 ACRES
SW¼ NE¼ 32.6 ACRES
SE¼ NE¼ 32.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 32.7 ACRES
SW¼ NW¼ 32.9 ACRES
SE¼ NW¼ 32.9 ACRES

SECTION 5

NE¼ NE¼ 31.5 ACRES
NW¼ NE¼ 35.5 ACRES
SW¼ NE¼ 23.5 ACRES
SE¼ NE¼ 19.5 ACRES

SECTION 9

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 10.4 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.0 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 38.7 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.9 ACRES

SECTION 10
 TOWNSHIP 3 NORTH,
 RANGE 27 EAST, W.M.

LOT 3 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.1 ACRES
 LOT 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) 20.8 ACRES
 Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) 32.6 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 33.6 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 1.0 ACRE
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.8 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.9 ACRES

SECTION 19

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.7 ACRES
 LOT 4 (SE $\frac{1}{4}$ SW $\frac{1}{4}$) 2.5 ACRES

SECTION 20

LOT 6 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) 8.4 ACRES
 LOT 8 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) 13.4 ACRES
 LOT 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) 30.3 ACRES
 LOT 4 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) 18.7 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 19.0 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.9 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 35.6 ACRES
 LOT 9 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) 24.4 ACRES
 LOT 10 (NW $\frac{1}{4}$ SE $\frac{1}{4}$) 7.4 ACRES
 LOT 11 (NW $\frac{1}{4}$ SE $\frac{1}{4}$) 1.3 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 22.5 ACRES
 LOT 12 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) 17.3 ACRES

SECTION 26

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.3 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 15.2 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.3 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 18.1 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 35.9 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.4 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 13.5 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 13.1 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.8 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.4 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 27.1 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.6 ACRES

SECTION 27

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.0 ACRE
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 37.1 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 24.8 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.4 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.8 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 36.4 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.1 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 34.72 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.42 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.42 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.72 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.1 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.9 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 38.6 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES

SECTION 28

		NE¼ NE¼	34.7 ACRES
		NW¼ NE¼	37.6 ACRES
		SW¼ NE¼	29.0 ACRES
		SE¼ NE¼	27.1 ACRES
		NE¼ NW¼	31.9 ACRES
LOT	1	(NW¼ NW¼)	42.7 ACRES
LOT	2	(SW¼ NW¼)	34.2 ACRES
		SE¼ NW¼	25.2 ACRES
		NE¼ SW¼	29.5 ACRES
LOT	3	(NW¼ SW¼)	40.5 ACRES
LOT	4	(SW¼ SW¼)	37.3 ACRES
		SE¼ SW¼	28.2 ACRES
		NE¼ SE¼	32.8 ACRES
		NW¼ SE¼	36.2 ACRES
		SW¼ SE¼	32.6 ACRES
		SE¼ SE¼	30.6 ACRES

SECTION 30

		NE¼ NE¼	27.6 ACRES
		NW¼ NE¼	2.6 ACRES
		SW¼ NE¼	34.1 ACRES
		SE¼ NE¼	30.5 ACRES
		NE¼ NW¼	32.0 ACRES
		NW¼ NW¼	32.0 ACRES
		SW¼ NW¼	32.0 ACRES
		SE¼ NW¼	32.0 ACRES
		NE¼ SW¼	32.0 ACRES
		NW¼ SW¼	32.0 ACRES
		SW¼ SW¼	32.0 ACRES
		SE¼ SW¼	32.0 ACRES
		NE¼ SE¼	31.0 ACRES
		NW¼ SE¼	29.0 ACRES
		SW¼ SE¼	33.2 ACRES
		SE¼ SE¼	35.4 ACRES

SECTION 32

		NE¼ NE¼	34.3 ACRES
		NW¼ NE¼	32.0 ACRES
		SW¼ NE¼	32.0 ACRES
		SE¼ NE¼	32.0 ACRES
		NE¼ NW¼	24.42 ACRES
		NW¼ NW¼	22.83 ACRES
		SW¼ NW¼	22.83 ACRES
		SE¼ NW¼	24.42 ACRES
		NE¼ SW¼	29.0 ACRES
		NW¼ SW¼	29.0 ACRES
		SW¼ SW¼	31.0 ACRES
		SE¼ SW¼	31.0 ACRES
		NE¼ SE¼	32.2 ACRES
		NW¼ SE¼	31.6 ACRES
		SW¼ SE¼	34.4 ACRES
		SE¼ SE¼	27.2 ACRES

SECTION 33

		NE¼ NE¼	37.5 ACRES
		NW¼ NE¼	39.5 ACRES
		SW¼ NE¼	10.1 ACRES
		SE¼ NE¼	7.1 ACRES
		NE¼ NW¼	32.8 ACRES
		NW¼ NW¼	30.2 ACRES
		SW¼ NW¼	30.2 ACRES
		SE¼ NW¼	35.6 ACRES
		NE¼ SW¼	39.7 ACRES
		NW¼ SW¼	34.0 ACRES
		SW¼ SW¼	30.8 ACRES
		SE¼ SW¼	39.8 ACRES
		NE¼ SE¼	32.3 ACRES
		NW¼ SE¼	41.2 ACRES
		SW¼ SE¼	39.3 ACRES
		SE¼ SE¼	39.3 ACRES

SECTION 34

NE¼ NE¼ 32.9 ACRES
 NW¼ NE¼ 36.3 ACRES
 SW¼ NE¼ 31.4 ACRES
 SE¼ NE¼ 31.4 ACRES
 NE¼ NW¼ 33.5 ACRES
 NW¼ NW¼ 34.0 ACRES
 SW¼ NW¼ 31.4 ACRES
 SE¼ NW¼ 31.4 ACRES
 NE¼ SW¼ 31.4 ACRES
 NW¼ SW¼ 31.4 ACRES
 SW¼ SW¼ 31.4 ACRES
 SE¼ SW¼ 31.4 ACRES
 NE¼ SE¼ 31.4 ACRES
 NW¼ SE¼ 31.4 ACRES
 SW¼ SE¼ 31.4 ACRES
 SE¼ SE¼ 31.4 ACRES

SECTION 35

NE¼ NW¼ 33.9 ACRES
 NW¼ NW¼ 32.2 ACRES
 SW¼ NW¼ 28.3 ACRES
 SE¼ NW¼ 28.3 ACRES
 NW¼ SW¼ 30.2 ACRES
 SW¼ SW¼ 26.0 ACRES

SECTION 36
 TOWNSHIP 4 NORTH,
 RANGE 27 EAST, W.M.

Cancel
 13.5

Remain
 18.7

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

Well Location	Common Names (Per Order, 1976)	Target Levels (Ft below LSD)	
		Upper	Lower
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordinance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordinance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordinance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.
6. Annual Reports:
 - (A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.
 - (B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.

7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.
8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.
 - (A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.
 - (B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.
 - (C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.
9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.

10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.
11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

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

WITNESS the signature of the Water Resources Director, affixed

DEC 15 2006



Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 82596

G-8649.LHN

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

RECEIVED
OCT 09 2007
WATER RESOURCES DEPT
SALEM, OREGON

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ONE (1) WELL in the
UMATILLA RIVER BASIN for IRRIGATION OF ~~38.3~~ ^{24.8} ACRES.

This right was perfected under Permit U-649. The date of priority
is AUGUST 9, 1954. The amount of water to which this right is
entitled is limited to an amount actually beneficially used and
shall not exceed ~~0.48~~ ^{0.31} CUBIC FOOT PER SECOND or its equivalent in
case of rotation, measured at the well.

The well is located as follows:

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET
SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 36

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

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

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

		T-10427		RR
NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.7 ACRES	0.0	4.7	
SECTION 35				
NW $\frac{1}{4}$ NW $\frac{1}{4}$	28.3 ACRES	13.5	14.8	
SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.3 ACRES	0.0	5.3	
SECTION 36				
TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.			24.8	

T-9275.VLC

Page 1 of 2

80913

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JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74109, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275

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 NOVEMBER 24, 2004.


for Phillip C. Ward, Director

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OCT 09 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

Recorded in State Record of Water Right Certificates numbered 80913

T-9275.VLC

Page 2 of 2

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JUL 02 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

*Review of "From" Lands
Layered Supplemental Rights identified under C82596 and T-9996 (Modifies C80915)*

Water Rights Platcard Report

Meridian: WILLAMETTE Township: 4 North Range: 27 East Section: 36 Records per Page: 5 Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SW	NE SE	NW SE	SW SE	SE SE	Unkown QQ
Select	Cert:76669 OR *	1/31/1972	GROUND WATER RECHARGE					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Additional Info: COUNTY LINE IMPROVEMENT DISTRICT App: S48966 Permit: S41512 Cert: 76669																								
Select	Permit:S 37450 CN	10/2/1974	INDUSTRIAL/MANUFACTURING USES		CN			*	*															
Additional Info: BABLER BROS. INC. App: S52475 Permit: S37450																								
Select	Inchoate: T 6078 CF (REG) *	10/4/1967	IRRIGATION					(19.1)	(30.5)	(40)	(37.4)													
Additional Info: DENNIS R INGRAM App: G3945 Permit: G3702																								
Select	Cert:23740 OR CN	8/9/1954	IRRIGATION		CN								20	20										
Additional Info: G W REDWINE App: U736 Permit: U649 Cert: 23740																								
Select	Cert:50639 OR CN	10/4/1967	IRRIGATION		CN			19.1	30.5	40	37.4													
Additional Info: ROBERT HAMPTON App: G3945 Permit: G3702 Cert: 50639																								

1 2 3 4 5 6

1 2 3 4 5 6

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

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OCT 09 2007

WATER RESOURCES DEPT
SALEM, OREGON

Water Rights Platcard Report

Meridian: WILLAMETTE

Township: 4

North Range: 27

East

Section: 36

Records per Page: 5

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unkown QQ
Select Cert:74108 OR CN Additional Info: HANSELL BROTHERS INC. App: G5209 Permit: G10505 Cert: 74108		1/9/1970	IRRIGATION	CN																								
Select Cert:74109 CF CN Additional Info: HANSELL BROTHERS INC. App: U736 Permit: U649 Cert: 74109	T9275	8/9/1954	IRRIGATION	CN																								
Select Cert:74185 CR CN Additional Info: HANSELL BROTHERS INC. App: G5209 Permit: G10505 Cert: 74185	T9275	1/9/1970	IRRIGATION	CN																								
Select Cert:79531 CF CN Additional Info: HANSELL BROTHERS INC. App: G1778 Permit: G1671 Cert: 79531	T7497	6/28/1960	IRRIGATION	CN																								
Select Cert:80596 CF CN Additional Info: HANSELL BROTHERS INC. App: G1778 Permit: G1671 Cert: 80596	T9275	6/28/1960	IRRIGATION	CN																								

1 2 3 4 5 6

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

Water Rights Platcard Report

Meridian: WILLAMETTE Township: 4 North Range: 27 East Section: 36 Records per Page: 5 Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unkown
Q(160):								NE	NW	SW	SE	NW	NW	NW	NW	SW	SW	SW	SW	SE	SE	SE	SE	QQ
Select Cert:76799 OR *	T10348, T9926, T10261, T9844, T9843	4/12/1961	IRRIGATION													30.6			1.4	13.9	30.6	0.3		
Additional Info: WESTLAND IRRIGATION DISTRICT App: S34593 Permit: S27583 Cert: 76799																								
Select Cert:80913 RR *	T10427	8/9/1954	IRRIGATION										28.3	5.3										
Additional Info: HANSELL BROTHERS INC. App: U736 Permit: U649 Cert: 80913																								
Select Cert:80915 RR CR CN	T9996	1/9/1970	IRRIGATION CN																					
Additional Info: HANSELL BROTHERS INC. App: G5209 Permit: G10505 Cert: 80915																								
Select Inchoate: T 9996 CF (REG) *		1/9/1970	IRRIGATION																					
Additional Info: CRAIG COLEMAN App: G5209 Permit: G10505																								
Select Cert:83416 CF CR *		6/28/1960	IRRIGATION															26						
Additional Info: CRAIG COLEMAN App: G1778 Permit: G1671 Cert: 83416																								

1 2 3 4 5 6

1 2 3 4 5 6

Acree Legend: 12.25 Regular acreage

~~12.25~~ Acreage is on a canceled right

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

[12.25] Acreage has been suspended

* Acreage is not specified

Meridian: WILLAMETTE Township: 4 North Range: 27 East Section: 36 Records per Page: 5 Search

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

Meridian: WILLAMETTE

Township: 4

North Range: 27

East Section: 36

Records per Page: 5

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE	NE	NW	SW	SE	NE	NE	NW	NW	SW	SE	NE	NE	NW	SW	SW	SE	NE	NE	SW	SE	Unknown QQ
Select Cert:79439 CF * Additional Info: WESTLAND IRRIGATION DISTRICT App: S9668 Cert: 79439	T10345, T10346, T10347, T10348, T9926, T9653, T10261, T9845, T9844, T9843, T10084, T9894, T9634, T9127, T9686, T10364, T10365, T9727, T10107, T10126, T10138, T10151	7/1/1924	SUPPLEMENTAL IRRIGATION (Suppl'mtl)																				32.8	17.2	2.7	30.3	31.7		
Select Cert:79530 CF CN Additional Info: HANSELL BROTHERS INC. App: G4231 Permit: G3822 Cert: 79530		2/15/1968	SUPPLEMENTAL IRRIGATION (Suppl'mtl)	CN													32												
Select Cert:80594 CF CR CN Additional Info: HANSELL BROTHERS INC. App: G4231 Permit: G3822 Cert: 80594	T9275	2/15/1968	SUPPLEMENTAL IRRIGATION (Suppl'mtl)	CN													32												
Select Cert:80915 RR CR CN Additional Info: HANSELL BROTHERS INC. App: G5209 Permit: G10505 Cert: 80915	T9996	1/9/1970	SUPPLEMENTAL IRRIGATION (Suppl'mtl)	CN				33.9	32.2	20.3	20.3		30.2																
Select Cert:80916 RR CR * Additional Info: HANSELL BROTHERS INC. App: G4231 Cert: 80916		2/15/1968	SUPPLEMENTAL IRRIGATION (Suppl'mtl)														26												

1 2 3 4 5 6

1 2 3 4 5 6

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acreage~~12.25~~ Acreage is on a
canceled right(12.25) Acreage is part of a transfer and
has not been proven up on yet
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Water Rights Platcard Report

Meridian: WILLAMETTE

Township: 4

North

Range: 27

East

Section: 36

Records per Page: 5

Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): NE NE SW SE NE NW	SW NW	SE NW	NE NW	SW NW	SE NW	NE NW	SW NW	SE NW	NE NW	SW NW	SE NW	Unknown QQ
Select Inchoate: T 9996 CF (REG) *		1/9/1970	SUPPLEMENTAL IRRIGATION (Suppl'mtl)																
Additional Info: CRAIG COLEMAN App: G5209 Permit: G10505																			
Select Cert:82596 OR *		2/15/1978	SUPPLEMENTAL IRRIGATION (Suppl'mtl)																
Additional Info: COUNTY LINE WATER IMPROVEMENT DISTRICT App: G8649 Permit: G10836 Cert: 82596																			

Acreage Legend: 12.25 Regular acreage

~~12.25~~ Acreage is on a canceled right

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

[12.25] Acreage has been suspended

* Acreage is not specified

= 28.3 + 3.9 (T-9996)

Water Right Platcard Report

*Review of "To" Lands
No conflicts identified WFR*

Water Rights Platcard Report

Meridian: WILLAMETTE

Township: 4

North Range: 27

East Section: 25

Records per Page: 5

Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown QQ
Select Inchoate: T 8066 CF (REG) * <u>Additional Info:</u> GERTRUDE JOHNSON App: G4427 Permit: G4171		6/3/1968	COMMERCIAL USES				Q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
								NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Select Inchoate: T 6800 CF (REG) * <u>Additional Info:</u> U.S. ARMY CORP OF ENGINEERS App: G848		1/27/1958	DOMESTIC																					
Select Inchoate: T 6800 CF (REG) * <u>Additional Info:</u> U.S. ARMY CORP OF ENGINEERS App: G3010 Permit: G2829		1/5/1965	FIRE PROTECTION																					
Select Inchoate: T 6800 CF (REG) * <u>Additional Info:</u> U.S. ARMY CORP OF ENGINEERS App: U571 Permit: U522		12/19/1952	FIRE PROTECTION																					
Select Cert: 76669 OR * <u>Additional Info:</u> COUNTY LINE IMPROVEMENT DISTRICT App: S48966 Permit: S41512 Cert: 76669		1/31/1972	GROUND WATER RECHARGE					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
								*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	

1 2 3

Acreage Legend: 12.25 Regular acreage

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OCT 09 2007

WATER RESOURCES DEPT
SALEM, OREGON

Water Rights Platcard Report

Meridian: WILLAMETTE Township: 4 North Range: 27 East Section: 25 Records per Page: 5

 Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40): Q(160):	NE NE	NW NE	SW NE	SE NE	NE NW	NW NW	SW NW	SE NW	NE SW	NW SW	SW SW	SE SE	NE SE	NW SE	SW SE	SE SE	Unknown QQ
Select Inchoate: T 6800 CF (REG) * Additional Info: U.S. ARMY CORP OF ENGINEERS App: U571 Permit: U522		12/19/1952	INDUSTRIAL/MANUFACTURING USES																					
Select Permit:S 37450 CN Additional Info: BABLER BROS. INC. App: S52475 Permit: S37450		10/2/1974	INDUSTRIAL/MANUFACTURING USES																					
Select Permit:S 48414 CN Additional Info: OREGON DEPARTMENT OF TRANSPORTATIONHWY DIV App: S68019 Permit: S48414		2/24/1984	INDUSTRIAL/MANUFACTURING USES																					
Select Inchoate: T 6078 CF (REG) * Additional Info: DENNIS R INGRAM App: G3945 Permit: G3702		10/4/1967	IRRIGATION																					
Select Cert:44655 OR CN Additional Info: E.T. JOHNSON App: G4427 Permit: G4171 Cert: 44655		6/3/1968	IRRIGATION																					

1 2 3

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

Water Rights Platcard Report

Meridian: WILLAMETTE Township: 4 North Range: 27 East Section: 25 Records per Page: 5 Search

Water Right	Changing Xfers	Priority	Use	Use Status	DLC	Gov't Lot	QQ(40):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Unknown QQ
Select Cert:50639 OR CN		10/4/1967	IRRIGATION	CN			Q(160):	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	
Additional Info: ROBERT HAMPTON App: G3945 Permit: G3702 Cert: 50639																												
Select Cert:76617 RR *		6/3/1968	IRRIGATION																	16.58	4.4	2.23	1.79					
Additional Info: E T JOHNSON App: G4427 Permit: G4171 Cert: 76617																												
Select Inchoate: T 6318 CF (REG) *		8/15/1984	MUNICIPAL USES																									(*)
Additional Info: CITY OF HERMISTON App: G11299 Permit: G10418																												
Select Permit:S 49497 *		1/19/1979	MUNICIPAL USES					*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	
Additional Info: SUSAN DAGGETT App: S58245 Permit: S49497																												

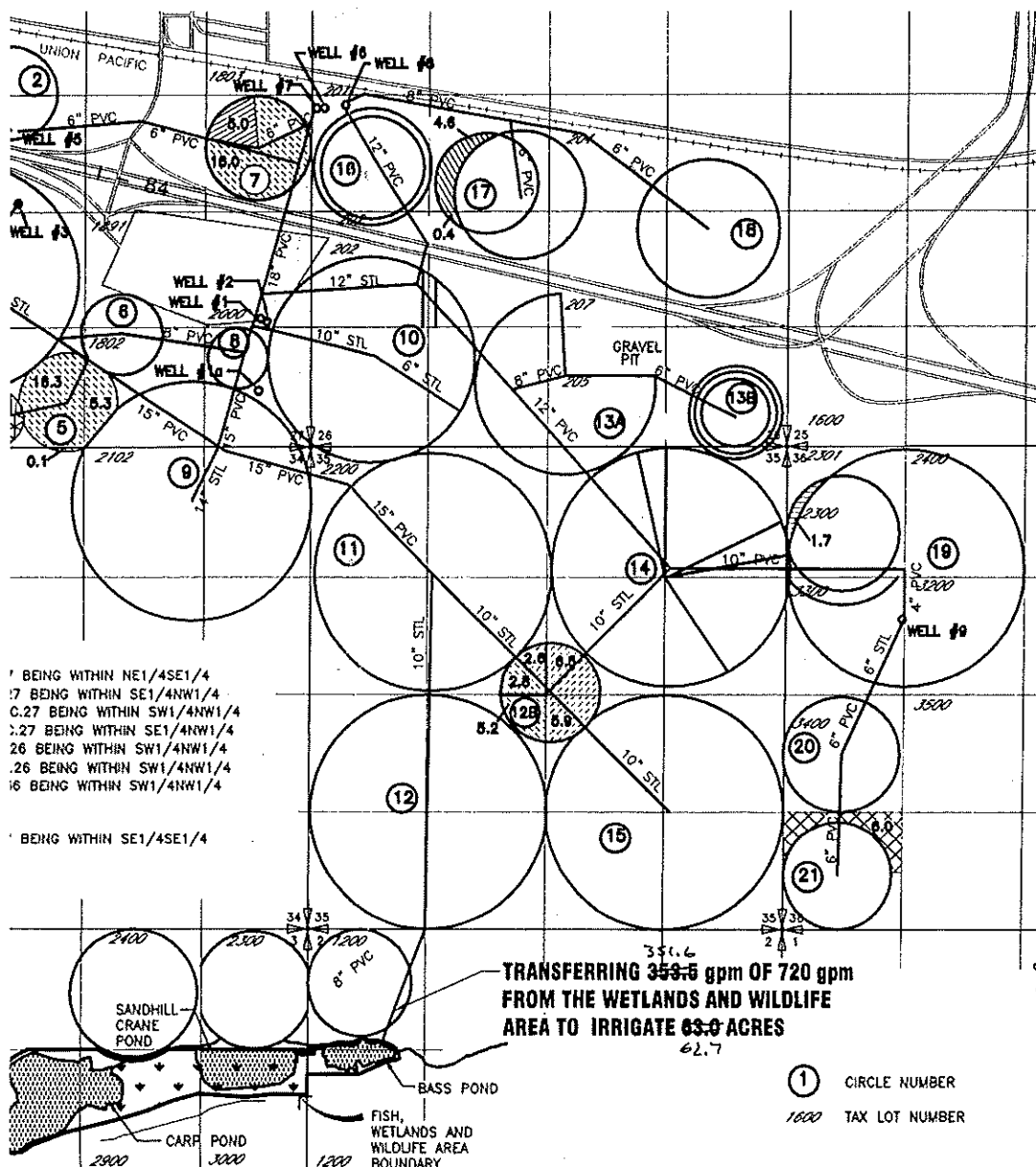
1 2 3

Acreage Legend: 12.25 Regular acreage ±2.25 Acreage is on a canceled right (12.25) Acreage is part of a transfer and has not been proven up on yet (inchoate) [12.25] Acreage has been suspended * Acreage is not specified

HANSELL BROTHERS INC.

ADDITIONAL POINT OF APPROPRIATION AMENDED TRANSFER T-9275 APPLICATION MAP 1 of 4 WATER RIGHTS

T. 4N., R.27E., W.M. UMATILLA COUNTY, OREGON



1 BEING WITHIN NE1/4SE1/4
17 BEING WITHIN SE1/4NW1/4
0.27 BEING WITHIN SW1/4NW1/4
2.27 BEING WITHIN SE1/4NW1/4
26 BEING WITHIN SW1/4NW1/4
26 BEING WITHIN SW1/4NW1/4
16 BEING WITHIN SW1/4NW1/4

1 BEING WITHIN SE1/4SE1/4

**TRANSFERRING 353.5 gpm OF 720 gpm
FROM THE WETLANDS AND WILDLIFE
AREA TO IRRIGATE 63.0 ACRES**

Changes made
with Mr. Porfily
approval on
May 19, 2004
JCL

① CIRCLE NUMBER
1600 TAX LOT NUMBER

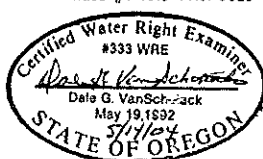
80596 TO
T-7497 CERT 79534 6.0 AC
S CERT 79530 80594
ELL #1a
WELL #9
105 CERT 74185 1.7 AC
5.0 AC

FROM 247.4
FISH WILDLIFE 489.3gpm
FISH WILDLIFE 84.2gpm
PRIMARY PERMIT NO. G-1671 & T-7498 CERT 80597
SUPPLEMENTAL G-3822 & T-7499 CERT 80595
WELL'S #1, #8 AND PROPOSED WELL #1a
PRIMARY PERMIT NO. G-1671 & T-7498 80597
WELL #1 AND PROPOSED WELL #1a

TO 47.7
48.0 AC
15.0 AC

1-10836 FOR SUPPLEMENTAL IRRIGATION

DATE LOCATION
INFORMATION
INDUARY LINES.



T-4152

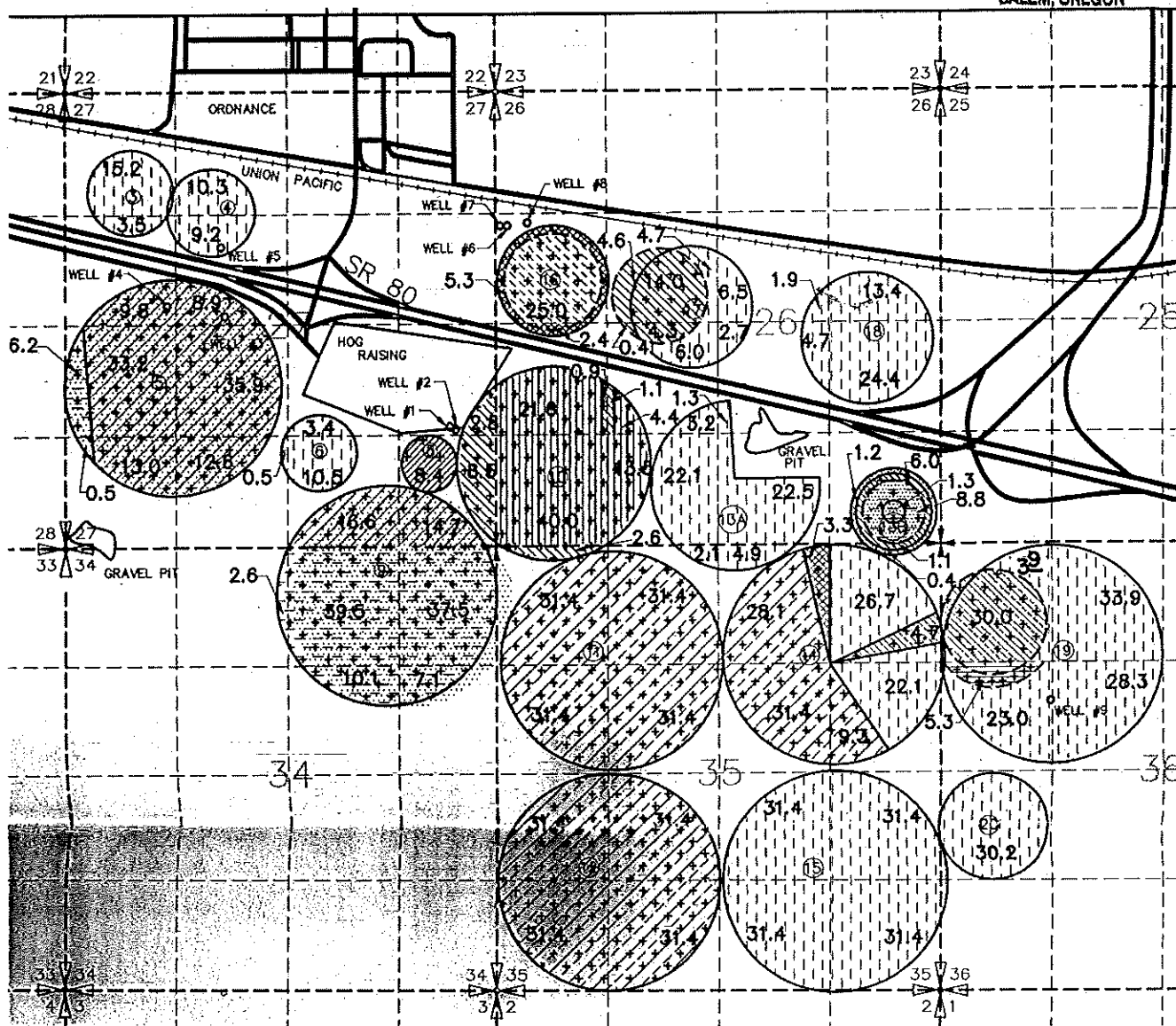
T. 4N., R.27E., W.M.

HANSELL BROTHERS INC. FINAL PROOF
AMENDED DECEMBER 11, 1996 and 2-4-97

RECEIVED

DEC 1-8 1996

WATER RESOURCES DEPT.
SALEM, OREGON



ELL 1 LOCATED 1420'N & 490'W FROM SE COR. SEC.27 BEING WITHIN NE $\frac{1}{4}$ SE $\frac{1}{4}$
ELL 2 LOCATED 1390'N & 430'W FROM SE COR. SEC.27 BEING WITHIN NE $\frac{1}{4}$ SE $\frac{1}{4}$
ELL 3 LOCATED 2740'N & 1890'E FROM SW COR. SEC.27 BEING WITHIN SE $\frac{1}{4}$ NW $\frac{1}{4}$
ELL 4 LOCATED 230'N & 1210'E FROM W $\frac{1}{4}$ COR. SEC.27 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$

WELL 5 LOCATED 980'N & 1850'E FROM W $\frac{1}{4}$ COR SEC.27 BEING WITHIN SE $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 6,7 LOCATED 1130'N & 60'E FROM W $\frac{1}{4}$ COR. SEC.26 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 8 LOCATED 1160'N & 370'E FROM W $\frac{1}{4}$ COR. SEC.26 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 9 LOCATED 1884'S & 1315'E FROM NW COR. SEC.36 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$

- | | | | |
|--|--|--|-------------------|
| | T-4152 | | PERMIT NO. G-2694 |
| | PERMIT NO. U-649 | | T-4928 |
| | PERMIT NO. G-3822
SUPPLEMENTAL & T-4929 | | PERMIT NO. G-2335 |
| | G-3822 PRIMARY | | T-4926 |
| | PERMIT NO. G-2672 | | PERMIT NO. G-1671 |
| | PERMIT NO. G-10505
SUPPLEMENTAL | | T-4927 |
| | PERMIT NO. G-10505 PRIMARY | | |

① CIRCLE NUMBER

31.4 IRRIGATED ACREAGE

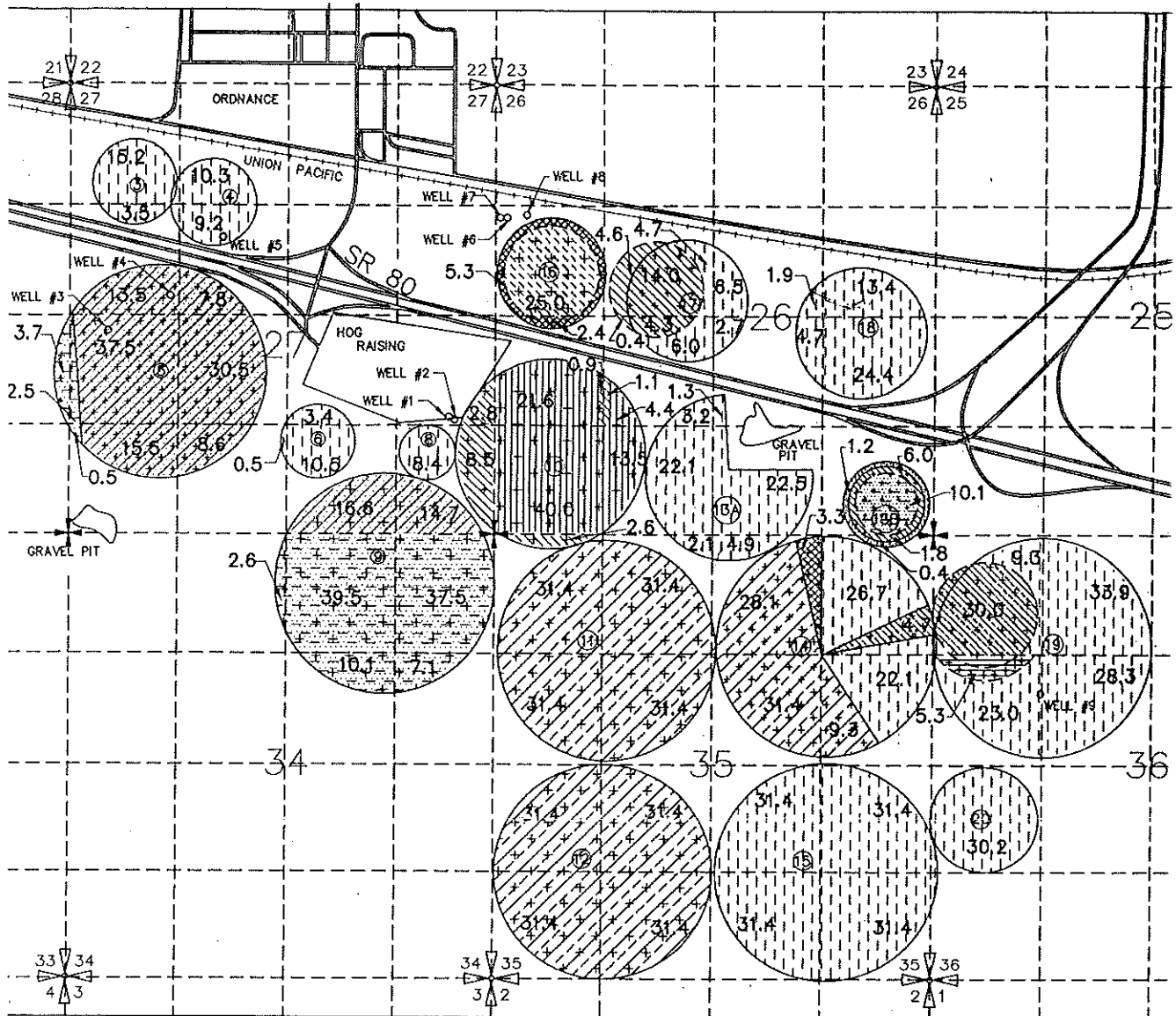


0' 1320' 2640'

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

3522.016
CHANCELLER
NOVEMBER 18, 1996

T. 4N., R.27E., W.M.
HANSELL BROTHERS INC. FINAL PROOF



WELL 1 LOCATED 1420'N & 490'W FROM SE COR. SEC.27 BEING WITHIN NE $\frac{1}{4}$ SE $\frac{1}{4}$
WELL 2 LOCATED 1390'N & 430'W FROM SE COR. SEC.27 BEING WITHIN NE $\frac{1}{4}$ SE $\frac{1}{4}$
WELL 3 LOCATED 2450'N & 460'E FROM SW COR. SEC.27 BEING WITHIN NW $\frac{1}{4}$ SW $\frac{1}{4}$
WELL 4 LOCATED 230'N & 1210'E FROM W $\frac{1}{4}$ COR. SEC.27 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$

WELL 5 LOCATED 950'N & 1850'E FROM W $\frac{1}{4}$ COR SEC.27 BEING WITHIN SE $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 6,7 LOCATED 1130'N & 60'E FROM W $\frac{1}{4}$ COR. SEC.26 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 8 LOCATED 1180'N & 370'E FROM W $\frac{1}{4}$ COR. SEC.26 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$
WELL 9 LOCATED 1884'S & 1315'E FROM NW COR. SEC.36 BEING WITHIN SW $\frac{1}{4}$ NW $\frac{1}{4}$

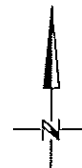
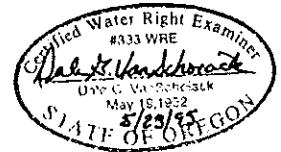
	T-4152		PERMIT NO. G-2694
	PERMIT NO. U-649 App'd. 11/73/6		T-4928
	PERMIT NO. G-3822 SUPPLEMENTAL		PERMIT NO. G-2335
	G-3822 PRIMARY		T-4926
	PERMIT NO. G-2672		PERMIT NO. G-1671
	PERMIT NO. G-10505 SUPPLEMENTAL		T-4927
	PERMIT NO. G-10505 PRIMARY		

① CIRCLE NUMBER
31.4 IRRIGATED ACREAGE

RECEIVED

MAY 30 1995

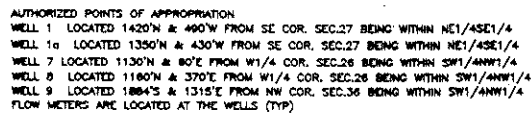
WATER RESOURCES DEPT.
SALEM, OREGON



0' 1320' 2640'

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

GOV # 0232



- ① CIRCLE NUMBER
1600 TAX LOT NUMBER

Downloaded by [193.50.135.202] at 12:22 23 July 2015



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-10427

Review Due Date: 8-10-2007

Applicant Name: Craig Colemab\

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

Reviewer(s): Tony Justus

Date of Review: 8-10-07

1. Do you have information suggesting that the water rights may be subject to forfeiture?
☐ Yes ☒ No If "Yes", describe the information and indicate if you intend to file a cancellation affidavit or if you need additional time to determine if a cancellation affidavit should be filed: _____
2. Is there a history of regulation on the source that serves the right proposed for transfer that has involved the right and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred: _____
3. Check here if it appears that downstream water rights benefit from return flows resulting from the current use of the right? ☐ If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most: _____
4. Are there upstream water rights that would be affected by the proposed change?
☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected: _____
5. For POD changes and instream transfers, check here if there are channel losses between the old and new PODs or within the proposed instream reach? ☐ If you check the box, describe and, if possible, estimate the losses: _____
6. Would distribution of water for the right after the proposed change result in regulation of other water rights that would not have occurred if use of the existing right was maximized?
☐ Yes ☒ No If "Yes", explain: _____
7. For POU changes, would the original place of use continue to receive water from the same source? ☐ Yes ☒ No ☐ N/A If "Yes", explain: _____
8. For POU or USE changes, would use of the existing right at "full face value," result in the diversion of more water than can be used beneficially and without waste? ☐ Yes ☒ No If "Yes", explain: _____
9. Are there other issues not identified through the above questions? ☒ Yes ☐ No If "Yes", explain: Use is being transferred from irrigation season to year around use. New well location should be NWNE based on description. Do not see well location on map. New well should be limited to same source as original well.

RECEIVED

AUG 15 2007

WATER RESOURCES DEPT
SALEM, OREGON

10. What alternatives may be available for addressing any issues identified above: Limit new use rate to 50 gpm and limit to a duty of 40.5 acre feet per year.
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.

RECEIVED**AUG 15 2007****WATER RESOURCES DEPT
SALEM, OREGON**



Oregon

Theodore R. Kulongoski, Governor

RA

Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

INTEROFFICE MEMO

FORWARD TO:



Sarah Henderson
FIELD PROCESSOR WORKING ON THIS TRANSFER

DATE:

7-13-07

FROM:

X WATERMASTER, DISTRICT # _____
GROUNDWATER SECTION

(SIGNATURE)

Dawn Miller

date signed

8/15/07

signed by injury reviewer

SUBJECT: WATER RIGHT TRANSFER #

10427

A change in:

POU

POD

POA

USE

of water.

In the name(s) of

Craig Coleman

In my opinion (assuming the right is valid), the proposed change

MAY BE MADE WITHOUT INJURY
right. Dawn

WOULD RESULT IN INJURY* to an existing water

*The approval of this transfer application would result in injury to other water rights because

The existing right may not be valid because

Headgate notices HAVE HAVE NOT Been issued for diversion from the source(s) which serve(s) this right.

If for change in point of diversion, is there any intervening point(s) for diversion between the authorized and proposed points of diversion? (Yes or No) _____

In my opinion, the order approving the subject transfer application should include the following in regard to the appropriator installing suitable measuring devices in the diversion works:

_____ (1) PRIOR to the diverting of water at the new point of diversion . . .

_____ (2) WHEN IN the judgement of the watermaster it becomes necessary . . .

The enclosed copy of the transfer application and map(s) is for your records.

wmtrans.frm

STATE OF OREGON
Water Resources Department
725 Summer St. N.E., Ste. A
Salem, OR 97301

MEMORANDUM

DATE: 8/15/07

TO: File T-10427
FROM: Donn Miller, Hydrogeologist (503.986.0845)
SUBJECT: File T-10427, Coleman

The transfer seeks to change the POA and the character of use for a portion of Certificate 80913.

The setting is the Ordinance Basalt Critical Ground Water Area of Umatilla County. Well #9 (T4N/R27E-S36) is identified as a shallow basalt aquifer well in the critical area order and OWRD Ground Water Report #23. The proposed well (T4N/R27E-S25) would need to draw from the same source.

The shallow basalt aquifer is discussed in the report. It says that the shallow zones in the basalt formation above a general depth of 400 feet are hydraulically separated from the deep basalt zones but are at least partly hydraulically connected to the shallow gravel aquifer system. The application supposes that a well at the proposed location will intercept the shallow basalt aquifer. The proposed well construction will be 300 feet total depth and cased/sealed to 150 feet. That construction looks appropriate to develop the shallow basalt aquifer.

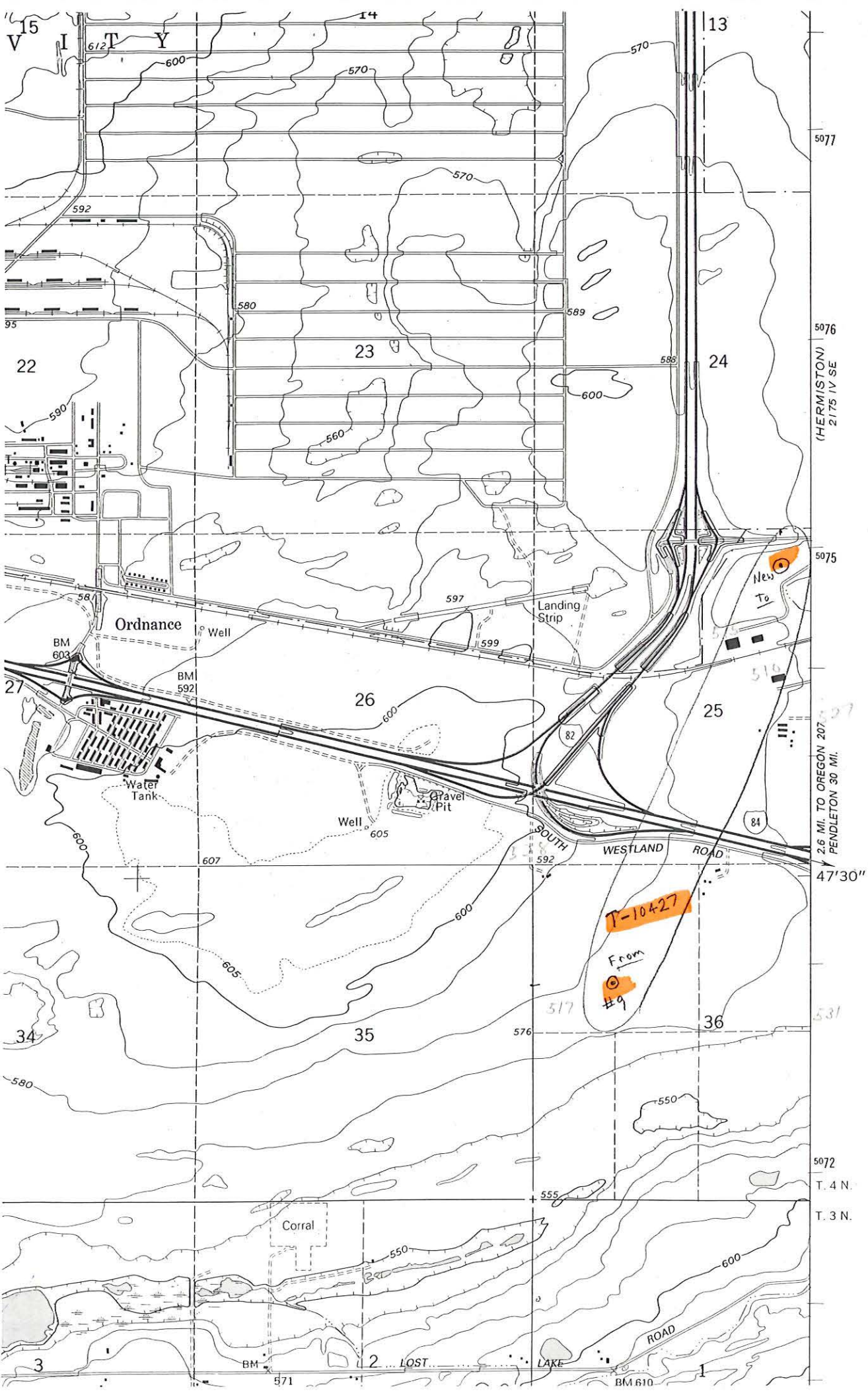
Well #9 was built in 1952 and is poorly documented by UMAT 1806. The casing depth, sealing depth, and perforation intervals are all missing. Data in file U-736 says that the casing is 12 inch diameter to 105 feet. There is nothing to say that the casing is perforated. OWRD has presumed that the well develops water from the basalt aquifer in the interval from 105 to 135 feet and not the sand and gravel aquifer from 0 to 95 feet. The static water level was originally 55 feet below land surface. The land surface elevation at the well is 575 feet amsl. The head was 520 feet above msl. Measurements in the 80's and 90's have been about 58 feet below land surface with a head of about 517 feet above msl.

A number of wells in this area develop a/the shallow basalt aquifer. The use is typically exempt from permitting and the heads are similar to that of well #9. The stated connection to the shallow gravel aquifer system is reasonable as the deep basalt aquifer in Ordinance has a head of about 300 feet above msl and the gravel aquifer has a head of about 500 feet above msl. The strength of connection among shallow basalt wells is not clear.

My critical area monitoring at this well has been weak. I am not able to confirm the breadth of use from the well over the last 15 years.

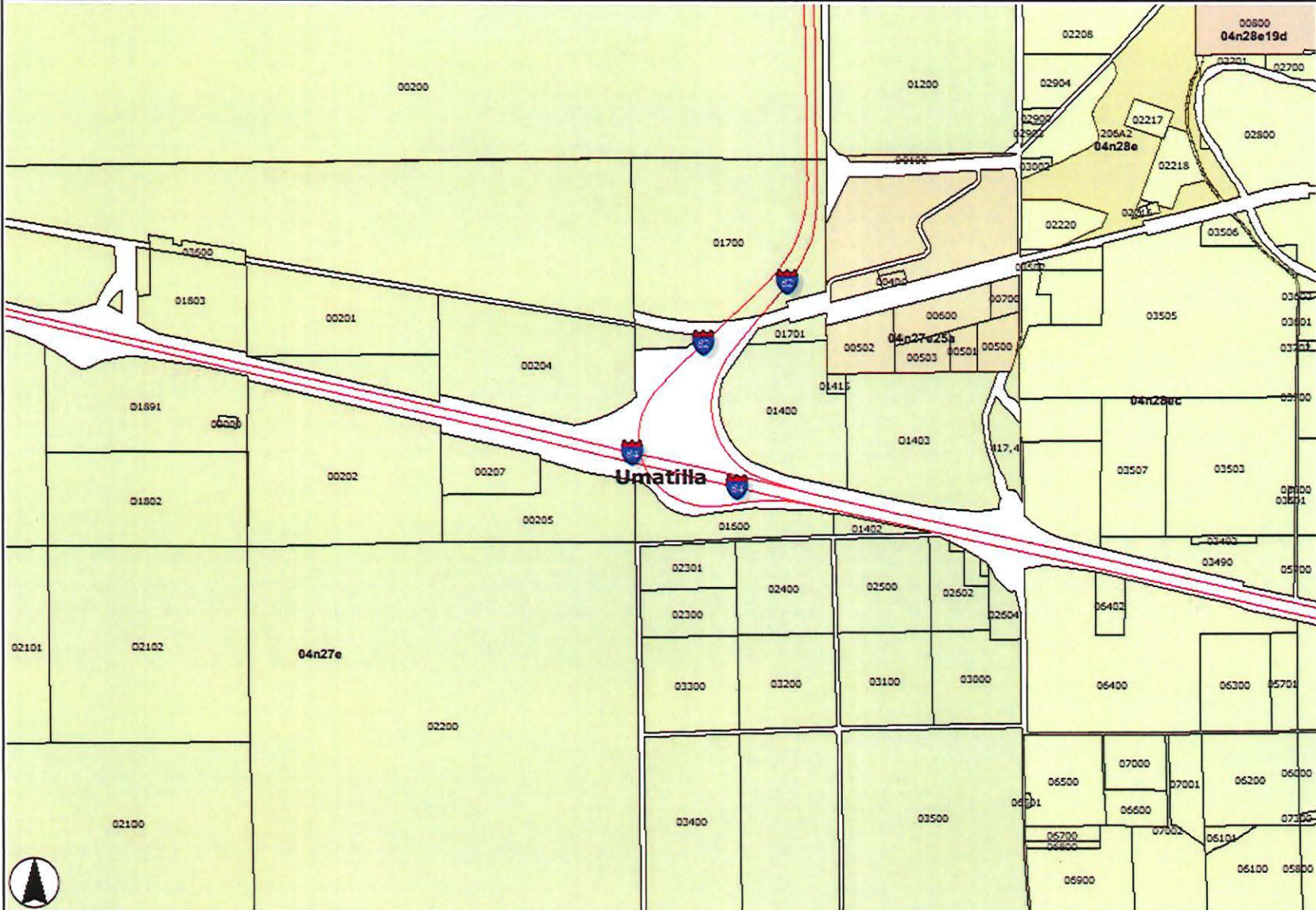
It appears from the information that the proposed well will be several hundred feet from offsite wells. This spacing will help to reduce any hydraulic interference.

It appears that the layered coverage of the "from" acreage by C82596 (supplemental irrigation with artificial recharge water) is unresolved by this application.





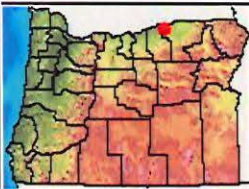
ORMAP



Legend

-  Counties
 Taxlots
 Highways
 Maps
 03n28e
 04n27e
 04n27e25a
 04n28e
 04n28e19d
 04n28ec

Overview



Disclaimer

FOR ASSESSMENT PURPOSES ONLY.
DO NOT RELY ON FOR ANY OTHER USE

RECEIVED

JAN 24 1955

STATE ENGINEER
SALEM, OREGON

UMAT
1806

4N/27-36E (1)

Umatilla

G.W. Redwine

Application No. U 736

Permit No. U 649

Well No. 1

REPORT ON COMPLETION OF WELL

(Note: This report should be submitted to the State Engineer, Salem, Oregon, as soon as possible after the well is completed. If more than one well is covered by this permit, a separate report shall be filed for each)

Date of Report JAN 21, 1955

- Location of well: SW 1/4 of NW 1/4 of Section 36 Twp. 4N Rge. 27E, W. M.
- Name of nearest natural surface stream Umatilla River
- Distance from well to that stream: approx 3 Miles feet.
- If the well is less than 1300 feet from a natural surface stream, give the difference in elevation between the ground surface at the well and the lowest point in stream channel: approx 3 Miles feet.
- Date of beginning drilling or digging: August 16, 1952
- Date well was completed September 8, 1952

7. LOG OF MATERIALS ENCOUNTERED

Character of Material	Depth at which encountered	Thickness of stratum
Sandy loam Top Soil	At surface	20 ft.
Sand & Gravel	20 ft.	30 ft.
Gravel	30 ft.	65 ft.
Gray Clay	90 ft.	10 ft.
Gray Rock	105 ft.	30 ft.
Blue clay & shale	135 ft.	59 ft.
	ft.	ft.
	ft.	ft.
	ft.	ft.

Remarks:

WELL INFORMATION

- Diameter of well 12 inches. Depth of well 194 feet.
- Depth at which water was first encountered 55 feet.
- Water level when completed: 55 feet below ground surface.
- Additional information regarding well; such as soil conditions, quick sand, caves, obstructions, rock, etc.: Gravel had tendency to cave from 60' to 95' where Gray Clay was first found.

based on this, the well is likely cased to at least 95'

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JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

→ Inspection Info: 105' of 12" casing in file SWL 70' on 3/1/56

State Well No. 4N/27-36D(1)

County Unifillo

Application No. CAN 681

Water Level Record

OWNER: G.W. Redwine OWNER'S NO. _____

Description of measuring point: Owner's Air line & Gauge at L.S.D.
Air line (165 feet Deep)

[illegible]

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JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

T. 4N., R. 27E. 77.64 acres top 9
Swl measured July 8, 1957 was 12" casing which was 1.0 ft above d. s.

RECEIVED
JAN 24 1955

STATE ENGINEER
SALEM, OREGON

PUMP INFORMATION

12. Manufacturer of pump: Berkeley Pump Co
 13. Address: Berkeley, California
 14. Data on name or base plate: Model 803-L-9 Serial # 5410115
1750 RPM - 15 H.P.
 15. Data on pump bowl assembly: 803-L - deep Diameter 6 1/2 x 6"
9 Stages
 16. Size of pump: 15 H.P.
 17. Rated capacity: 225 g.p.m. gallons per minute.
 18. Rated speed: 1750 revolutions per minute.
 19. Number of stages: 9
 20. Size of intake pipe: 5"
 21. Size of discharge pipe: 5"
 22. Length of intake pipe: 5'5"
 23. Length of discharge pipe: 140'
 24. Suction lift: (difference in elevation between water surface in well and pump) Deep Well Turbine - P.W. 140'
 25. Discharge lift: (difference in elevation between pump and end of discharge line) 140'
 26. Depth of pump intake below ground surface: 170' feet.
 27. Remarks:

MOTOR OR ENGINE INFORMATION

28. Name of manufacturer: U.S. Motors
 29. Address: Los Angeles Calif.
 30. Type of motor or engine: Electric
 31. Data on name or base plate: 15 H.P. - 3 Ph. - 220-440 volts -
Frame 326-3 - Serial # 961412 - 60 cycle
1800-RPM - 20-40 Amps. 40°C Rating
F Code B Design
 32. Rated horsepower: 15
 33. Rated speed of motor or engine: 1800 revolutions per minute.
 34. Rated Capacity of Pump
 (with described motor)
- | |
|--|
| <u>225</u> g.p.m. at <u>320</u> ft. head |
| _____ g.p.m. at _____ ft. head |
| _____ g.p.m. at _____ ft. head |
| _____ g.p.m. at _____ ft. head |
| _____ g.p.m. at _____ ft. head |
35. Remarks:

RECEIVED

JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

**STATE ENGINEER
SALEM, OREGON**

36. Date of test: 12/12/53 37. Temperature of water °F. or °C.
38. Motor speed during test: Varied
39. Test made by (weir, tank or other means): Deep well turbine w/c

[illegible]

- * Distance from ground level to water surface in well.
- Distance water level is lowered during time interval.
- + Hour and minute at which observation was made.

42. Water is discharged into: 1" Steel Main from Pump

44. Remarks: *See Remarks*

45. Name of contractor or other party who drilled or dug well: B + G Drilling Co. Address: Pendleton, Oregon
46. Pump and motor were installed by: Carroll Equipment Co
Address: Pendleton, Oregon
47. Capacity test was made by: Carroll Equip. Co
Address: Pendleton, Oregon
48. General remarks:

JUL 02 2007

NOTICE TO WATER WELL CONTRACTOR
The original and first copy
of this report are to be
filed with the
STATE ENGINEER, SALEM 10, OREGON,
within 30 days from the date
of well completion.

RECEIVED

MAR 8 1966

WATER WELL REPORT

STATE ENGINEER

STATE OF OREGON

(Please type or print)

UMAT
1558

Present
Interchange
Location

4N/27-25N

State Well No.

State Permit No.

(1) OWNER:

Name Mrs. Lyle Miller

Address 31185 Tualatin Valley Highway
Hillsboro, Oregon

(2) LOCATION OF WELL:

County Umatilla Driller's well number

1/4 1/4 Section 25 T. 4 N R. 27E W.M.

Bearing and distance from section or subdivision corner

(3) TYPE OF WORK (check):

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

(4) PROPOSED USE (check):

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

(5) TYPE OF WELL:

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

(6) CASING INSTALLED:

Threaded ☐ Welded ☒

12" Diam. from 0 ft. to 121 ft. Gage standard
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

(7) PERFORATIONS:

Perforated? ☐ Yes ☒ No

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(8) SCREENS:

Well screen installed ☐ Yes ☒ No

Manufacturer's Name

Model No.

Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(9) CONSTRUCTION:

Well seal—Material used in seal Bentonite & puddled clay

Depth of seal 25 ft. Was a packer used? no

Diameter of well bore to bottom of seal 16 in.

Were any loose strata cemented off? ☐ Yes ☐ No Depth

Was a drive shoe used? ☒ Yes ☐ No

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

Gravel placed from ft. to ft.

Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? Depth of strata

Method of sealing strata off

(10) WATER LEVELS:

Static level 62 ft. below land surface Date 2/10/66

Artesian pressure lbs. per square inch Date

(11) WELL TESTS:

Drawdown is amount water level is

lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.

" " " "

" " " "

Ballor test 30 gal./min. with 33 ft. drawdown after 2 hrs.

Artesian flow g.p.m. Date

Temperature of water Was a chemical analysis made? ☐ Yes ☒ No

(12) WELL LOG:

Diameter of well below casing 12

Depth drilled 145 ft. Depth of completed well 145 ft.

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

MATERIAL	FROM	TO
Sandy soil	0	3
Sand gravel & boulders	3	5
Sand gravel & hard clay	5	20
Sand gravel some clay, cavey	20	65
Grey clay & silt	65	80
Sandy silt (some Water)	80	110
Brown clay	110	115
Broken brown rock some clay	115	125
Black basalt (water bearing)	125	143
Grey basalt	143	145

Work started 1/10/66 19 Completed 2/10/66 19

Date well drilling machine moved off of well 2/12/66 19

(13) PUMP:

Manufacturer's Name

Type: H.P.

Water Well Contractor's Certification:

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

NAME D. K. Smith

(Person, firm or corporation)

(Type or print)

Address P.O. Box 179

Drilling Machine Operator's License No. 121

[Signed] D. K. Smith (Water Well Contractor)

Contractor's License No. 121 Date 2/8/66 19

LSE ~ 590'

NOTICE TO WATER WELL CONTRACTOR

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

RECEIVED
JAN 13 1972

WATER WELL REPORT
STATE OF OREGON

RECEIVED
MAR 2 - 1972

State Well No. 4N/27-25

STATE ENGINEER, SALEM, OREGON 97310

within 30 days from the date of well completion.

STATE ENGINEER
SALEM, OREGON

(Please type or print)
Do not write above this line

STATE ENGINEER
SALEM, OREGON

UMAT
1554

(1) OWNER:

Name Lamb Weston Well Box 408
Address Port of Umatilla
John H. Brouse, manager

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☒ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☒
18" Diam. from 0 ft. to 88 ft. Gage 375
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

PERFORATIONS:

Perforated? ☐ Yes ☒ No

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name

Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.
" " " " " "

Baller test 20 gal./min. with 67 ft. drawdown after 16 hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used Bentonite
Well sealed from land surface to 18 ft.

Diameter of well bore to bottom of seal 24 in.

Diameter of well bore below seal 18 in.

Number of sacks of cement used in well seal sacks

Number of sacks of bentonite used in well seal 4 sacks

Brand name of bentonite National

Number of pounds of bentonite per 100 gallons of water 2.5 lbs./100 gals.

Was a drive shoe used? ☒ Yes ☐ No Plugs Size: location ft.

Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

Gravel placed from ft. to ft.

(10) LOCATION OF WELL:

County Umatilla Driller's well number
1/4 1/4 Section 25 T. 4N R. 20E W.M.

Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 70 ft.

Static level 40 ft. below land surface. Date 12-22-71

Artesian pressure head 535 lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 15 1/2

Depth drilled 102 ft. Depth of completed well 117 ft.

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Boulders & gravel with clay	15	50	
Clay yellow	50	70	
sand & gravel	70	74	
clay yellow	74	87	
broken rock black	87	112	
rock hard grey	112	117	

Work started 12-10 1971 Completed 12-22 1971

Date well drilling machine moved off of well 12-23 1971

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.

[Signed] R. B. Allison Date 1-11 1972
(Drilling Machine Operator)

Drilling Machine Operator's License No. 300

Water Well Contractor's Certification:

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

Name Allison Drilling Co. 87838
(Person, firm or corporation) (Type or print)

Address R2 Box 309C Hermiston Ore

[Signed] R. B. Allison
(Water Well Contractor)

Contractor's License No. 419 Date 1-11 1972

NOTICE TO WATER WELL CONTRACTOR

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

RECEIVED
JAN 4 - 1972

WATER WELL REPORT

UMAT
1955

STATE ENGINEER, SALEM, OREGON 97310

within 30 days from the date of well completion.

STATE ENGINEER
SALEM, OREGON

(Please type or print)

(Do not write above this line)

State Well No.

State Permit No.

LSE-580

(1) OWNER:

Name Lamb Weston IncAddress 6600 S.W. Hampton StreetP.O. Box 23507, Portland, Ore. 97223

(2) TYPE OF WORK (check):

New Well ☐ Deepening ☒ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☒18" Diam. from 0.0 ft. to 104 ft. Gage 500018" Diam. from 104 ft. to 104 ft. Gage 104

(10) LOCATION OF WELL:

County UmatillaDriller's well number 31N.W. 1/4 NE 1/4 Section 25 T. 4N R. 27E. W.M.

Bearing and distance from section or subdivision corner

775' East of 100' South of NW cornerof NE 1/4 of Sec. 25.at NE 1/4 of Sec. 25.

(11) WATER LEVEL: Completed well.

Depth at which water was first found 65.0 ft.Static level 63.0 ft. below land surface. Date 11/29/71Artesian pressure NONE lbs. per square inch. Date 11/29/71

(12) WELL LOG:

Diameter of well below casing 18"Depth drilled 64.0 ft. Depth of completed well 119.0 ft.

Formation: Describe color, texture, grain size and structure of materials;

and show thickness and nature of each stratum and aquifer penetrated;

with at least one entry for each change of formation. Report each change in

position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Boulder & cemented gravel	55.0	58.0	
Gravel			
Yellow clay & gravel	58.0	85.0	65.0
Mixed			
Yellow clay	85.0	100.0	63.0
Sand & gravel	100.0	104.0	63.0
Broken, black course	104.0	119.0	65.0
has a rock			
Note:			
After drilling to 119.0 hole was			
backfilled back to 104.0 1/2 gravel			
20' length 16" x 250 well pre-perforated			
casing was installed pulled 28"			
Casing back from 104.0 to 92.0			
Glenn Maddox performed pump test			
No water production.			
Water tight 1/4" plate welded			
on top of 18" casing.			
Temperatures abandoned.			

Work started Nov. 24 19 71 Completed Dec. 9 19 71Date well drilling machine moved off of well Dec. 10 19 71

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.

Materials used and information reported above are true to my

best knowledge and belief.

[Signed] R. H. Collins Date 12-29, 19 71

(Drilling Machine Operator)

Drilling Machine Operator's License No. 300

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is

true to the best of my knowledge and belief.

Name B. B. Drilling Co. Glenn Maddox agent

(Person, firm or corporation) (Type or print)

Address 1316 Grape Street, Sweet Home, Ore.[Signed] John L. Brown Date 12-29, 19 71

(Water Well Contractor)

Contractor's License No. 516 Date Dec. 29, 19 71

NOTICE TO WATER WELL CONTRACTOR
The original and first copy
of this report are to be
filed with the

RECEIVED

MAY 4 - 1972

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

STATE ENGINEER
SALEM OREGON

STATE OF OREGON
(Please type or print)

(Do not write above this line)

State Well No.

4N/27-25

State Permit No.

(1) OWNER:

Name Eastern Oregon Farming Co. Inc.
Address 220 Crown Plaza
Portland, Ore.

(2) TYPE OF WORK (check):

New Well ☐ Deepening ☐ Reconditioning ☒ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☐

" Diam. from none ft. to none ft. Gage none
" Diam. from none ft. to none ft. Gage none
" Diam. from none ft. to none ft. Gage none

(6) PERFORATIONS:

Perforated? ☒ Yes ☐ No.

Type of perforator used Miss. Knife
Size of perforations 1/2 in. by 3 in.
120 perforations from 70 ft. to 80 ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?
Yield: gal./min. with ft. drawdown after hrs.

Bailer test 100 gal./min. with 10 ft. drawdown after 24 hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used none
Well sealed from land surface to ft.
Diameter of well bore to bottom of seal in.
Diameter of well bore below seal in.
Number of sacks of cement used in well seal sacks
Number of sacks of bentonite used in well seal sacks
Brand name of bentonite
Number of pounds of bentonite per 100 gallons
of water lbs./100 gals.
Was a drive shoe used? ☐ Yes ☒ No Plugs Size: location ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? depth of strata
Method of sealing strata off
Was well gravel packed? ☐ Yes ☒ No Size of gravel:
Gravel placed from ft. to ft.

(10) LOCATION OF WELL:

County Umatilla Driller's well number
1/4 1/4 Section 25 T. 4N R. 27E W.M.
Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found ft.
Static level 34 ft. below land surface. Date 4-25
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing

Depth drilled ft. Depth of completed well ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
This is a well hole deepened for Lamb-Weston from 15 ft to 117 - Dec 10-71 Dec 21-71 all I done on it now was perforated it - Auger it & cleaned it up.			
SEE UMAT 1554			

Work started 4-25 1972 Completed 5-1 1972
Date well drilling machine moved off of well 5-2 1972

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] R. K. Allison Date 5-2 1972
(Drilling Machine Operator)

Drilling Machine Operator's License No. 300

Water Well Contractor's Certification:

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

Name Allison Reg. Co.
(Person, firm or corporation) (Type or print)
Address R2 Box 309, Clatskanie, Ore.
[Signed] R. K. Allison
(Water Well Contractor)

Contractor's License No. 419 Date 5-2 1972

NOTICE TO WATER WELL CONTRACTOR
The original and first copy
of this report are to be
filed with the

STATE ENGINEER, SALEM, OREGON 97310
within 30 days from the date
of well completion.

WATER WELL REPORT

STATE OF OREGON
(Please type or print)

(Do not write above this line)

RECEIVED

MAR 18 1974

STATE ENGINEER
SALEM, OREGON

State Well No.

State Permit No.

4N/27E-25

(1) OWNER:

Name E.T. Johnson
Address R.T. 1 Box 232
Hermiton

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☒
16" Diam. from 3 ft. to 33 ft. Gage 250
10" Diam. from 33 ft. to 58'10" ft. Gage
8" Diam. from 58'10" ft. to 58'10" ft. Gage

PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☒ Yes ☐ No

Manufacturer's Name Johnson
Type Low capacity Model No.
Diam. 10 Slot size 50 Set from 58'10" to 58'10" ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level

Was a pump test made? ☒ Yes ☐ No If yes, by whom?

Yield: 300 gal./min. with 60 ft. drawdown after 60 hrs.

Ball test gal./min. with ft. drawdown after hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used cement
Well sealed from land surface to 20' ft.
Diameter of well bore to bottom of seal 18 in.
Diameter of well bore below seal 16 in.
Number of sacks of cement used in well seal 8 sacks
Number of sacks of bentonite used in well seal sacks
Brand name of bentonite
Number of pounds of bentonite per 100 gallons of water lbs./100 gals.
Was a drive shoe used? ☒ Yes ☐ No Plugs Size: location ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of water? Good depth of strata 30'
Method of sealing strata off
Was well gravel packed? ☒ Yes ☐ No Size of gravel: 1/2 to 1/4
Gravel placed from 52 ft. to 58'10" ft.

(10) LOCATION OF WELL:

County WMA Driller's well number 352
SE 1/4 1/4 Section 25 T. 4N R. 27 W.M.
Bearing and distance from section or subdivision corner 12' from
old well LS-560'

(11) WATER LEVEL: Completed well.

Depth at which water was first found 60 ft.
Static level 30 ft. below land surface. Date June 28
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 10

Depth drilled 16 ft. Depth of completed well 68'10"

Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Gravel <u>Sand</u>	<u>0</u>	<u>8</u>	
<u>Cemented</u>	<u>8</u>	<u>12</u>	
<u>Sand & gravel</u>	<u>12</u>	<u>30</u>	
<u>Gravel</u>	<u>30</u>	<u>40</u>	
<u>Yellow clay</u>	<u>40</u>	<u>60</u>	
Gravel <u>Gravel</u>	<u>60</u>	<u>76</u>	<u>30</u>
<u>Yellow white</u>	<u>76</u>	<u>88'10"</u>	<u>30</u>
<u>Rock</u>	<u>88'10"</u>	<u>80</u>	

Work started June 28 Completed Aug 30 19 73
Date well drilling machine moved off of well Station 19 73

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.

[Signed] J. B. Frederick Date Sept 19 19 73
(Drilling Machine Operator)

Drilling Machine Operator's License No. 352

Water Well Contractor's Certification:

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

Name JOHN R. EDWARDS
(Person, firm or corporation) (Type or print)

Address LEXINGTON ORE

[Signed] John R Edwards
(Water Well Contractor)

Contractor's License No. 479 Date 3-12, 19 74

NOTICE TO WATER WELL CONTRACTOR

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

STATE ENGINEER, SALEM, OREGON 97310
within 30 days from the date
of well completion.

WATER WELL REPORT

STATE OF OREGON

(Please type or print)

(Do not write above this line)

RECEIVED

MAY 29 1975

State Well No.

4N/27E-25

STATE ENGINEER
SALEM, OREGON

State Permit No.

(1) OWNER:

Name Eastern Oregon Farming Co.

Address P. O. Box A Irrigan, Ora.

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☒

" Diam. from 20 0 ft. to 20 ft. Gage 250

" Diam. from ft. to ft. Gage

" Diam. from ft. to ft. Gage

PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used

Size of perforations in. by in.

perforations from ft. to ft.

perforations from ft. to ft.

perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name

Type Model No.

Diam. Slot size Set from ft. to ft.

Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static levelWas a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.

" " " "

" " " "

Ballor test 30 gal./min. with 100 ft. drawdown after 2 hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used cement

Well sealed from land surface to 20 ft.

Diameter of well bore to bottom of seal 10 in.

Diameter of well bore below seal 6 in.

Number of sacks of cement used in well seal 3 sacks

Number of sacks of bentonite used in well seal sacks

Brand name of bentonite

Number of pounds of bentonite per 100 gallons

of water lbs./100 gals.

Was a drive shoe used? ☒ Yes ☐ No Plugs Size: location ft.Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

Gravel placed from ft. to ft.

(10) LOCATION OF WELL:

County Umatilla Driller's well number

1/4 1/4 Section 25 T. 4N R. 27E W.M.

Bearing and distance from section or subdivision corner

LSE ~ 570'

(11) WATER LEVEL: Completed well.

Depth at which water was first found 150 ft.

Static level 60 ft. below land surface. Date 5-10-75

Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 6

Depth drilled 212 ft. Depth of completed well 212 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
surface sand brown	0	5	
boulders & gravel	5	15	
boulders with gravel & clay	15	50	
clay yellow	50	70	
sand & gravel	70	74	
clay yellow	74	86	
rock black mod.	86	112	
rock grey hard	112	130	
rock soft with clay	130	170	60
rock grey hard	170	212	60

Work started 5-6 19 75 Completed 5-10 19 75

Date well drilling machine moved off of well 5-10 19 75

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] R. L. Allison Date 5-12, 1975

(Drilling Machine Operator)

300

Drilling Machine Operator's License No.

Water Well Contractor's Certification:

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

Name Allison Drilling Co.

(Person, firm or corporation)

(Type or print)

Address R. 2 Box 309-0 Hermiston, Ora. 97838

[Signed] R. L. Allison

(Water Well Contractor)

Contractor's License No. 419 Date 5-12, 19 75

(USE ADDITIONAL SHEETS IF NECESSARY)

BP*45050-110

NOTICE TO WATER WELL CONTRACTOR
The original and first copy of this report
are to be filed with the

WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310
within 30 days from the date
of well completion.

WATER WELL REPORT
JUL 24 1978
WATER RESOURCES DEPT.
SALEM, OREGON
(Do not write above this line)

State Well No. 4N/2E-25ad
State Permit No.

JUN 5 1978

(1) OWNER:

Name Rogers Bounds
Address P.O. Box 148
Hermiton Oregon 97838

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

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

(4) PROPOSED USE (check):

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

CASING INSTALLED:

Threaded ☐ Welded ☒
6" Diam. from 0 ft. to 97 ft. Gage 250
" Diam. from ft. to ft. Gage
" Diam. from ft. to ft. Gage

PERFORATIONS:

Perforated? ☐ Yes ☒ No.

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name
Type Model No.
Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static level

Was a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.

" " " "

" " " "

Well test 30 gal./min. with 40 ft. drawdown after 1 hrs.

Artesian flow g.p.m.

Temperature of water Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used Cement
Well sealed from land surface to 97 ft.
Diameter of well bore to bottom of seal 18 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 10 sacks
How was cement grout placed?

Was a drive shoe used? ☒ Yes ☐ No Plugs Size: location ft.

Did any strata contain unusable water? ☐ Yes ☒ No

Type of water? depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

Placed from ft. to ft.

(10) LOCATION OF WELL:

County Umatilla Driller's well number
SE 1/4 NE 1/4 Section 25 T. 47N. R. 27E. W.M.
Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 37 ft.
Static level 85 ft. below land surface. Date 5-31-78
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 6"

Depth drilled 150 ft. Depth of completed well 150 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Topsoil	0	3	
Sand, gray	3	9	
Gravel	9	24	
Gravel & claystone	24	37	
Claystone, yellow	37	63	
Sand, yellow, water bearing	63	87	
Rock, light brown	87	115	W.B.
Rock, med. black & claystone	115	150	W.B.

Work started 5-30 1978 Completed 5-31 1978

Date well drilling machine moved off of well 5-31 1978

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

[Signed] James T. Litch Date 5-31, 1978
(Drilling Machine Operator)

Drilling Machine Operator's License No. 665

Water Well Contractor's Certification:

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

Name TROY GRIFFIN
(Person, firm or corporation) (Type or print)

Address 900 HERMISTON AVE HERMISTON ORE

[Signed] Troy Griffin
(Water Well Contractor)

Contractor's License No. 65 Date 5-31, 1978

RECEIVED
SEP 28 1957
STATE ENGINEER
SALEM, OREGON

Equipment for all size wells.

Charter Member of the National Water Well Association

A. M. Edwards

Welldriller and Contractor

Lexington, Oregon

#(1) ?? wsb.
4N/27-24K(1)

Re: App. G. 111

Permit No. G. 73

Re.

Webb

Finished Drilling August 4, 1957

12" Well Log

Top Soil and Sand

Loose sand and gravel

Hard cement gravel from 38 to 63

Fine gravel with some mixed with clay

Coarse gravel and water very clear

Then sediment and clay

Bed rock at 88' casing

set in bed rock at 90'

Brown lava (lava)

thin yellow lava down 20 ft.

Water to bottom - depth of well

Static water level 68' 2 1/2"

Well hasn't been pumped, tested

An estimate has been made of 800 G.P.M.

Driller, A. M. Edwards

WATER WELL REPORT
STATE OF OREGON

UMAT
1549

RECEIVED

JUL 30 1984

State Well No.

4W/27E-25da

State Permit No.

WATER RESOURCES DEPT
SALEM, OREGON

(1) OWNER:

Name MT Takoma Leasing
Address PO Box 99307
City Tacoma State Wa

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary Air ☒ Driven ☐
Rotary Mud ☐ Dug ☐
☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☒ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐
Thermal: ☐ Withdrawal ☐ Reinjection ☐

(5) CASING INSTALLED:

Steel ☒ Plastic ☐
Threaded ☐ Welded ☒
"Diam. from +1 ft. to -101 ft. Gauge 250
"Diam. from ft. to ft. Gauge

(6) LINER INSTALLED:

"Diam. from -3 ft. to 443 ft. Gauge Sch 40

(6) PERFORATIONS:

Perforated? ☒ Yes ☐ No
Type of perforator used 5111 Saw
Size of perforations 1/8 in. by 7 in.
80 perforations from 323 ft. to 343 ft.
80 perforations from 403 ft. to 423 ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No
Manufacturer's Name
Type Model No.
Diam. Slot Size Set from ft. to ft.
Diam. Slot Size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is lowered below static level
Was a pump test made? ☐ Yes ☒ No If yes, by whom?
gal./min. with ft. drawdown after hrs.
Air test 55 gal./min. with drill stem at 443 ft. 2 hrs.
Bailer test gal./min. with ft. drawdown after hrs.
Artesian flow g.p.m.
Temperature of water 57° Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Special standards: Yes ☐ No ☒
Well seal—Material used Cement
Well sealed from land surface to 21 ft.
Diameter of well bore to bottom of seal 10 in.
Diameter of well bore below seal 6 in.
Number of sacks of cement used in well seal 13 sacks
How was cement grout placed? Remained
Was pump installed? Type HP Depth ft.
Was a drive shoe used? ☒ Yes ☐ No Plugs Size: location ft.
Did any strata contain unusable water? ☐ Yes ☒ No
Type of Water? depth of strata
Method of sealing strata off
Was well gravel packed? ☐ Yes ☒ No Size of gravel:
Gravel placed from ft. to ft.

(10) LOCATION OF WELL:

County Umatilla Driller's well number
NE 1/4 SE 1/4 Section 25 T. 4N R. 27E W.M.
Tax Lot # Lot Blk Subdivision

Address at well location: LSE ~ 570'

(11) WATER LEVEL: Completed well.

Depth at which water was first found 95 ft.
Static level 85 ft. below land surface. Date 7-25-84
Artesian pressure lbs. per square inch. Date

(12) WELL LOG:

Diameter of well below casing 6
Depth drilled 443 ft. Depth of completed well 443 ft.
Formation: Describe color, texture, grain size and structure of materials; and show thickness and nature of each stratum and aquifer penetrated, with at least one entry for each change of formation. Report each change in position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Silt	0	4	
Grey sand & boulders	4	36	
Tan Clay	36	47	
Blue Clay	47	85	
Black Basalt	85	112	85
Brown Basalt	112	121	
Black Basalt	121	135	
Tan Clay	135	188	
Black Basalt	188	265	
Grey Basalt	265	281	
Viscous Basalt	281	285	40
Black Basalt	285	330	
Grey Basalt	330	345	
Blue Clay	345	388	
Black Basalt	388	425	
Brown Basalt	425	438	40
Black Basalt	438	443	

Work started 7-20 1984 Completed 7-25 1984
Date well drilling machine moved off of well 7-25 1984

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision. Materials used and information reported above are true to my best knowledge and belief.
(Signed) E. E. Brown Date 7-25, 1984
(Drilling Machine Operator)

Drilling Machine Operator's License No.

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is true to the best of my knowledge and belief.
Name Brown & Brown Drilling Co
(Person, firm or corporation) (Type or print)
Address PO Box 124 Hermiston, OR
(Signed) E. E. Brown
(Water Well Contractor)

Contractor's License No. Date 7-25, 1984

NOTICE TO WATER WELL CONTRACTOR
The original and first copy of this report
are to be filed with the

WATER RESOURCES DEPARTMENT,
SALEM, OREGON 97310
within 30 days from the date of well completion.

SP*12658-690

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

WELL I.D. # L 68805
START CARD # 158656

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

(1) LAND OWNER Well Number
Name Hammel Transport
Address 28610 West Bend Rd
City Heppner State OR Zip 97838

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

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

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

(5) BORE HOLE CONSTRUCTION Special Construction: ☐ Yes ☒ No
Depth of Completed Well 140 ft.
Explosives used: ☐ Yes ☒ No Type _____ Amount _____

BORE HOLE			SEAL			Sacks or Pounds
Diameter	From	To	Material	From	To	
10"	0	18	Bentonite	0	99	30 Sack
6"	78	140				

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

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

(6) CASING/LINER		Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	6"	41	99	1250		☒	☐	☐	☐
Liner:						☐	☐	☐	☐

Drive Shoe used ☐ Inside ☒ Outside ☐ None
Final location of shoe(s) 99'

(7) PERFORATIONS/SCREENS

☐ Perforations

Method

☐ Screens

Type

Material

From

To

Slot Size

Number

Diameter

Tele/pipe size

Casing

Liner

☐

☐

☐

☐

☐

☐

☐

☐

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailer ☒ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
25 GPM		140	1 hr

Temperature of water 58° Depth Artesian Flow Found _____
Was a water analysis done? ☐ Yes By whom _____
Did any strata contain water not suitable for intake? ☐ Yes ☐ No little
☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____
Depth of strata: _____

(9) LOCATION OF WELL (legal description)
County Umatilla
Tax Lot 501 Lot _____
Township 4 or S Range 27 or W WM
Section 25 NE 1/4 NE 1/4

Lat _____ " or _____ (degrees or decimal)
Long _____ " or _____ (degrees or decimal)

Street Address of Well (or nearest address) _____

(10) STATIC WATER LEVEL
63° ft. below land surface. Date 7-16-07
_____ ft. below land surface. Date _____
Artesian pressure _____ lb. per square inch Date _____

(11) WATER BEARING ZONES		From	To	Estimated Flow Rate	SWL
		112	118	10 GPM	63
		132	140	15 GPM	

(12) WELL LOG		Ground Elevation	
Material	From	To	SWL
Sand	0	57	
Sand & Gravel	57	94	
Broken Brown Basalt	94	96	
Soft Black Basalt	96	112	
Broken Brown Basalt	112	118	63
Soft Black Basalt	118	132	}
Broken Brown Basalt	132	140	

Date Started 7-16-07 Completed 7-16-07

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

WWC Number _____ Date _____

Signed _____

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

WWC Number 1766 Date 7-27-07

Signed B.A.R.

RECEIVED

JUL 26 2007

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 537.763)

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

(1) OWNER: Well Number 1
Name Medez Trucking LLC
Address 30522 Old Field Rd
City HUMSTON State OR Zip

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

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

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

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 125'
Explosives used ☐ Yes ☒ No Type Amount

HOLE		SEAL					
Diameter	From	To	Material	From	To	Sacks or pounds	
12"	0	22	3/8 Plug			700 LBS	
8"	22	125					

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

☐ Other

Backfill placed from ft. to ft. Material

Gravel placed from ft. to ft. Size of gravel

Diameter		From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:		8"	+3	78	350	☒	☐	☐
Liner:		6"	0.5	125		☒	☐	☐

Final location of shoe(s) 78'

(7) PERFORATIONS/SCREENS:		Method		Material	
		Type		Material	
From	To	Slot size	Number	Diameter	Tele/pipes size
25	125		160	1/2"	

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

☐ Pump	☐ Bailor	☒ Air	☐ Flowing Artesian
Yield gal/min	Drawdown	Drill stem at	Time
50		105	1 hr.

Temperature of water 56° Depth Artesian Flow Found

Was a water analysis done? ☐ Yes By whom

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

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other

Depth of strata:

WELL ID. # 26560
START CARD # W116082

(9) LOCATION OF WELL by legal description:
County Washington Latitude Longitude
Township 4 N or S Range 27 E W. WM.
Section 25 NW 1/4 SW 1/4
Tax Lot Lot Block Subdivision
Street Address of Well (or nearest address) Westland E

(10) STATIC WATER LEVEL:
45' ft. below land surface. Date 4-10-2000
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:
Depth at which water was first found 70'

From	To	Estimated Flow Rate	SWL
70	105	25	45
105	125	25	45

(12) WELL LOG: Ground Elevation ~575'

Material	From	To	SWL
Sandy Topsoil	0	5	
Sand Gravel & Boulders	5	32	
Brown clay	32	64	
Brown clay & Sandstone	64	75	
Sandstone	75	105	
Dark Basalt & Clay	105	120	
Black Basalt	120	125	

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APR 02 2001
WATER RESOURCES DEPT
SALEM, OREGON
WATER RESOURCES DEPT
SALEM, OREGON

Date started 4-10-2000 Completed 4-10-2000

(unbonded) Water Well Constructor Certification:

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

WWC Number 1747
Signed [Signature] Date 4-10-2000

(bonded) Water Well Constructor Certification:

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

WWC Number 1747
Signed [Signature] Date 4-10-2000



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 15, 2007

William Porfily
P.O. Box 643
Stanfield, OR 97878

SUBJECT: Application T-10427

Enclosed find a draft of our Preliminary Determination regarding transfer application T-10427. The draft Preliminary Determination reflects the Department's conclusion that, based on the information currently available, the transfer will be approved. This draft is intended to provide you with an opportunity to comment on our findings and conclusions should you wish to do so. Please review the draft carefully to evaluate whether the document is consistent with your intent in seeking the transfer, and whether you agree with the proposed action.

Based on a review of the application, **some additional information or clarification is needed.** Tax assessor's map 4N 27 36, dated January 23, 2006, indicates the tax lots have different numbers than those shown in Section 36 (T4N, R27E, W.M.) on the transfer application map. Please determine the correct tax lot numbers in Section 36 and either provide a revised transfer application map showing the correct tax lot lines and numbers, along with any other necessary revisions to the application, or provide an explanation to clarify the discrepancies in the tax lot numbers, as appropriate.

Additionally, our review of the application has revealed that **the full fee was not received** by the Department upon submittal of the transfer application. The total amount due for a transfer application involving three types of transfers (in this case, changes in place of use, point of appropriation, and character of use) is \$1,200. The amount paid was \$800. Please remit payment for the remaining \$400 in application fees.

Because of the change in character of use, and the new point of appropriation is more than ¼ mile from the authorized point of appropriation, the applicant is responsible for publishing notice of the transfer in a local newspaper having a general circulation in the area of the water right. The notice must be published at least once a week for three consecutive weeks. We will provide a copy of the required notice to you on issuance of the Preliminary Determination.

At this time, you must submit a report of ownership and lien information prepared by a title company within the last three months, as required by OAR 690-380-4010(5). If there are additional lienholders identified in the report that have not previously been notified of the transfer, you must send notice of the transfer to them, and submit copies of each such notice to the Department to document that each lienholder has been informed of the transfer.

Issuance of the Preliminary Determination will occur shortly after we receive both your response to the draft, clarification of the tax lot numbers, the \$400.00 remaining fees, and the report of ownership and lien information. **If we do not receive your response and the requested items by November 30, 2007, a Preliminary Determination may be issued denying the application.** You may provide your response in writing or via e-mail.

Please do not hesitate to contact me at 503-986-0890 or Dorothy.I.PEDERSEN@wrdd.state.or.us if you have questions.

Sincerely,

Dorothy I. Pedersen
Field Services Division

cc: Tony Justus, District 5 Watermaster
Craig Coleman, applicant
Flying J Inc., receiving landowner

enc

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

In the Matter of Transfer Application
T-10427, Umatilla County

) **D R A F T**
)
) PRELIMINARY DETERMINATION
) PROPOSING APPROVAL OF A
) CHANGE IN POINT OF
) APPROPRIATION, PLACE OF USE,
) AND CHARACTER OF USE, AND
) PARTIAL CANCELLATION OF A
) WATER RIGHT

Authority

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

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
CRAIG COLEMAN
33896 E. WALLS RD.
HERMISTON, OR 97838

Receiving Landowner
FLYING J INC.
1104 COUNTRY HILLS DRIVE
OGDEN, UT 84403

Findings of Fact

Background

1. On July 2, 2007, Craig Coleman filed an application to change the use, place of use, and point of appropriation under Certificate 80913. The Department assigned the application number T-10427.
2. On July 2, 2007, the applicant submitted an Affidavit for Partial Cancellation of a Water Right Certificate requesting to voluntarily cancel 13.5 acres of supplemental use under Certificate 80915 appurtenant to tax lot 2300, in the NW ¼ of the NW ¼ of Section 36, T4N, R27E. The supplemental right under Certificate 80915 which the applicant has proposed to cancel is a part of the lands affected by Transfer T-9996, and is currently in an inchoate state.

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

Certificate: 80913 in the name of HANSELL BROTHERS, INC. (perfected under Permit U-649)

Use: IRRIGATION of 13.5 ACRES

Priority Date: AUGUST 9, 1954

Rate: 0.11 CUBIC FOOT PER SECOND

Limit/Duty: ONE-EIGHTIETH cfs per acre, not to exceed 3.0 acre-feet per acre per year

Source: A WELL in the UMATILLA RIVER BASIN

Authorized Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	36	SW NW	Well #9 - 1884 FEET SOUTH AND 1315 FEET EAST FROM THE NW CORNER OF SECTION 36

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

4. Application T-10427 proposes to move the authorized point of appropriation approximately 1.4 miles northeast from the existing point of appropriation to:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	25	NW NE	590 FEET SOUTH AND 1420 FEET WEST FROM THE NE CORNER OF SECTION 25

5. Application T-10427 also proposes to change the place of use of the right to:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	
4 N	27 E	WM	25	NE NE	
4 N	27 E	WM	25	NW NE	
4 N	27 E	WM	25	SW NE	
4 N	27 E	WM	25	SE NE	

6. Application T-10427 proposes to change the character of use to Industrial.
7. Notice of the application for transfer was published on July 17, 2007, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.

Transfer Review Criteria (OAR 690-380-4010)

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

9. A pump, pipeline, and sprinkler system sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Application T-10427.
10. The proposed change would not result in enlargement of the right, as long as the new use is limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and does not exceed the maximum annual duty allowed for the original use, being 40.5 acre-feet per year.
11. The proposed change would not result in injury to other water rights.
12. The receiving landowner is Flying J Inc., who will be responsible for proving up on the changes from 13.5 acres of irrigation use to industrial use.

Partial Cancellation of Water Rights

13. ORS 540.510(1) and OAR 690-380-2250(5) provide that the order approving the transfer of a primary right shall cancel the portion of a supplemental right appurtenant to the same lands if the supplemental right is not included in the transfer. The supplemental right under Certificate 82596 is not included in transfer application T-10427, and will be cancelled upon issuance of a final order approving T-10427, unless the applicant amends the application to include the supplemental rights in the transfer, or to withdraw those lands from the transfer.
14. Consistent with OAR 690-380-2250, the Department is hereby notifying the applicant of the Department's intent to cancel the portions of the supplemental water rights described below unless within 30 days of the date of this notification the applicant modifies the application to include the supplemental right or withdraws the application.

15. The portion of the following right is proposed to be cancelled:

Certificate: 82596 in the name of COUNTY LINE WATER IMPROVEMENT DISTRICT (perfected under Permit G-10836)

Use: SUPPLEMENTAL IRRIGATION of 13.5 ACRES

Priority Date: FEBRUARY 15, 1978

Rate: 0.16 CUBIC FEET PER SECOND

Limit/Duty: 0.0118 cfs per acre, not to exceed 2.89 acre-feet per acre per year of artificially and naturally recharged ground water.

Source: ARTIFICALLY RECHARGED GROUND WATER FROM WELLS IN THE ORDINANCE CRITICAL GROUND WATER AREA

Authorized Points of Appropriation (Coleman Wells):

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	26	SW NW	1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	26	SW NW	1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26
4 N	27 E	WM	27	SW NW	230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27
4 N	27 E	WM	27	SE NW	2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
4 N	27 E	WM	27	SE NW	960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27

Authorized Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
4 N	27 E	WM	36	NW NW	13.50

Determination and Proposed Action

The changes in use, use, place of use, and point of appropriation proposed in application T-10427 appear to be consistent with the requirements of ORS 537.705 and 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the application will be approved.

If application T-10427 is approved, the final order will include the following:

- 1. The changes in use, place of use, and point of appropriation proposed in application T-10427 are approved.*
- 2. Water right certificate 80913 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
- 3. The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 80913 and any related decree.*
- 4. Water shall be acquired from the same aquifer (water source) as the original point of appropriation.*
- 5. The quantity of water diverted at the new point of appropriation, together with that diverted at the original point of appropriation, shall not exceed the quantity of water lawfully available at the original point of appropriation.*
- 6. The former place of use of the transferred rights shall no longer receive water under the rights.*
- 7. The diversion for industrial use shall be limited to a rate of 50 gallons per minute (0.11 cubic feet per second) and an annual amount not to exceed 40.5 acre-feet.*
- 8. Prior to diverting water, the water user shall install an in-line flow meter or other suitable device for measuring and recording the quantity of water diverted. The type and plans of the measuring device must be approved by the Department prior to beginning construction and shall be installed under the general supervision of the Department. The water user shall maintain and operate the measuring device as required by the Department.*

9. *The approved changes shall be completed and full beneficial use of the water shall be made on or before October 1, 2009. A Claim of Beneficial Use prepared by a Certified Water Rights Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*
10. *When satisfactory proof of the completed changes is received, new certificates confirming the rights transferred will be issued.*

Dated at Salem, Oregon this ____ day of _____ 2007.

D R A F T

Phillip C. Ward, Director

This draft Preliminary Determination was prepared by a Reimbursement Authority contractor. If you have questions about the information in this document, you may reach Dorothy Pedersen at 503-986-0890 or Dorothy.I.Pedersen@wrdd.state.or.us.



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

July 12, 2007

CRAIG COLEMAN
33896 E WALLS RD
HERMISTON OR 97838

Reference: Transfer 10427

On July 2, 2007 we received your water right transfer application. The application was accompanied by \$800.00. Our receipt 88474 is enclosed.

By copy of this letter, we are asking the Watermaster for a report regarding the potential for injury to existing water rights which may be caused by the change.

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

Except as provided under ORS 540.510(3) for municipalities, you may not use water for the new use, in the new place of use or from the new point of diversion until the transfer application has been approved. In order to avoid any possible forfeiture of the water right, you should continue to use the water as described by your existing water right. If the land is sold before the transfer is approved, the buyer's consent to the transfer will be required unless a recorded deed or other legal document clearly established that the water right was not conveyed in the sale.

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

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

cc: Watermaster #5
Bill Porfily, Agent (PO Box 643, Stanfield, OR 97878)

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 07/17/07

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: Umatilla
Transfer: T -10427
Water Right: Cert:80913 RR *
Priority Date: 1954
Name: CRAIG COLEMAN
Address: 33896 E WALLS RD; HERMISTON OR 97838
Change: USE, POU, POD
Source: A WELL > UMATILLA RIVER
Authorized USE: IRRIGATION
Proposed USE: INDUSTRIAL
Authorized POU: T4N R27E 36
Proposed POU: T4N R27E 25
Authorized POD: T4N R27E 36
Proposed POD: T4N R27E 25

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.

WILLIAM I. PORFILY

P.O. Box 643
Stanfield, OR 97875
(541) 449-1327
(541)561-7259 Cell
bporfily@my180.net

February 9, 2007

185

Dorothy Pedersen
Oregon Water Resources Dept.
725 Summer St. NE, Ste. A
Salem, OR 97301-2430

RE: Transfer Application T-10427

Dear Dorothy,

Enclosed is a new application map for the above mention transfer with the Tax Lots corrected per your request in the October 15, 2007 letter. Also please find a check for the deficiency in our fees of \$400.

If you have any question please contact me at (541) 449-1327.

Sincerely



William I Porfily

Enclosure:

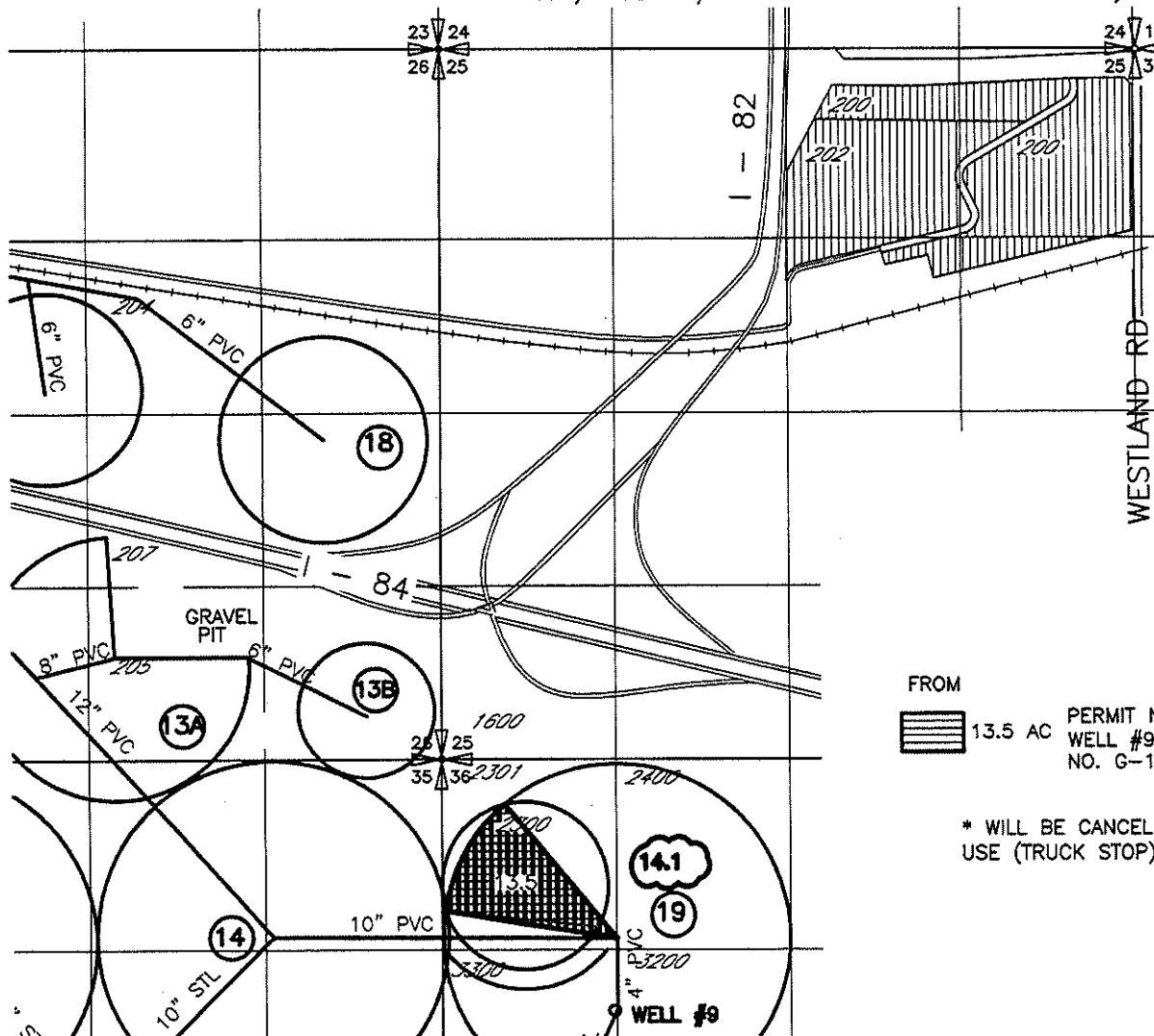
Cc: Craig Colman, 33896 E. Walls Road, Hermiston, Oregon 97838
John McSweeney, PDG Inc., 1104 Country Hill Drive. Ogden, Utah 84403

RECEIVED

NOV 01 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

EXHIBIT "A"
COLEMAN TO FLYING "J"
13.5 ACRES (50 GPM) OF WATER RIGHT
DESCRIBED IN CERTIFICATE 80913
T4N, R27E, WM UMATILLA COUNTY, OREGON



AUTHORIZED POINT OF APPROPRIATION

WELL 9 LOCATED 1884'S & 1315'E
 FROM NW COR. SEC.36 BEING WITHIN
 SW1/4NW1/4

FROM



13.5 AC

PERMIT NO. U-649 CERT 80193
 WELL #9 SUPPLEMENTAL PERMIT
 NO. G-10505 CERT 80915*

TO



INDUSTRIAL USE
 (TRUCK STOP)
 50 GPM YEAR
 ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
 USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
 OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION
 RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

SCM Consultants, Inc.
 A Tetra Tech Company

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 PRINTED BY: Roger Willard on 06/19/07 01:13 PM

RECEIVED

JUL 02 2007

ALEXANDER

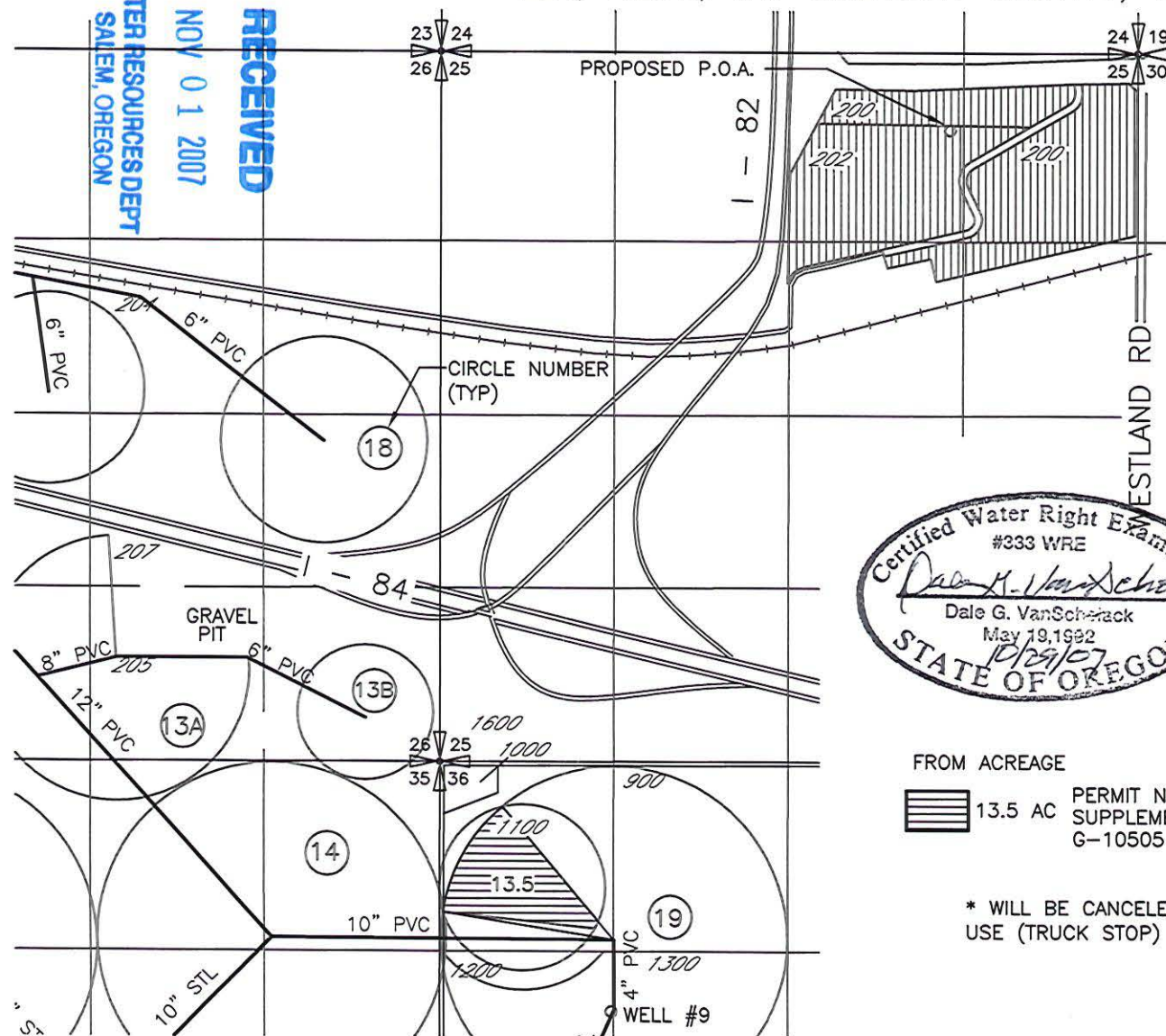
TRANSFER APPLICATION MAP

COLEMAN TO FLYING "J"

13.5 ACRES (50 GPM) OF WATER RIGHT
A PORTION OF CERTIFICATE 80913

T4N, R27E, WM UMATILLA COUNTY, OREGON

RECEIVED
NOV 01 2007
WATER RESOURCES DEPT
SALEM, OREGON

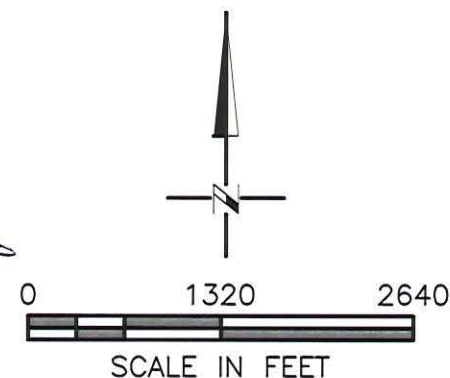
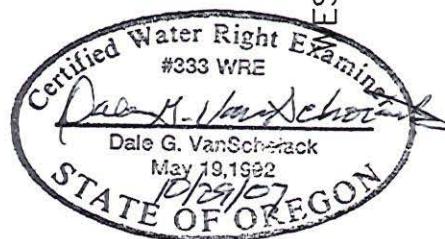


AUTHORIZED POINT OF APPROPRIATION

WELL 9
LOCATED 1884'S & 1315'E FROM NW
COR SEC 36

PROPOSED POINT OF APPROPRIATION

TRUCK STOP WELL
LOCATED 590'S & 1420'W FROM NE
COR SEC 25



FROM ACREAGE



13.5 AC

PERMIT NO. U-649 CERT 80193
SUPPLEMENTAL PERMIT NO.
G-10505 CERT 80915*

TO PLACE OF USE



INDUSTRIAL USE
(TRUCK STOP)
50 GPM YEAR
ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

SCM Consultants, Inc.
A Tetra Tech Company

DRAWING: H:\CAD\AG\3522\324\3522324TR.dwg
PRINTED BY: Roger Willard on 10/29/07 11:14 AM



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

Application for Water Right Transfer

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

1. TYPE OF TRANSFER APPLICATION

Please check one

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

2. APPLICANT INFORMATION

Name: Craig Coleman
First Last

Address: 33896 E. Walls Road

Hermiston OR 97838
City State Zip

Phone: (541)567-1605 (503)209-4530 (Cell)
Home Work Other

Fax: _____ E-Mail address: _____

3. AGENT INFORMATION

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

Name: William Porfily
First Last

Address: P.O. Box 643

Stanfield OR 97878
City State Zip

Phone: (541)449-1327 (541)449-1327 (541)561-7259 (Cell)
Home Work Other

Fax: (541)449-1327 E-Mail address: bporfily@my180.net

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

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

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Transfer Application/1

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.		Permit U-649/T-9275	80913
2.			
3.		Permit G-10505/ T-9275	80915**
4.			
5.			
6.			

**** 13.5 acres of supplemental water rights described in this water right will be cancelled with approval of this transfer. These water rights are supplemental to the 13.5 acres of water right being transferred.**

- 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): **Flying J, Inc. has acquired 13.5 acres (50 gpm) described in Certificate 80913 for Industrial Use is (operation of a Truck stop).**

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.

See attached "Craig Coleman Delivery System Map".

- System capacity: **10+** cubic feet per second (cfs). If the transfer involves multiple rights that have independent systems, describe the capacity for each system separately.

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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:

County Line Improvement District, P. O. Box 631, Hermiston, OR 97838

The County Line Improvement District serves recharge water to the alluvial wells in their Boundaries. The well involved in this transfer is within the boundaries of the County Line Improvement District but is a basalt well thus is not being served by the District. The land under this transfer is also within the boundaries of the County Line Improvement District but is not served by the District.

- 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).

Umatilla County, 216 SE 4th , Pendleton, Oregon 97801

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Transfer Application/3

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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): Flying J Inc.*
First Last

Address: 1104 Country Hills Drive

Ogden Utah 84403
City State Zip

***Flying J Inc is the land owner receiving the 13.5 Acres (50 gpm) of Certificate 80913 being transfer to Industrial Use (operation of a truck stop).**

- 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.

Copies of all notices and correspondence should also be sent the applicant's agent.

- ☐ 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:
- ① In EFU zone or irrigation district,
 - ② Change in place of use only,
 - ③ No structural changes needed, including diversion works, delivery facilities, other structures, **and**
 - ④ Irrigation only.

Fees:

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

Instream Water Right Transfers, also include:

Supplemental Form C –

Instream Water Right Transfer

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

Temporary Transfers, also include:

Recorded Deed:

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

Affidavit of Consent:

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

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Transfer Application/5

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

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

10. SIGNATURES

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

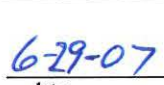
☒ In accordance with OAR 690-380-3000(13)(a), I (we) understand that prior to Department approval of a permanent transfer and upon my receipt of a draft Preliminary Determination for the proposed transfer, I (we) will be required [pursuant to OAR 690-380-4010(5)] to provide the following landownership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

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

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

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

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

 applicant signature	 name (print)	 date
 applicant signature	 name (print)	 date

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T 10427

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: 80913

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 portion of the right will be exercised at a different location than currently authorized (Use of water at the current location will be discontinued.)	Proposed new use: ☐ Irrigation ☐ Municipal ☐ Quasi-municipal ☐ Commercial ☒ Industrial ☐ Instream (complete and attach <i>Supplemental Form C</i>) ☐ Domestic (indicate number of households) _____ ☐ Other _____ ☐ Substitution (A supplemental ground water right will be substituted for a primary surface water right.) ☐ Supplemental Use to Primary Use (Primary water right shall be cancelled and the supplemental water right will change to primary use.)

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2. CURRENT WATER RIGHT INFORMATION

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

☒ Certificated Right	<u>80913</u> Certificate Number	<u>U-649</u> Permit Number or Decree Name
☐ Adjudicated, Non-certificated Right	 Name of Decree	 Page Number
☐ Permit for which Proof has been Approved	 Permit Number	 Date Claim of Beneficial Use Submitted
☐ Transferred Right for which Proof has been Filed	 Previous Transfer Number	 Date Claim of Beneficial Use Submitted

- Name on Permit, Certificate, or Decree: HANSELL Brothers, Inc.
- County: Umatilla
- Authorized Use(s) to be Affected by Transfer: Irrigation
- Priority Date(s): August 9, 1954

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: Basalt Well #9

Tributary to: Umatilla River

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

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

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

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

If "Yes", what are the Permit, Registration or Certificate Numbers? Permit G-10505 former Certificate 80915 for supplemental irrigation is associated with this land. The portion of this supplemental permit associated with this transfer will be cancelled with the order approving this transfer. An affidavit is attached cancelling the 13.5 acre supplemental water right described in this Permit.

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T 10427

WATER RESOURCES DEPT
SALEM, OREGON

MEMO

Date: April 25, 2008

To: Debbie Colbert

From: Dorothy Pedersen

RE: Correcting certificate

T-10427 was issued March 25, 2008 and remaining right Certificate 83844 was issued for the portion of the right not included in the transfer.

Glaphre Floth in the Pendleton office noticed a scrivener's error in the SE NE listing in T3N, R27E, Sec. 10 for 10.4 acres. This agrees with the previous certificate (82596), but not with the final proof map for the right. The 10.4 acres should be in the SW NE. This scrivener's error had been noticed on the previous certificate (82596) and changed in WRIS, but not on the certificate.

It is clearly a typographical error, as indicated by the marked map.

Send copies to:

County Line Water Improvement District, water user

Tony Justus, Watermaster

T-10427 file

Water right file G-8649

Dorothy Pedersen

From: Glaphre Floth
Sent: Thursday, April 10, 2008 11:43 AM
To: Dorothy Pedersen
Subject: Cert #83844

Dorothy,

I am working on plat cards here in our office. Cert #82596 had 3N 27 10 SE/NE 10.4 Ac I found at the time that it should be SW/NE. It looks like the change was made on the Electronic plat card. When this new Cert 83844 was made it was put back as SE/NE. Which should it be? I cannot locate a map that proves anything. I am not sure where I came up with the original answer. It does show on the big map as SW/NE. Confused yet? I am... Please let me know what you come up with. For now I will put it in the SW/NE.

Thanks for your assistance.

Glaphre Floth
Office Assistant
Umatilla County Watermasters Office
North Central Region
116 SE Dorion Ave
Pendleton, OR 97801
(541)278.5456
(541)278.0287 Fax

Dorothy Pedersen

From: Glaphre Floth
Sent: Thursday, April 10, 2008 12:01 PM
To: Dorothy Pedersen
Subject: Found map

Dorothy,

I made copie of the maps that were in our website for P #G-10836. It does show 10.4 in the SW/NE on the Township 3N R 27 Map.

Glaphre Floth
Office Assistant
Umatilla County Watermasters Office
North Central Region
116 SE Dorion Ave
Pendleton, OR 97801
(541)278.5456
(541)278.0287 Fax

STATE OF OREGON

COUNTY OF MORROW, UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION of 5074.48 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. The right is limited to 59.65 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14649.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

The wells are located as follows:

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
SOLANO	4 N	27 E	WM	20	SW SW		10 FEET NORTH AND 90 FEET EAST FROM SW CORNER, SECTION 20
MANN	4 N	27 E	WM	20	SE SW		190 FEET NORTH AND 1250 FEET EAST FROM SW CORNER, SECTION 20
COLEMAN	4 N	27 E	WM	26	SW NW		1130 FEET NORTH AND 60 FEET EAST FROM W1/4 CORNER, SECTION 26 <i>Pod 1/5 Well 6/7</i>
COLEMAN	4 N	27 E	WM	26	SW NW		1160 FEET NORTH AND 370 FEET EAST FROM W1/4 CORNER, SECTION 26 <i>Pod 6 - well 8</i>
COLEMAN	4 N	27 E	WM	27	SW NW		230 FEET NORTH AND 1210 FEET EAST FROM W1/4 CORNER, SECTION 27 <i>Pod 2 - Well 4</i>
COLEMAN	4 N	27 E	WM	27	SE NW		960 FEET NORTH AND 1850 FEET EAST FROM W1/4 CORNER, SECTION 27 (There are two wells at this location within 20 feet) <i>Pod 3 - Well 5</i>
COLEMAN	4 N	27 E	WM	27	SE NW		2740 FEET NORTH AND 1890 FEET EAST FROM SW CORNER, SECTION 27 <i>Pod 1 - well 3</i>
12H	4 N	27 E	WM	28	SW NE		3180 FEET NORTH AND 1470 FEET WEST FROM SE CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE NW		3700 FEET NORTH AND 1390 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	NW SW		1650 FEET NORTH AND 1320 FEET EAST FROM SW CORNER, SECTION 28
AYLETT	4 N	27 E	WM	28	SE SW		90 FEET NORTH AND 40 FEET WEST FROM S1/4 CORNER, SECTION 28
12H	4 N	27 E	WM	28	SW SE		20 FEET NORTH AND 1350 FEET WEST FROM SE CORNER, SECTION 28
WOOD	4 N	27 E	WM	30	NW NE		1190 FEET SOUTH AND 4170 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	SW NW	2	1280 FEET SOUTH AND 1350 FEET EAST FROM NW CORNER, SECTION 30

NAME	Twp	Rng	Mer	Sec	Q-Q	GLot	Survey Coordinates
WOOD	4 N	27 E	WM	30	SW SW	4	3875 FEET SOUTH AND 1385 FEET EAST FROM NW CORNER, SECTION 30
WOOD	4 N	27 E	WM	30	NW SE		3830 FEET SOUTH AND 4160 FEET EAST FROM NW CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		290 FEET NORTH AND 50 FEET WEST FROM SE CORNER, SECTION 30
KEY	4 N	27 E	WM	30	SE SE		100 FEET NORTH AND 40 FEET WEST FROM SE CORNER, SECTION 30
HOLZAPFEL	4 N	27 E	WM	32	NW NE		50 FEET SOUTH AND 1450 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		340 FEET SOUTH AND 1190 FEET WEST FROM NE CORNER, SECTION 32
HOLZAPFEL	4 N	27 E	WM	32	NE NW		70 FEET SOUTH AND 2520 FEET EAST FROM NW CORNER, SECTION 32
12H	4 N	27 E	WM	33	NW NE		1270 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33
12H	4 N	27 E	WM	33	SW NE		1940 FEET SOUTH AND 1350 FEET WEST FROM NE CORNER, SECTION 33

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	2	NW NW		28.60
3 N	27 E	WM	2	SW NW		17.80
3 N	27 E	WM	3	NE NE		32.30
3 N	27 E	WM	3	NW NE		34.10
3 N	27 E	WM	3	SW NE		14.00
3 N	27 E	WM	3	SE NE		21.90
3 N	27 E	WM	3	NE NW		32.70
3 N	27 E	WM	3	NW NW		27.50
3 N	27 E	WM	3	SW NW		33.60
3 N	27 E	WM	3	SE NW		15.70
3 N	27 E	WM	3	NE SW		33.10
3 N	27 E	WM	3	NW SW		29.10
3 N	27 E	WM	3	SW SW		37.80
3 N	27 E	WM	3	SE SW		31.10
3 N	27 E	WM	3	NE SE		36.10
3 N	27 E	WM	3	NW SE		36.00
3 N	27 E	WM	4	NE NE		29.30
3 N	27 E	WM	4	NW NE		35.40
3 N	27 E	WM	4	SW NE		35.50
3 N	27 E	WM	4	SE NE		29.60
3 N	27 E	WM	4	NE NW		31.10
3 N	27 E	WM	4	NW NW		31.00
3 N	27 E	WM	4	SW NW		26.50
3 N	27 E	WM	4	SE NW		31.20

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
3 N	27 E	WM	4	NE SE		31.30
3 N	27 E	WM	4	NW SE		30.80
3 N	27 E	WM	4	SW SE		31.50
3 N	27 E	WM	4	SE SE		31.50
3 N	27 E	WM	5	NE NE		32.80
3 N	27 E	WM	5	NW NE		32.50
3 N	27 E	WM	5	SW NE		32.60
3 N	27 E	WM	5	SE NE		32.90
3 N	27 E	WM	5	NE NW		32.70
3 N	27 E	WM	5	NW NW		32.70
3 N	27 E	WM	5	SW NW		32.90
3 N	27 E	WM	5	SE NW		32.90
3 N	27 E	WM	9	NE NE		31.50
3 N	27 E	WM	9	NW NE		35.50
3 N	27 E	WM	9	SW NE		23.50
3 N	27 E	WM	9	SE NE		19.50
3 N	27 E	WM	10	NE NW		39.00
3 N	27 E	WM	10	NW NW		38.70
3 N	27 E	WM	10	SW NW		9.00
3 N	27 E	WM	10	SE NW		12.90
4 N	27 E	WM	19	NE SW		10.10
4 N	27 E	WM	19	NW SW	3	20.80
4 N	27 E	WM	19	SW SW	4	32.60
4 N	27 E	WM	19	SE SW		33.60
4 N	27 E	WM	19	NW SE		1.00
4 N	27 E	WM	19	SW SE		35.80
4 N	27 E	WM	19	SE SE		2.90
4 N	27 E	WM	20	SW SW		7.70
4 N	27 E	WM	20	SE SW	4	2.50
4 N	27 E	WM	26	SW NE	6	8.40
4 N	27 E	WM	26	SE NE	8	13.40
4 N	27 E	WM	26	SW NW	2	30.30
4 N	27 E	WM	26	SE NW	4	18.70
4 N	27 E	WM	26	NE SW		19.00
4 N	27 E	WM	26	NW SW		24.90
4 N	27 E	WM	26	SW SW		40.00
4 N	27 E	WM	26	SE SW		35.60
4 N	27 E	WM	26	NE SE	9	24.40
4 N	27 E	WM	26	NW SE	10	7.40
4 N	27 E	WM	26	NW SE	11	1.30
4 N	27 E	WM	26	SW SE		22.50
4 N	27 E	WM	26	SE SE	12	17.30
4 N	27 E	WM	27	NE NW		10.30
4 N	27 E	WM	27	NW NW		15.20
4 N	27 E	WM	27	SW NW		13.30
4 N	27 E	WM	27	SE NW		18.10
4 N	27 E	WM	27	NE SW		35.90
4 N	27 E	WM	27	NW SW		39.40
4 N	27 E	WM	27	SW SW		13.50
4 N	27 E	WM	27	SE SW		13.10

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	27	NE SE		2.80
4 N	27 E	WM	27	NW SE		3.40
4 N	27 E	WM	27	SW SE		27.10
4 N	27 E	WM	27	SE SE		31.60
4 N	27 E	WM	28	NW NE		1.00
4 N	27 E	WM	28	SW NE		37.10
4 N	27 E	WM	28	SE NE		24.80
4 N	27 E	WM	28	NE NW		2.40
4 N	27 E	WM	28	NW NW		13.80
4 N	27 E	WM	28	SW NW		36.40
4 N	27 E	WM	28	SE NW		39.10
4 N	27 E	WM	28	NE SW		34.72
4 N	27 E	WM	28	NW SW		34.42
4 N	27 E	WM	28	SW SW		31.42
4 N	27 E	WM	28	SE SW		31.72
4 N	27 E	WM	28	NE SE		39.10
4 N	27 E	WM	28	NW SE		39.90
4 N	27 E	WM	28	SW SE		38.60
4 N	27 E	WM	28	SE SE		40.00
4 N	27 E	WM	30	NE NE		34.70
4 N	27 E	WM	30	NW NE		37.60
4 N	27 E	WM	30	SW NE		29.00
4 N	27 E	WM	30	SE NE		27.10
4 N	27 E	WM	30	NE NW		31.90
4 N	27 E	WM	30	NW NW	1	42.70
4 N	27 E	WM	30	SW NW	2	34.20
4 N	27 E	WM	30	SE NW		25.20
4 N	27 E	WM	30	NE SW		29.50
4 N	27 E	WM	30	NW SW	3	40.50
4 N	27 E	WM	30	SW SW	4	37.30
4 N	27 E	WM	30	SE SW		28.20
4 N	27 E	WM	30	NE SE		32.80
4 N	27 E	WM	30	NW SE		36.20
4 N	27 E	WM	30	SW SE		32.60
4 N	27 E	WM	30	SE SE		30.60
4 N	27 E	WM	32	NE NE		27.60
4 N	27 E	WM	32	NW NE		2.60
4 N	27 E	WM	32	SW NE		34.10
4 N	27 E	WM	32	SE NE		30.50
4 N	27 E	WM	32	NE NW		32.00
4 N	27 E	WM	32	NW NW		32.00
4 N	27 E	WM	32	SW NW		32.00
4 N	27 E	WM	32	SE NW		32.00
4 N	27 E	WM	32	NE SW		32.00
4 N	27 E	WM	32	NW SW		32.00
4 N	27 E	WM	32	SW SW		32.00
4 N	27 E	WM	32	SE SW		32.00
4 N	27 E	WM	32	NE SE		31.00
4 N	27 E	WM	32	NW SE		29.00
4 N	27 E	WM	32	SW SE		33.20
4 N	27 E	WM	32	SE SE		35.40

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	33	NE NE		34.30
4 N	27 E	WM	33	NW NE		32.00
4 N	27 E	WM	33	SW NE		32.00
4 N	27 E	WM	33	SE NE		32.00
4 N	27 E	WM	33	NE NW		24.42
4 N	27 E	WM	33	NW NW		22.83
4 N	27 E	WM	33	SW NW		22.83
4 N	27 E	WM	33	SE NW		24.42
4 N	27 E	WM	33	NE SW		29.00
4 N	27 E	WM	33	NW SW		29.00
4 N	27 E	WM	33	SW SW		31.00
4 N	27 E	WM	33	SE SW		31.00
4 N	27 E	WM	33	NE SE		32.20
4 N	27 E	WM	33	NW SE		31.60
4 N	27 E	WM	33	SW SE		34.40
4 N	27 E	WM	33	SE SE		27.20
4 N	27 E	WM	34	NE NE		37.50
4 N	27 E	WM	34	NW NE		39.50
4 N	27 E	WM	34	SW NE		10.10
4 N	27 E	WM	34	SE NE		7.10
4 N	27 E	WM	34	NE NW		32.80
4 N	27 E	WM	34	NW NW		30.20
4 N	27 E	WM	34	SW NW		30.20
4 N	27 E	WM	34	SE NW		35.60
4 N	27 E	WM	34	NE SW		39.70
4 N	27 E	WM	34	NW SW		34.00
4 N	27 E	WM	34	SW SW		30.80
4 N	27 E	WM	34	SE SW		39.80
4 N	27 E	WM	34	NE SE		32.30
4 N	27 E	WM	34	NW SE		41.20
4 N	27 E	WM	34	SW SE		39.30
4 N	27 E	WM	34	SE SE		39.30
4 N	27 E	WM	35	NE NE		32.90
4 N	27 E	WM	35	NW NE		36.30
4 N	27 E	WM	35	SW NE		31.40
4 N	27 E	WM	35	SE NE		31.40
4 N	27 E	WM	35	NE NW		33.50
4 N	27 E	WM	35	NW NW		34.00
4 N	27 E	WM	35	SW NW		31.40
4 N	27 E	WM	35	SE NW		31.40
4 N	27 E	WM	35	NE SW		31.40
4 N	27 E	WM	35	NW SW		31.40
4 N	27 E	WM	35	SW SW		31.40
4 N	27 E	WM	35	SE SW		31.40
4 N	27 E	WM	35	NE SE		31.40
4 N	27 E	WM	35	NW SE		31.40
4 N	27 E	WM	35	SW SE		31.40
4 N	27 E	WM	35	SE SE		31.40
4 N	27 E	WM	36	NE NW		33.90
4 N	27 E	WM	36	NW NW		18.70
4 N	27 E	WM	36	SW NW		28.30

SUPPLEMENTAL IRRIGATION						
Twp	Rng	Mer	Sec	Q-Q	GLot	Acres
4 N	27 E	WM	36	SE NW		28.30
4 N	27 E	WM	36	NW SW		30.20
4 N	27 E	WM	36	SW SW		26.00

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

Well Location	Common Names (Per Order, 1976)	Target Levels (Ft below LSD)	
		Upper	Lower
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordinance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordinance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordinance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.
6. Annual Reports:
 - (A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.
 - (B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.
7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.

8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.

(A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.

(B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.

(C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.

9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.
10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.
11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

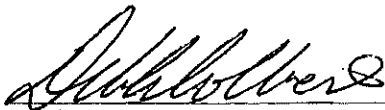
The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 82596, State Record of Water Right Certificates, NOT cancelled by the provisions of an order of the Water Resources Director entered MAR 2 5 2008, approving Transfer Application T-10427.

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 MAR 2 5 2008.


Phillip C. Ward, Director

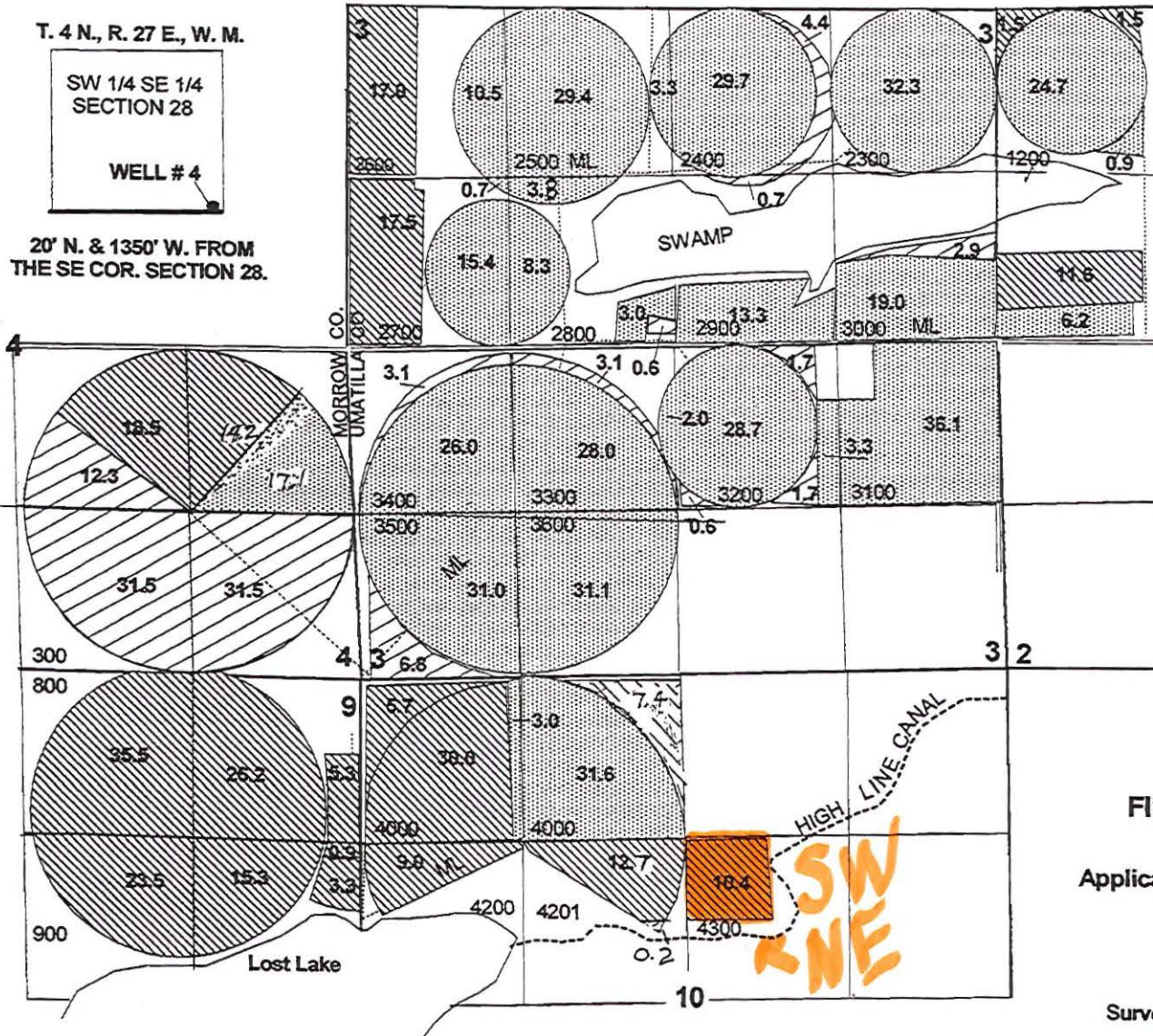
TOWNSHIP 3 NORTH, RANGE 27 EAST, W. M.

T. 4 N., R. 27 E., W. M.

SW 1/4 SE 1/4
SECTION 28

WELL # 4

20' N. & 1350' W. FROM
THE SE COR. SECTION 28.



1" = 1320'

RECEIVED

JAN 3 2005

WATER RESOURCES DEPT
SALEM, OREGON

FINAL PROOF SURVEY

UNDER

Application G-5598 Permit G-10651

IN THE NAME OF

TYLER HANSELL

Surveyed August 13, 2003 by J. Miller

-  SUPP'L IRR UNDER PERMIT G-10651, TO PRIVATE WATER
-  SUPP'L IRR UNDER PERMIT G-10651, TO DISTRICT WATER
-  PRIMARY IRR UNDER PERMIT G-10651

41059-378-156R & 94 GIS photo layers

LHN
AMENDED 3/27/06
12-29-2004 JM

Water Right Information Query Results									
Contact Information					Documents View all scanned documents				
▼ Current contact information OWNER: ▶ COUNTY LINE WATER IMPROVEMENT DISTRICT 77126 COUNTY LINE RD HERMISTON, OR 97838					▶ Application: G 8649 digital map ▶ Permit: G 10836 document , digital map ▶ Certificate: 82596 document , digital map , paper map ▶ Order(s)				
Water Right Information									
Status: Non-Cancelled County: Morrow, Umatilla File Folder Location: Salem									
Point(s) of Diversion									
▶ POD 1 - A WELL > UMATILLA RIVER ▶ POD 2 - A WELL > UMATILLA RIVER ▶ POD 3 - A WELL > UMATILLA RIVER ▶ POD 4 - A WELL > UMATILLA RIVER ▶ POD 5 - A WELL > UMATILLA RIVER ▶ POD 6 - A WELL > UMATILLA RIVER ▶ POD 7 - A WELL > UMATILLA RIVER ▶ POD 8 - A WELL > UMATILLA RIVER ▶ POD 9 - A WELL > UMATILLA RIVER ▶ POD 10 - A WELL > UMATILLA RIVER ▶ POD 11 - A WELL > UMATILLA RIVER ▶ POD 12 - A WELL > UMATILLA RIVER ▶ POD 13 - A WELL > UMATILLA RIVER ▶ POD 14 - A WELL > UMATILLA RIVER ▶ POD 15 - A WELL > UMATILLA RIVER ▶ POD 16 - A WELL > UMATILLA RIVER ▶ POD 17 - A WELL > UMATILLA RIVER ▶ POD 18 - A WELL > UMATILLA RIVER ▶ POD 19 - A WELL > UMATILLA RIVER ▶ POD 20 - A WELL > UMATILLA RIVER ▶ POD 21 - A WELL > UMATILLA RIVER ▶ POD 22 - A WELL > UMATILLA RIVER ▶ POD 23 - A WELL > UMATILLA RIVER									
Place(s) of Use Add TRS grouping									
▼ Use - SUPPLEMENTAL IRRIGATION (Supplemental) - 5087.98 acres; Priority Date: 2/15/1978									
T-R-S	QQ	DLC	Gov't Lot	Taxlot	Acres	Status	Inchoate Info	Remarks	
3.00N-27.00E-2	NW NW				28.6	NC			
3.00N-27.00E-2	SW NW				17.8	NC			
3.00N-27.00E-3	NE NE				32.3	NC			
3.00N-27.00E-3	NW NE				34.1	NC			
3.00N-27.00E-3	SW NE				14.0	NC			
3.00N-27.00E-3	SE NE				21.9	NC			
3.00N-27.00E-3	NE NW				32.7	NC			
3.00N-27.00E-3	NW NW				27.5	NC			
3.00N-27.00E-3	SW NW				33.6	NC			
3.00N-27.00E-3	SE NW				15.7	NC			
3.00N-27.00E-3	NE SW				33.1	NC			

3.00N-27.00E-3	NW SW		29.1 NC
3.00N-27.00E-3	SW SW		37.8 NC
3.00N-27.00E-3	SE SW		31.1 NC
3.00N-27.00E-3	NE SE		36.1 NC
3.00N-27.00E-3	NW SE		36.0 NC
3.00N-27.00E-4	NE NE		29.3 NC
3.00N-27.00E-4	NW NE		35.4 NC
3.00N-27.00E-4	SW NE		35.5 NC
3.00N-27.00E-4	SE NE		29.6 NC
3.00N-27.00E-4	NE NW		31.1 NC
3.00N-27.00E-4	NW NW		31.0 NC
3.00N-27.00E-4	SW NW		26.5 NC
3.00N-27.00E-4	SE NW		31.2 NC
3.00N-27.00E-4	NE SE		31.3 NC
3.00N-27.00E-4	NW SE		30.8 NC
3.00N-27.00E-4	SW SE		31.5 NC
3.00N-27.00E-4	SE SE		31.5 NC
3.00N-27.00E-5	NE NE		32.8 NC
3.00N-27.00E-5	NW NE		32.5 NC
3.00N-27.00E-5	SW NE		32.6 NC
3.00N-27.00E-5	SE NE		32.9 NC
3.00N-27.00E-5	NE NW		32.7 NC
3.00N-27.00E-5	NW NW		32.7 NC
3.00N-27.00E-5	SW NW		32.9 NC
3.00N-27.00E-5	SE NW		32.9 NC
3.00N-27.00E-9	NE NE		31.5 NC
3.00N-27.00E-9	NW NE		35.5 NC
3.00N-27.00E-9	SW NE		23.5 NC
3.00N-27.00E-9	SE NE		19.5 NC
3.00N-27.00E-10	SW NE		10.4 NC
3.00N-27.00E-10	NE NW		39.0 NC
3.00N-27.00E-10	NW NW		38.7 NC
3.00N-27.00E-10	SW NW		9.0 NC
3.00N-27.00E-10	SE NW		12.9 NC
4.00N-27.00E-19	NE SW		10.1 NC
4.00N-27.00E-19	NW SW	3	20.8 NC
4.00N-27.00E-19	SW SW	4	32.6 NC
4.00N-27.00E-19	SE SW		33.6 NC
4.00N-27.00E-19	NW SE		1.0 NC
4.00N-27.00E-19	SW SE		35.8 NC
4.00N-27.00E-19	SE SE		2.9 NC
4.00N-27.00E-20	SW SW		7.7 NC
4.00N-27.00E-20	SE SW	4	2.5 NC
4.00N-27.00E-26	SW NE	6	8.4 NC
4.00N-27.00E-26	SE NE	8	13.4 NC
4.00N-27.00E-26	SW NW	2	30.3 NC
4.00N-27.00E-26	SE NW	4	18.7 NC
4.00N-27.00E-26	NE SW		19.0 NC
4.00N-27.00E-26	NW SW		24.9 NC
4.00N-27.00E-26	SW SW		40.0 NC
4.00N-27.00E-26	SE SW		35.6 NC
4.00N-27.00E-26	NE SE	9	24.4 NC
4.00N-27.00E-26	NW SE	11	1.3 NC

4.00N-27.00E-26 NW SE	10	7.4 NC
4.00N-27.00E-26 SW SE		22.5 NC
4.00N-27.00E-26 SE SE	12	17.3 NC
4.00N-27.00E-27 NE NW		10.3 NC
4.00N-27.00E-27 NW NW		15.2 NC
4.00N-27.00E-27 SW NW		13.3 NC
4.00N-27.00E-27 SE NW		18.1 NC
4.00N-27.00E-27 NE SW		35.9 NC
4.00N-27.00E-27 NW SW		39.4 NC
4.00N-27.00E-27 SW SW		13.5 NC
4.00N-27.00E-27 SE SW		13.1 NC
4.00N-27.00E-27 NE SE		2.8 NC
4.00N-27.00E-27 NW SE		3.4 NC
4.00N-27.00E-27 SW SE		27.1 NC
4.00N-27.00E-27 SE SE		31.6 NC
4.00N-27.00E-28 NW NE		1.0 NC
4.00N-27.00E-28 SW NE		37.1 NC
4.00N-27.00E-28 SE NE		24.8 NC
4.00N-27.00E-28 NE NW		2.4 NC
4.00N-27.00E-28 NW NW		13.8 NC
4.00N-27.00E-28 SW NW		36.4 NC
4.00N-27.00E-28 SE NW		39.1 NC
4.00N-27.00E-28 NE SW		34.72 NC
4.00N-27.00E-28 NW SW		34.42 NC
4.00N-27.00E-28 SW SW		31.42 NC
4.00N-27.00E-28 SE SW		31.72 NC
4.00N-27.00E-28 NE SE		39.1 NC
4.00N-27.00E-28 NW SE		39.9 NC
4.00N-27.00E-28 SW SE		38.6 NC
4.00N-27.00E-28 SE SE		40.0 NC
4.00N-27.00E-30 NE NE		34.7 NC
4.00N-27.00E-30 NW NE		37.6 NC
4.00N-27.00E-30 SW NE		29.0 NC
4.00N-27.00E-30 SE NE		27.1 NC
4.00N-27.00E-30 NE NW		31.9 NC
4.00N-27.00E-30 NW NW	1	42.7 NC
4.00N-27.00E-30 SW NW	2	34.2 NC
4.00N-27.00E-30 SE NW		25.2 NC
4.00N-27.00E-30 NE SW		29.5 NC
4.00N-27.00E-30 NW SW	3	40.5 NC
4.00N-27.00E-30 SW SW	4	37.3 NC
4.00N-27.00E-30 SE SW		28.2 NC
4.00N-27.00E-30 NE SE		32.8 NC
4.00N-27.00E-30 NW SE		36.2 NC
4.00N-27.00E-30 SW SE		32.6 NC
4.00N-27.00E-30 SE SE		30.6 NC
4.00N-27.00E-32 NE NE		27.6 NC
4.00N-27.00E-32 NW NE		2.6 NC
4.00N-27.00E-32 SW NE		34.1 NC
4.00N-27.00E-32 SE NE		30.5 NC
4.00N-27.00E-32 NE NW		32.0 NC
4.00N-27.00E-32 NW NW		32.0 NC
4.00N-27.00E-32 SW NW		32.0 NC

4.00N-27.00E-32 SE NW	32.0 NC
4.00N-27.00E-32 NE SW	32.0 NC
4.00N-27.00E-32 NW SW	32.0 NC
4.00N-27.00E-32 SW SW	32.0 NC
4.00N-27.00E-32 SE SW	32.0 NC
4.00N-27.00E-32 NE SE	31.0 NC
4.00N-27.00E-32 NW SE	29.0 NC
4.00N-27.00E-32 SW SE	33.2 NC
4.00N-27.00E-32 SE SE	35.4 NC
4.00N-27.00E-33 NE NE	34.3 NC
4.00N-27.00E-33 NW NE	32.0 NC
4.00N-27.00E-33 SW NE	32.0 NC
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4.00N-27.00E-33 NE NW	24.42 NC
4.00N-27.00E-33 NW NW	22.83 NC
4.00N-27.00E-33 SW NW	22.83 NC
4.00N-27.00E-33 SE NW	24.42 NC
4.00N-27.00E-33 NE SW	29.0 NC
4.00N-27.00E-33 NW SW	29.0 NC
4.00N-27.00E-33 SW SW	31.0 NC
4.00N-27.00E-33 SE SW	31.0 NC
4.00N-27.00E-33 NE SE	32.2 NC
4.00N-27.00E-33 NW SE	31.6 NC
4.00N-27.00E-33 SW SE	34.4 NC
4.00N-27.00E-33 SE SE	27.2 NC
4.00N-27.00E-34 NE NE	37.5 NC
4.00N-27.00E-34 NW NE	39.5 NC
4.00N-27.00E-34 SW NE	10.1 NC
4.00N-27.00E-34 SE NE	7.1 NC
4.00N-27.00E-34 NE NW	32.8 NC
4.00N-27.00E-34 NW NW	30.2 NC
4.00N-27.00E-34 SW NW	30.2 NC
4.00N-27.00E-34 SE NW	35.6 NC
4.00N-27.00E-34 NE SW	39.7 NC
4.00N-27.00E-34 NW SW	34.0 NC
4.00N-27.00E-34 SW SW	30.8 NC
4.00N-27.00E-34 SE SW	39.8 NC
4.00N-27.00E-34 NE SE	32.3 NC
4.00N-27.00E-34 NW SE	41.2 NC
4.00N-27.00E-34 SW SE	39.3 NC
4.00N-27.00E-34 SE SE	39.3 NC
4.00N-27.00E-35 NE NE	32.9 NC
4.00N-27.00E-35 NW NE	36.3 NC
4.00N-27.00E-35 SW NE	31.4 NC
4.00N-27.00E-35 SE NE	31.4 NC
4.00N-27.00E-35 NE NW	33.5 NC
4.00N-27.00E-35 NW NW	34.0 NC
4.00N-27.00E-35 SW NW	31.4 NC
4.00N-27.00E-35 SE NW	31.4 NC
4.00N-27.00E-35 NE SW	31.4 NC
4.00N-27.00E-35 NW SW	31.4 NC
4.00N-27.00E-35 SW SW	31.4 NC
4.00N-27.00E-35 SE SW	31.4 NC

4.00N-27.00E-35 NE SE	31.4 NC
4.00N-27.00E-35 NW SE	31.4 NC
4.00N-27.00E-35 SW SE	31.4 NC
4.00N-27.00E-35 SE SE	31.4 NC
4.00N-27.00E-36 NE NW	33.9 NC
4.00N-27.00E-36 NW NW	32.2 NC
4.00N-27.00E-36 SW NW	28.3 NC
4.00N-27.00E-36 SE NW	28.3 NC
4.00N-27.00E-36 NW SW	30.2 NC
4.00N-27.00E-36 SW SW	26.0 NC
Sum of Acres: 5087.98	

Water Right Genealogy



[\[-\] Permit: G 10836](#)

[\[-\] Inchoate: T 9159 CF RR \(REG\)](#)

[\[-\] Permit: G 10836](#)

[\[-\] Cert: 82596 OR *](#)

[View Water Rights in same Family](#)

[Help understanding and working with the Water Rights Information System](#)

[Report Errors with Water Right Data](#)

[Return to WRIS Query](#)

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 either 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.

In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

STATE OF OREGON

COUNTIES OF MORROW AND UMATILLA

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

COUNTY LINE WATER IMPROVEMENT DISTRICT
77126 COUNTY LINE ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ARTIFICIALLY RECHARGED GROUND WATER FROM 23 WELLS in the ORDINANCE CRITICAL GROUND WATER AREA for SUPPLEMENTAL IRRIGATION OF 5087.98 ACRES.

This right was perfected under Permit G-10836. The date of priority is FEBRUARY 15, 1978. This right is limited to 59.81 CUBIC FEET PER SECOND, provided the total quantity appropriated by all rights perfected under Permit G-10836 does not exceed 60.20 cubic feet per second, or its equivalent in case of rotation, measured at the wells.

The maximum annual appropriation for all rights perfected under Permit G-10836 shall not exceed 14,688.0 ACRE-FEET of artificially and naturally recharged ground water or a lesser amount as herein provided in condition 8 (Allowable Use of Stored Water).

G-8649.LHN

CERTIFICATE NUMBER 82596

The wells are located as follows:

AYLETT	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3700 FEET NORTH AND 1390 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	NW $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1650 FEET NORTH AND 1320 FEET EAST FROM THE SW CORNER, SECTION 28.
AYLETT	SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 90 FEET NORTH AND 40 FEET WEST FROM THE S $\frac{1}{4}$, SECTION 28.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1130 FEET NORTH AND 60 EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH RANGE 27 EAST, W.M.; 2740 FEET NORTH AND 1890 FEET EAST FROM THE SW CORNER, SECTION 27.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 230 FEET NORTH AND 1210 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 27.
COLEMAN	SE $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 27, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 960 FEET NORTH AND 1850 FEET EAST FROM THE W $\frac{1}{4}$ CORNER SECTION 27. There are two wells at this location within 20 feet.
COLEMAN	SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 26, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1160 FEET NORTH AND 370 FEET EAST FROM THE W $\frac{1}{4}$ CORNER, SECTION 26.
12H	SW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 3180 FEET NORTH AND 1470 FEET WEST FROM THE SE CORNER, SECTION 28..
12H	SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 28, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 20 FEET NORTH AND 1350 FEET WEST FROM THE SE CORNER, SECTION 28.
12H	NW $\frac{1}{4}$ NE $\frac{1}{4}$, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.; 1270 FEET SOUTH AND 1350 FEET WEST FROM THE NE CORNER, SECTION 33.

12H SW¼ NE¼, SECTION 33, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1940 FEET SOUTH AND 1350 WEST FROM THE
NE CORNER, SECTION 33.

HOLZAPFEL NW¼ NE¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 50 FEET SOUTH AND 1450 FEET WEST FROM
THE NE CORNER, SECTION 32.

HOLZAPFEL NE¼ NW¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 70 FEET SOUTH AND 2520 FEET EAST FROM
THE NW CORNER, SECTION 32.

HOLZAPFEL NE¼ NE¼, SECTION 32, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 340 FEET SOUTH AND 1190 FEET WEST FROM
THE NE CORNER, SECTION 32.

KEY SE¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 290 FEET NORTH AND 50 FEET WEST FROM
THE SE CORNER, SECTION 30.

KEY SE¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 100 FEET NORTH AND 40 FEET WEST FROM
THE SE CORNER, SECTION 30.

MANN SE¼ SW¼, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 190 FEET NORTH AND 1250 FEET EAST FROM
THE SW CORNER, SECTION 20

SOLANO SW¼ SW¼, SECTION 20, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 10 FEET NORTH AND 90 FEET EAST FROM
THE SW CORNER, SECTION 20.

WOOD NW¼ NE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 1190 FEET SOUTH AND 4170 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD NW¼ SE¼, SECTION 30, TOWNSHIP 4 NORTH, RANGE 27
EAST, W.M.; 3830 FEET SOUTH AND 4160 FEET EAST
FROM THE NW CORNER, SECTION 30.

WOOD LOT 4 (SW¼ SW¼), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 3875 FEET SOUTH AND 1385 FEET
EAST FROM THE NW CORNER, SECTION 30.

WOOD LOT 2 (SW¼ NW¼), SECTION 30, TOWNSHIP 4 NORTH,
RANGE 27 EAST, W.M.; 1280 FEET SOUTH AND 1350 FEET
EAST FROM THE NW CORNER, SECTION 30.

The amount of water used for irrigation together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of March 10 to October 15 for each calendar year. This right does not alter the Ordinance Critical Ground Water Area Order.

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

NW¼ NW¼ 28.6 ACRES
SW¼ NW¼ 17.8 ACRES

SECTION 2

NE¼ NE¼ 32.3 ACRES
NW¼ NE¼ 34.1 ACRES
SW¼ NE¼ 14.0 ACRES
SE¼ NE¼ 21.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 27.5 ACRES
SW¼ NW¼ 33.6 ACRES
SE¼ NW¼ 15.7 ACRES
NE¼ SW¼ 33.1 ACRES
NW¼ SW¼ 29.1 ACRES
SW¼ SW¼ 37.8 ACRES
SE¼ SW¼ 31.1 ACRES
NE¼ SE¼ 36.1 ACRES
NW¼ SE¼ 36.0 ACRES

SECTION 3

NE¼ NE¼ 29.3 ACRES
NW¼ NE¼ 35.4 ACRES
SW¼ NE¼ 35.5 ACRES
SE¼ NE¼ 29.6 ACRES
NE¼ NW¼ 31.1 ACRES
NW¼ NW¼ 31.0 ACRES
SW¼ NW¼ 26.5 ACRES
SE¼ NW¼ 31.2 ACRES
NE¼ SE¼ 31.3 ACRES
NW¼ SE¼ 30.8 ACRES
SW¼ SE¼ 31.5 ACRES
SE¼ SE¼ 31.5 ACRES

SECTION 4

NE¼ NE¼ 32.8 ACRES
NW¼ NE¼ 32.5 ACRES
SW¼ NE¼ 32.6 ACRES
SE¼ NE¼ 32.9 ACRES
NE¼ NW¼ 32.7 ACRES
NW¼ NW¼ 32.7 ACRES
SW¼ NW¼ 32.9 ACRES
SE¼ NW¼ 32.9 ACRES

SECTION 5

NE¼ NE¼ 31.5 ACRES
NW¼ NE¼ 35.5 ACRES
SW¼ NE¼ 23.5 ACRES
SE¼ NE¼ 19.5 ACRES

SECTION 9

500

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 10.4 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.0 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 38.7 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 12.9 ACRES

SECTION 10
 TOWNSHIP 3 NORTH,
 RANGE 27 EAST, W.M.

LOT 3 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.1 ACRES
 Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$) 20.8 ACRES
 Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$) 32.6 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 33.6 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 1.0 ACRE
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.8 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.9 ACRES

SECTION 19

LOT 4 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.7 ACRES
 Lot 4 (SE $\frac{1}{4}$ SW $\frac{1}{4}$) 2.5 ACRES

SECTION 20

LOT 6 (SW $\frac{1}{4}$ NE $\frac{1}{4}$) 8.4 ACRES
 LOT 8 (SE $\frac{1}{4}$ NE $\frac{1}{4}$) 13.4 ACRES
 LOT 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$) 30.3 ACRES
 LOT 4 (SE $\frac{1}{4}$ NW $\frac{1}{4}$) 18.7 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 19.0 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 24.9 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 35.6 ACRES
 LOT 9 (NE $\frac{1}{4}$ SE $\frac{1}{4}$) 24.4 ACRES
 LOT 10 (NW $\frac{1}{4}$ SE $\frac{1}{4}$) 7.4 ACRES
 LOT 11 (NW $\frac{1}{4}$ SE $\frac{1}{4}$) 1.3 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 22.5 ACRES
 LOT 12 (SE $\frac{1}{4}$ SE $\frac{1}{4}$) 17.3 ACRES

SECTION 26

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 10.3 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 15.2 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.3 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 18.1 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 35.9 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.4 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 13.5 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 13.1 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 2.8 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.4 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 27.1 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.6 ACRES

SECTION 27

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 1.0 ACRE
 SW $\frac{1}{4}$ NE $\frac{1}{4}$ 37.1 ACRES
 SE $\frac{1}{4}$ NE $\frac{1}{4}$ 24.8 ACRES
 NE $\frac{1}{4}$ NW $\frac{1}{4}$ 2.4 ACRES
 NW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.8 ACRES
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ 36.4 ACRES
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ 39.1 ACRES
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ 34.72 ACRES
 NW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.42 ACRES
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ 31.42 ACRES
 SE $\frac{1}{4}$ SW $\frac{1}{4}$ 31.72 ACRES
 NE $\frac{1}{4}$ SE $\frac{1}{4}$ 39.1 ACRES
 NW $\frac{1}{4}$ SE $\frac{1}{4}$ 39.9 ACRES
 SW $\frac{1}{4}$ SE $\frac{1}{4}$ 38.6 ACRES
 SE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES

SECTION 28

		NE¼ NE¼	34.7 ACRES
		NW¼ NE¼	37.6 ACRES
		SW¼ NE¼	29.0 ACRES
		SE¼ NE¼	27.1 ACRES
		NE¼ NW¼	31.9 ACRES
LOT	1	(NW¼ NW¼)	42.7 ACRES
LOT	2	(SW¼ NW¼)	34.2 ACRES
		SE¼ NW¼	25.2 ACRES
		NE¼ SW¼	29.5 ACRES
LOT	3	(NW¼ SW¼)	40.5 ACRES
LOT	4	(SW¼ SW¼)	37.3 ACRES
		SE¼ SW¼	28.2 ACRES
		NE¼ SE¼	32.8 ACRES
		NW¼ SE¼	36.2 ACRES
		SW¼ SE¼	32.6 ACRES
		SE¼ SE¼	30.6 ACRES

SECTION 30

		NE¼ NE¼	27.6 ACRES
		NW¼ NE¼	2.6 ACRES
		SW¼ NE¼	34.1 ACRES
		SE¼ NE¼	30.5 ACRES
		NE¼ NW¼	32.0 ACRES
		NW¼ NW¼	32.0 ACRES
		SW¼ NW¼	32.0 ACRES
		SE¼ NW¼	32.0 ACRES
		NE¼ SW¼	32.0 ACRES
		NW¼ SW¼	32.0 ACRES
		SW¼ SW¼	32.0 ACRES
		SE¼ SW¼	32.0 ACRES
		NE¼ SE¼	31.0 ACRES
		NW¼ SE¼	29.0 ACRES
		SW¼ SE¼	33.2 ACRES
		SE¼ SE¼	35.4 ACRES

SECTION 32

		NE¼ NE¼	34.3 ACRES
		NW¼ NE¼	32.0 ACRES
		SW¼ NE¼	32.0 ACRES
		SE¼ NE¼	32.0 ACRES
		NE¼ NW¼	24.42 ACRES
		NW¼ NW¼	22.83 ACRES
		SW¼ NW¼	22.83 ACRES
		SE¼ NW¼	24.42 ACRES
		NE¼ SW¼	29.0 ACRES
		NW¼ SW¼	29.0 ACRES
		SW¼ SW¼	31.0 ACRES
		SE¼ SW¼	31.0 ACRES
		NE¼ SE¼	32.2 ACRES
		NW¼ SE¼	31.6 ACRES
		SW¼ SE¼	34.4 ACRES
		SE¼ SE¼	27.2 ACRES

SECTION 33

		NE¼ NE¼	37.5 ACRES
		NW¼ NE¼	39.5 ACRES
		SW¼ NE¼	10.1 ACRES
		SE¼ NE¼	7.1 ACRES
		NE¼ NW¼	32.8 ACRES
		NW¼ NW¼	30.2 ACRES
		SW¼ NW¼	30.2 ACRES
		SE¼ NW¼	35.6 ACRES
		NE¼ SW¼	39.7 ACRES
		NW¼ SW¼	34.0 ACRES
		SW¼ SW¼	30.8 ACRES
		SE¼ SW¼	39.8 ACRES
		NE¼ SE¼	32.3 ACRES
		NW¼ SE¼	41.2 ACRES
		SW¼ SE¼	39.3 ACRES
		SE¼ SE¼	39.3 ACRES

SECTION 34

NE¼ NE¼ 32.9 ACRES
 NW¼ NE¼ 36.3 ACRES
 SW¼ NE¼ 31.4 ACRES
 SE¼ NE¼ 31.4 ACRES
 NE¼ NW¼ 33.5 ACRES
 NW¼ NW¼ 34.0 ACRES
 SW¼ NW¼ 31.4 ACRES
 SE¼ NW¼ 31.4 ACRES
 NE¼ SW¼ 31.4 ACRES
 NW¼ SW¼ 31.4 ACRES
 SW¼ SW¼ 31.4 ACRES
 SE¼ SW¼ 31.4 ACRES
 NE¼ SE¼ 31.4 ACRES
 NW¼ SE¼ 31.4 ACRES
 SW¼ SE¼ 31.4 ACRES
 SE¼ SE¼ 31.4 ACRES

SECTION 35

NE¼ NW¼ 33.9 ACRES
 NW¼ NW¼ 32.2 ACRES
 SW¼ NW¼ 28.3 ACRES
 SE¼ NW¼ 28.3 ACRES
 NW¼ SW¼ 30.2 ACRES
 SW¼ SW¼ 26.0 ACRES

SECTION 36
 TOWNSHIP 4 NORTH,
 RANGE 27 EAST, W.M.

The use of water under this right is subject to the following conditions:

1. Water level monitoring: Each year between February 1 and March 15, the District shall determine a water level in each well covered by this right to 0.1 foot below land surface.
2. Target level in key wells: This right designates five existing wells as key wells in the water level monitoring program. As determined between February 1 and March 15 of each year, actual water levels at these wells shall be compared to the target levels to determine allowable water use as indicated under the Allowable Use of Stored Water, Condition 8. Key wells and associated target levels are:

<u>Well Location</u>	<u>Common Names (Per Order, 1976)</u>	<u>Target Levels (Ft below LSD)</u>	
		<u>Upper</u>	<u>Lower</u>
T4N/R27E-30d	Ordinance #14A	88.0	91.0
T4N/R27E-33cba	Ordinance #22	84.0	87.0
T4N/R27E-27c	Ordinance #53B	95.0	98.0
T4N/R27E-26b	Ordinance #17 (newer)	89.0	92.0
T4N/R27E-28b	Ordinance #3	78.0	81.0

3. Water level recorders: The District shall install, maintain, and operate water level recorders in two wells located in NE¼ NW¼ SW¼, Section 33, Township 4 North, Range 27 East, W.M. (known as Ordinance #22), and in the SW¼ NW¼ SW¼, Section 27, Township 4 North, Range 27 East, W.M. (known as Ordinance #53B). The District shall maintain a record of the data collected from the recorders.
4. Meters: The District shall meter all withdrawals from wells covered by this right and keep records as described below.
5. Calculation of stored water: The Water Resources Department shall make final determinations on stored ground water. This shall occur through a Storage Account which covers this right and the right perfected under Permit 41452. The account shall be based on recharge and withdrawal over only the preceding five water years. It shall be credited at 90 percent of water metered to the place of recharge under the right perfected under Permit 41512. Withdrawals of stored water under this right shall debit the account at 100 percent of metered values at wells. The debit applies to that portion of withdrawals which are in excess of the limits set by the Ordinance Critical Ground Water Area Order. The District may obtain information on the storage account by submitting a written request.
6. Annual Reports:
 - (A) Recharge Report: The District shall submit an annual report to the Director by March 15 of each year. The report shall include the range of discharge rates and total quantities during the prior water year at both the diversion point and the place of recharge. In addition, the report shall include a general operations review, the District's estimate of the storage account and the results of other related water quantity and quality programs.
 - (B) Withdrawal Report: The District shall submit an annual report to the Director by March 15 of each year. The purpose of the report is to show the effects of the pumping during the prior irrigation season. The report shall note total withdrawals at each well during the last irrigation season, recently measured and dated February water levels at each well, and other data pertinent to the storage account.

7. Estimated data: When metered or measured data are missing in whole or in part, the Director may make estimates from available data. Those estimates shall be reasonable and, where a range of uncertainty exists, conservatively low on water delivered to the place of recharge and conservatively high on withdrawals of stored water.
8. Allowable use of stored water: The use of water under this right is based on the allowable use of stored water. The allowable use of stored water during the next irrigation season falls into 3 categories. For ease of reference, these categories are named as color zones.
 - (A) Green zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are above the upper target levels, use is allowed up to the lesser of either the maximum of the storage account or maximum annual diversion under this right.
 - (B) Yellow zone: If neither Green zone nor Red zone water levels prevail, use is allowed up to 85 percent of the recharge volume for the preceding 12 months.
 - (C) Red zone: If recent water levels as determined between February 1 and March 15 at 3 or more of the 5 key wells are below the lower target level, no use of recharged water is allowed.
9. Records, inspections: The District shall keep accurate and current records of metered values, water levels and other pertinent information. The Director may inspect the records and works covered by this right and the right perfected under Permit 41452 upon reasonable notice and at any reasonable time.

10. Modifications to right: If project performance or other hydrologic circumstances indicate that provisions(s) in this right are an unnecessary hardship, or are either inappropriate or inadequate to monitor or manage the quantity or protect the quality of the ground water resource, the Director may modify target water levels, key wells, the storage account credit factor, the storage account, or any other term of this right as necessary to remedy the deficiencies. Changes shall result through negotiation with the District, or, if satisfactory to the Director, from information derived by the District through a definitive or state-of-the-art ground water investigation. Failing successful negotiations, either the District may petition the Water Resources Commission for a contested case hearing or the Director may require the hearing in order to remedy the deficiencies. This condition does not preclude other judicial review remedies.
11. If the recharge withdrawal exceeds 60.2 cfs at any time, the proper state officer shall notify the District and the District shall arrange for a reduction of the pumping so that the cumulative pumping of artificially recharged ground water will not exceed 60.2 cfs.

The wells shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

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

WITNESS the signature of the Water Resources Director, affixed

DEC 15 2006



Phillip C. Ward, Director
Water Resources Department

Recorded in State Record of Water Right Certificates Number 82596

G-8649.LHN

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

▪ Certificate Number or other identifying number: 80913

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)
UMA #1806	Well # 9 August 9, 1954	4N	27E	WM	36	SW NW	3300	1884 ft S & 1315 ft E from the NW Cor. Sec. 36

▪ 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
See attached Well Log UMA #1806									

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WATER RESOURCES DEPT
SALEM, OREGON

Supplemental Form A

- 3 -

Description of Proposed Change(s) to a Water Right

110427

■ Certificate Number or other identifying number: 80913

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)

Source and Priority Date	Township	Range	Mer	Sec	¼ ¼ Section	Tax Lot, DLC or Gov't Lot	Acres (if applicable)
Well # 9 August 9, 1954	4N	27E	WM	36	NW NW	2300	13.5 Acres

■ Certificate Number or other identifying number: _____

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)
Basalt Wells	4N	27E	W M	25	NE NE	200	590 ft. S & 1420 ft. W from the NE Corner of Section 25

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WATER RESOURCES DEPT
SALEM, OREGON

- 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
NO		Proposed 8"	Steel 8"	150 ft		150 ft	200 ft.	200 ft to 300 ft	2" nipple Top of Casing	300 ft

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SALEM, OREGON

▪ Certificate Number or other identifying number: 80913

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)
New Basalt Well	4N	27E	W M	25	NE NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	NW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SW NE	200 & 202	Industrial Use
New Basalt Well	4N	27E	W M	25	SE NE	200 & 202	Industrial Use

Remarks: _____

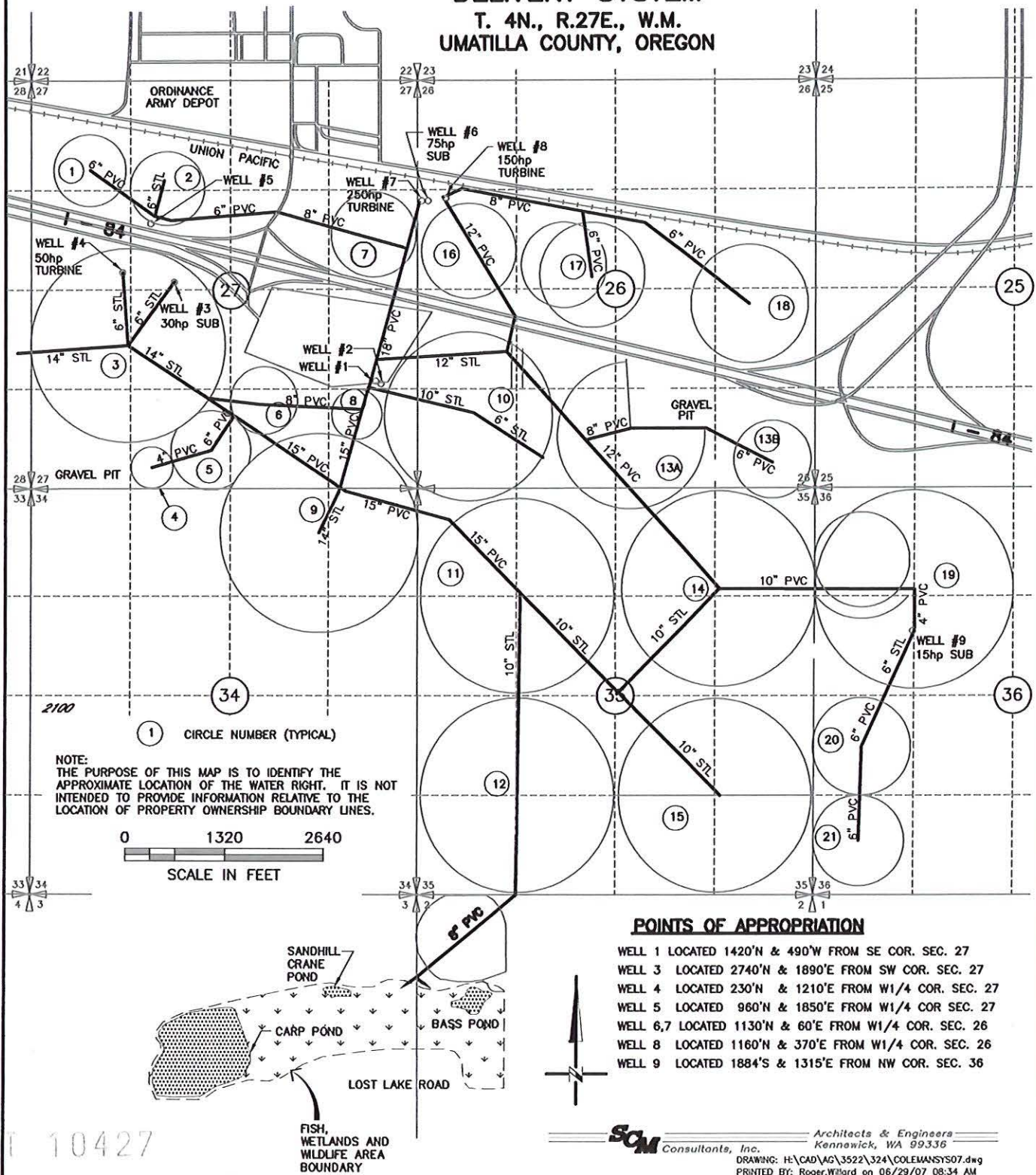
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WATER RESOURCES DEPT
SALEM, OREGON

CRAIG COLEMAN DELIVERY SYSTEM T. 4N., R.27E., W.M. UMATILLA COUNTY, OREGON



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SALEM, OREGON

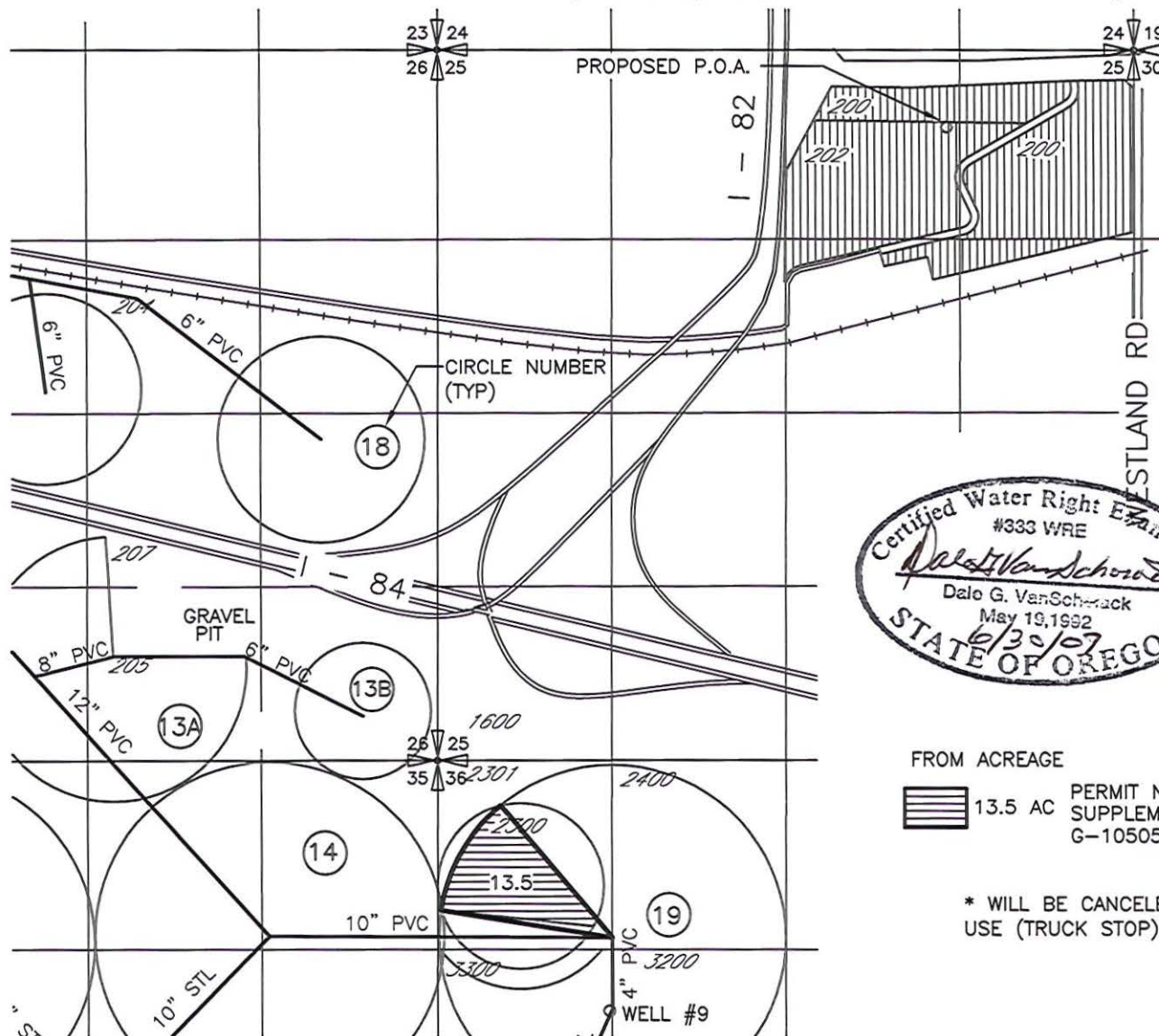
TRANSFER APPLICATION MAP

COLEMAN TO FLYING "J"

13.5 ACRES (50 GPM) OF WATER RIGHT A PORTION OF CERTIFICATE 80913

T4N, R27E, WM UMATILLA COUNTY, OREGON

Superseded
by map received
11/1/07

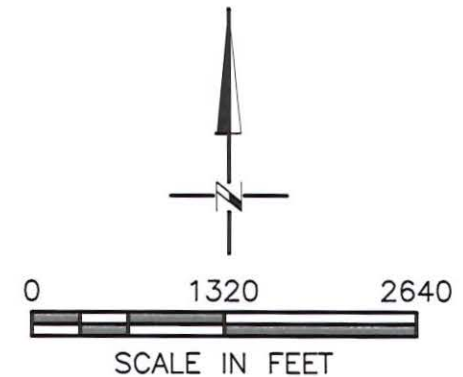


AUTHORIZED POINT OF APPROPRIATION

WELL 9
LOCATED 1884'S & 1315'E FROM NW
COR SEC 36

PROPOSED POINT OF APPROPRIATION

TRUCK STOP WELL
LOCATED 590'S & 1420'W FROM NE
COR SEC 25



FROM ACREAGE



13.5 AC

PERMIT NO. U-649 CERT 80193
SUPPLEMENTAL PERMIT NO.
G-10505 CERT 80915*

TO PLACE OF USE



INDUSTRIAL USE
(TRUCK STOP)
50 GPM YEAR
ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

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A Tetra Tech Company

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WATER RESOURCES DEPT
CLATSOP COUNTY

STATE OF OREGON
COUNTY OF UMATILLA
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

HANSELL BROTHERS, INC.
28286 STAFFORD ROAD
HERMISTON, OREGON 97838

confirms the right to use the waters of ONE (1) WELL in the
UMATILLA RIVER BASIN for IRRIGATION OF 38.3 ACRES.

This right was perfected under Permit U-649. The date of priority
is AUGUST 9, 1954. The amount of water to which this right is
entitled is limited to an amount actually beneficially used and
shall not exceed 0.48 CUBIC FOOT PER SECOND or its equivalent in
case of rotation, measured at the well.

The well is located as follows:

WELL #9 - SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 36, T 4 N, R 27 E, W.M.; 1884 FEET
SOUTH AND 1315 FEET EAST FROM NW CORNER, SECTION 36

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

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

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

NE $\frac{1}{4}$ NE $\frac{1}{4}$	4.7 ACRES
SECTION 35	
NW $\frac{1}{4}$ NW $\frac{1}{4}$	28.3 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$	5.3 ACRES
SECTION 36	
TOWNSHIP 4 NORTH, RANGE 27 EAST, W.M.	

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WATER RIGHTS DIVISION
SALEM, OREGON

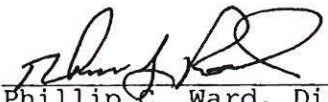
The well shall be maintained in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon.

This certificate describes that portion of the water right confirmed by Certificate 74109, State Record of Water Right Certificates, NOT modified by the provisions of an order of the Water Resources Director entered NOV 24 2004, approving Transfer Application 9275

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 NOVEMBER 24, 2004.


for Phillip C. Ward, Director

Recorded in State Record of Water Right Certificates numbered 80913

T-9275.VLC

Page 2 of 2

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WATER RESOURCES DEPT
SALEM, OREGON

T 10427

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

State of Oregon)
County of Umatilla) ss

I, **Craig Coleman**, in my capacity as _____,
mailing address **33896 E. Walls Road, Hermiston, OR 97838**
telephone number **(541)567-1605**, 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)
4	N	27	E	W M	36	SW N W		2300	13.5

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WATER RESOURCES DEPT
SALEM, OREGON

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

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

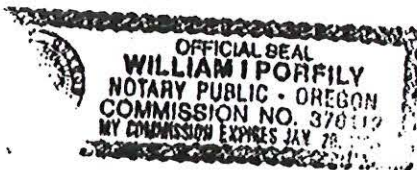
6. One or more of the following documentation supporting the above statements is attached:

- ☐ 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: _____

Gray F. Glin
Signature of Affiant

6-18-07
Date

Signed and sworn to (or affirmed) before me this 18 day of June, 2007.



William J. Porfily
Notary Public for Oregon

My Commission Expires: JAN 26, 2008

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WATER RESOURCES DEPT
SALEM, OREGON

After recording return to: Northwest Farm Credit Services, FLCA
P.O. Box 878
Pendleton, OR 97801
(541) 278-3300/fax (541) 278-3305

copy

Customer/Note No. 49991-441

PARTIAL RELEASE AGREEMENT - Debt Not Satisfied

For good and valuable consideration, Lender certifies as follows:

Release/Debt Outstanding: The property, described as follows:

That portion of water right evidenced by State of Oregon Water Right Certificate No. 80913 that is appurtenant to 13.5 acres in the northwest quarter of the northwest quarter of Township 4 North, Range 27 East, W.M. amounting to 0.16875 cfs. and includes a duty of no more than 40.5 acre feet. The priority of the water right evidenced by the Certificate is August 9, 1954.

is released from the lien of the following described documents:

Deed of Trust dated February 23, 2005 and executed by Girth Dog, LLC a limited liability company; Craig F. Coleman and Janna L. Coleman, husband and wife, recorded on February 25, 2005, as Instrument No. 2005-4770583, in the records of Umatilla County, State of Oregon.

Line of Credit Deed of Trust dated June 28, 2005 and executed by Girth Dog, LLC a limited liability company, recorded on June 28, 2005, as Instrument No. 2005-4840326, in the records of Umatilla County, State of Oregon.

This Release shall not impair the right of Lender to hold any remaining property as security for the debt nor impair the validity, priority, or enforceability of the note or any other Loan Document.

Dated: June 6, 2007

Lender: Northwest Farm Credit Services, FLCA

Andy E. VanderPlaat
Authorized Agent

State of Oregon)
County of Umatilla) ss.

On June 6, 2007, before me personally appeared Andy E. VanderPlaat, known to me to be an authorized agent of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same as its free act and deed; and on oath stated that he/she was authorized to execute said instrument.



Alecia Funk
Printed Name Alecia Funk
Notary Public for the State of Oregon
Residing at Pendleton
My commission expires March 25, 2011

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Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. WRD will use this and other information to evaluate the water use application. 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, or exchange 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.

To Be Completed By Applicant

This section must be completed by the individual or group that is filing an application with the Water Resources Department. Attach a copy of the map from the application to this form.

- A. Applicant

Name: Craig Coleman

Address: 33896 Walls Road

City: Hermiston State: OR Zip: 97875 Day Phone: (541)567-1605

- B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Tax Lot I.D.	Plan Designated (e.g. Rural Residential/RR-5)	Water to be: (Check all that apply)			Proposed Land Use
TL 200, 202, Sec. 25 T4N R27E WM		☒ Diverted	☒ Conveyed	☒ Used	Industrial- Truck Stop
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	

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

- C. Description of Proposed Use

Indicate the type of application to be filed with the Water Resources Department.

☐ Water Use Permit ☒ Water Right Transfer ☐ Allocation of Conserved Water ☐ Exchange

Indicate the intended use of water and describe the key characteristics of the project.

☐ Commercial ☒ Industrial ☐ Instream ☐ Irrigation
☐ Municipal ☐ Quasi-municipal ☐ Domestic (indicate number of households)
☐ Other _____

Briefly describe: _____

Indicate the source of the water to be used.

☐ Reservoir/Pond ☒ Ground Water ☐ Surface Water _____

Indicate the estimated quantity of water the use will require: 50 ☒ CFS ☒ GPM ☐ Acre-Feet (Source)

Last Revised: 04/06/04

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COLEMAN OREGON

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 this case, only the city planning agency must complete this form. Please request additional forms as needed or feel free to copy.

A. Allowed Use

Check the appropriate box below and provide 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): _____. Go to section B "Approval" below.
- ☒ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) 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.

Type of Land Use Approval Needed (3.g. plan amendments, rezones, conditional use permits, etc.)	City Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval	
Conditional Use Permit	ISA. 303, ISA. 277 of UCD	☐ 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
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action/land use decision and accompanying findings are sufficient.)

B. Approval

Please provide printed name and written signature.

Name: J.R. Cook Date: 6-29-07

Title: Asst. Planning Dir. Phone: 541.278.6251

Signature: [Signature]

C. Additional Comments

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

Land use only

[Signature]

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. 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.

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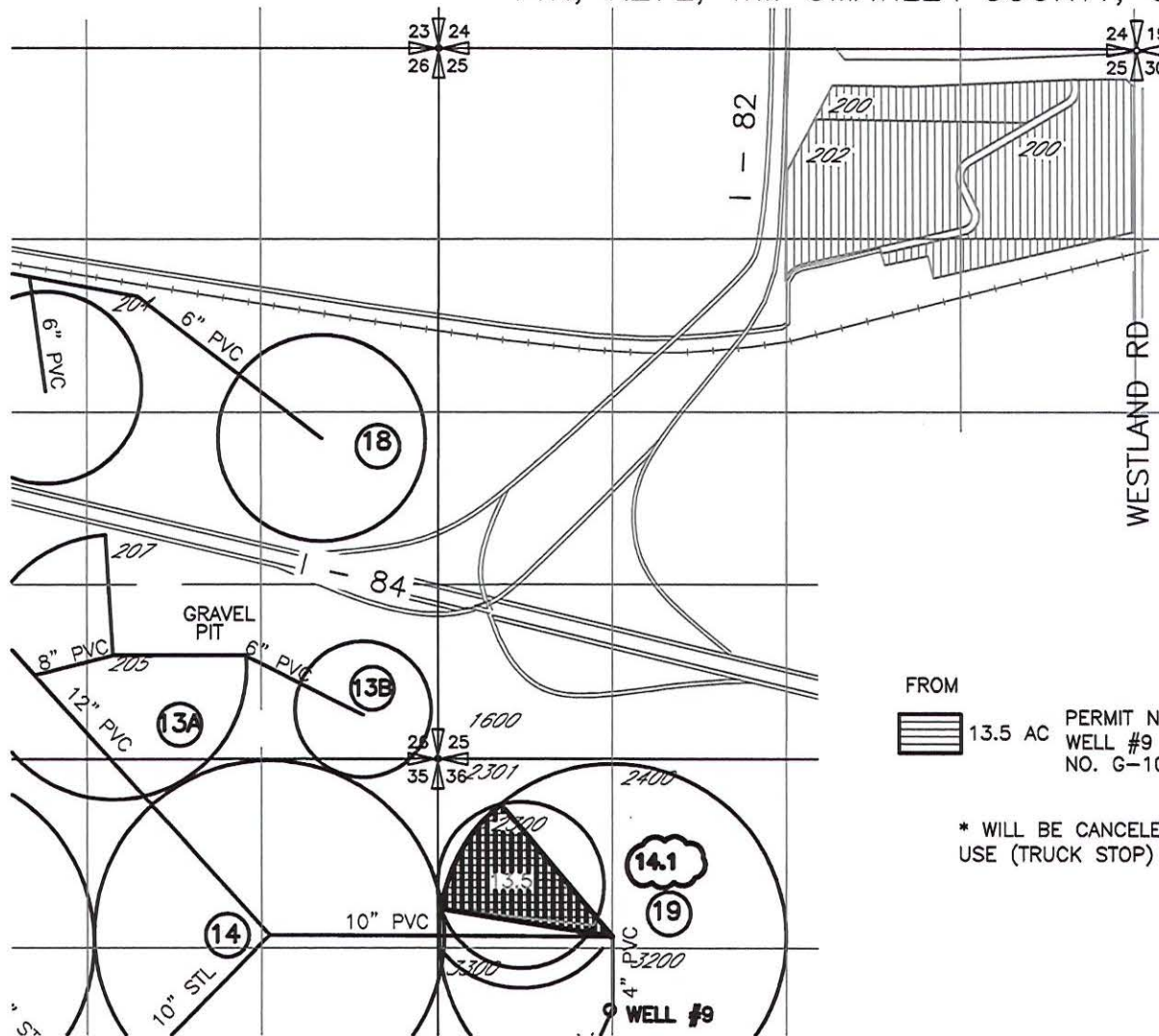
WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT "A"

COLEMAN TO FLYING "J"

13.5 ACRES (50 GPM) OF WATER RIGHT DESCRIBED IN CERTIFICATE 80913

T4N, R27E, WM UMATILLA COUNTY, OREGON



AUTHORIZED POINT OF APPROPRIATION
WELL 9 LOCATED 1884'S & 1315'E
FROM NW COR. SEC.36 BEING WITHIN
SW1/4NW1/4

FROM



13.5 AC

PERMIT NO. U-649 CERT 74109
WELL #9 SUPPLEMENTAL PERMIT
NO. G-10505 CERT 80913*

TO



INDUSTRIAL USE
(TRUCK STOP)
50 GPM YEAR
ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION
RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

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WATER RESOURCES DEPT
SALEM, OREGON

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

State of Oregon)
) ss
County of Oregon)

I Craig Coleman of Girth Dog, LLC

residing at 33896 E. Walls Road, Hermiston, OR 97838,

telephone (541)567-1605, being first duly sworn depose and say:

1. We are the legal owner(s) of the property described as tax lot number 2300, Section 36, T4N, R27E, WM within the NW $\frac{1}{4}$ NW $\frac{1}{4}$, Section 36, Township 4, N, Range 27E, of the Willamette Meridian, in Umatilla County County, Oregon, as shown on the attached map Exhibit A and described in the attached deed and legal description and made part of this affidavit;
2. A portion of water right certificate number 80915 issued to Hansell Brothers, Inc with a date of priority of January 9, 1970 for use of 0.168 cubic foot per second of water from 7 Wells (sources) for the purpose of Supplemental Irrigation (uses) is appurtenant to my property;
3. The appurtenant water right is/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 distric, or reclamation project, name it here: County Line Improvement District); and
4. I propose to transfer the primary water right as shown on the attached map Exhibit A and cancel the supplemental water right described as follows: The right to the use of 0.167 cubic foot per second from 7 wells for Supplemental Irrigation, and supplemental irrigation of 13.5 acres located:

NW $\frac{1}{4}$ NW $\frac{1}{4}$ 13.5 Acres
Section 36
Township 4 N, Range 27 E, WM; and

5. I request the portion of the water right described above to be canceled at the time of OWRD approval of the of the attached transfer application transferring the primary water.

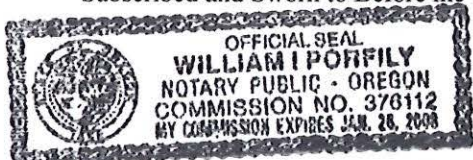
Girth Dog, LLC, by Craig Coleman
Signature of legal owner as listed on deed, or authorized agent

6-29-07
Date

Signature of legal co-owner as listed on deed
(if applicable)

Date

Subscribed and Sworn to Before me this 29 day of June, 2007.



William J. Porfily
Notary Public for Oregon

My Commission Expires Jan 26, 2008

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).

December 2004 FSD

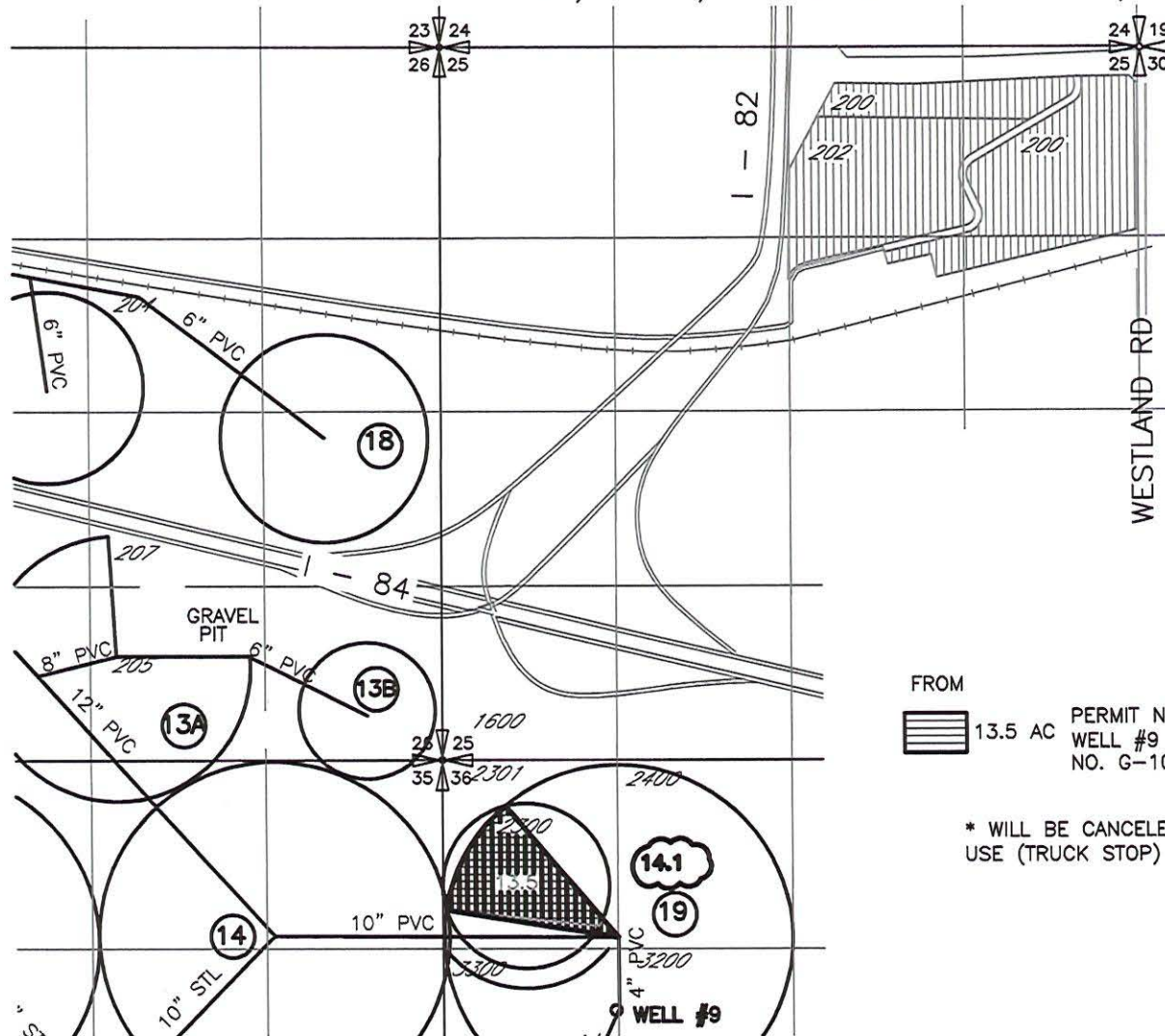
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WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT "A"
COLEMAN TO FLYING "J"
13.5 ACRES (50 GPM) OF WATER RIGHT
DESCRIBED IN CERTIFICATE 80913
T4N, R27E, WM UMATILLA COUNTY, OREGON



AUTHORIZED POINT OF APPROPRIATION

WELL 9 LOCATED 1884'S & 1315'E
 FROM NW COR. SEC.36 BEING WITHIN
 SW1/4NW1/4

FROM



13.5 AC

PERMIT NO. U-649 CERT 80193
 WELL #9 SUPPLEMENTAL PERMIT
 NO. G-10505 CERT 80915*

TO



INDUSTRIAL USE
 (TRUCK STOP)
 50 GPM YEAR
 ROUND USE

* WILL BE CANCELED FOR THIS TRANSFER TO INDUSTRIAL
 USE (TRUCK STOP)

NOTE: THE PURPOSE OF THIS MAP IS TO IDENTIFY THE APPROXIMATE LOCATION
 OF THE WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION
 RELATIVE TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

SCM Consultants, Inc.
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ALLEN OREGON

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

State of Oregon)
County of Umatilla) ss

I, Craig Coleman, in my capacity as _____,
mailing address 33896 E. Walls Road, Hermiston, OR 97838
telephone number (541)567-1605, 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)
4	N	27	E	W M	36	SW	N W	2300	13.5

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WATER RESOURCES DEPT
SALEM, OREGON

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

I have grown Alfalfa the last couple of years

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

Well 9 has a 15 hp submersible pump and it pumps water to the 120 acre circle #19 as shown on the delivery system map

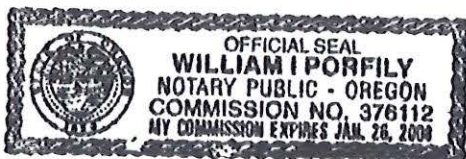
6. One or more of the following documentation supporting the above statements is attached:

- ☐ 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: _____

Craig F. Colman
Signature of Affiant

6-29-07
Date

Signed and sworn to (or affirmed) before me this 29 day of June, 20 07.



William I. Porfily
Notary Public for Oregon

My Commission Expires: Jan 26 2008

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WATER RESOURCES DEPT
SALEM, OREGON

COOPERATIVE

CURRENT BILL BECOMES PAST DUE AFTER

ACCOUNT NUMBER

08/21/06

BALANCE BROUGHT FORWARD00

MO-07 01 70 19306903

CURRENT BILLING 291.50

TOTAL AMOUNT DUE 291.50

Would like to donate to
 S
 UMATILLA ELECTRIC COOPERATIVE
 Every dollar donated to UCARE

GIRTH DOG LLC
 33896 E WALLS RD
 HERMISTON OR 97838-6384



Name: GIRTH DOG LLC									AMOUNT DUE/ CANTIDAD DEBIDA
Account: [REDACTED]		12	01	Service Address: 15 HP PUMP/2 CIRC C-19&2					
Meter Number	Rate Type	Service from	Periods To	# of Days	Meter Reading		Meter Mult	Kilowatt Hours Used	
					Previous	Present			
1098626	42A	07/01	08/01	31	91,005	96,054	1	5,049	
Monthly Basic Charge									\$13.50
Day Time Energy Usage						2,492 kWh @	\$.04700		\$117.12
Night Time Energy Usage						2,557 kWh @	\$.04250		\$108.67
BPA Summer Seasonal Adjustment						5,049 kWh @	\$.00970		\$48.98 CR
kW Peak Demand						19.22 kW @	\$3.60000		\$69.19
Power Factor Adjustment						2.30 kW @	\$ 3.60		\$8.28
Jun 06 Availability Demand						19.77 kW @	\$ 1.20		\$23.72
Current Bill Becomes Past Due 08/21/06									\$291.50
Beginning Balance									\$526.02
Payment Received 07/17/06						Thank You			\$526.02 CR
Total Due									\$291.50

Your Average Daily KWH Usage by Month

Period Ending	Avg Daily Temperature	Total KWH	Average KWh/Day	Cost Per Day
07/06	77	5,049	162	9.40
07/05	76	12,062	389	17.16

472

360

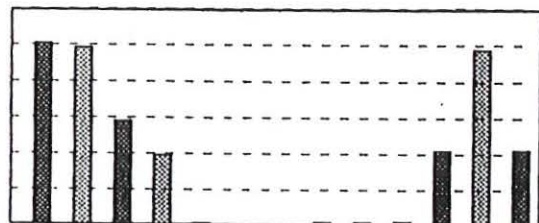
48

36

24

12

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J A S O N D J F M A M J J

9% APR Interest Will Be Charged On Past Due Accounts. All Payments Must Be US Currency.

UMATILLA
 ELECTRIC
 COOPERATIVE

HILL 418
 50 W ELM STREET P.O. BOX 1148 • HERMISTON, OREGON 97838-3148 • PHONE (541) 567-6414 • OREGON 1-800-452-2273 • FAX (541) 567-6415

PREVIOUS MONTHS' AMOUNT DUE	PAYMENTS AND CREDITS (-) SINCE LAST BILLING	CURRENT BILLING
526.02	526.02	291.50

TOTAL AMOUNT DUE/
 CANTIDAD TOTAL QUE
 SE DEBE
 291.50

JUL 02 2007

T 10427

WATER RESOURCES DEPT

08/22/05

BALANCE BROUGHT FORWARD00

MO-07 01 7 19306903

CURRENT BILLING 532.09

TOTAL AMOUNT DUE 532.09

ould like to donate to
E S
ALLA ELECTRIC COOPERATIVE
shes every dollar donated to UCARE

GIRTH DOG LLC
33896 E WALLS RD
HERMISTON OR 97838-6384



Name: GIRTH DOG LLC
Account: 12 01 Service Address: 15 HP PUMP/2 CIRC C-19&2

Meter Number	Rate Type	Service from	Periods To	# of Days	Meter Reading Previous	Meter Reading Present	Meter Mult	Kilowatt Hours Used
1098626	42A	07/01	08/01	31	38,238	50,300	1	12,062

AMOUNT DUE/
CANTIDAD DEBIDA

Monthly Basic Charge		\$13.50
Day Time Energy Usage	5,912 kWh @ \$.04700	\$277.86
Night Time Energy Usage	6,150 kWh @ \$.04250	\$261.38
BPA Summer Seasonal Adjustment	12,062 kWh @ \$.00950	\$114.59 CR
kW Peak Demand	17.81 kW @ \$3.60000	\$64.12
Power Factor Adjustment	2.13 kW @ \$ 3.60	\$7.67
Jun 05 Availability Demand	18.46 kW @ \$ 1.20	\$22.15

Current Bill Becomes Past Due	08/22/05	\$532.09
Beginning Balance		\$1,072.21
Payment Received	07/18/05	\$1,072.21 CR
Thank You		
Total Due		\$532.09

RECEIVED

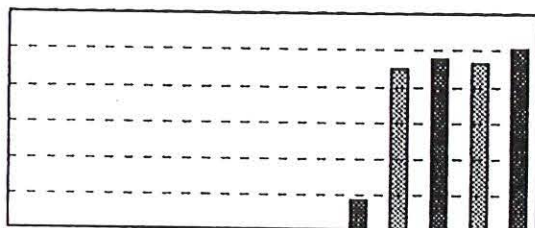
JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

Your Average Daily KWH Usage by Month

Period Ending	Avg Daily Temperature	Total KWH	Average KWH/Day	Cost Per Day
07/05	76	12,062	389	17.16

72
60
48
36
24
12
0



Are you looking for ways to save money on your electric bill? Umatilla Electric can help! Determine the efficiency of your home with a FREE home energy audit and learn more about the programs that are available to help you save electricity and money. For more details on how UEC conservation programs can save you \$\$\$ call 567-6414 or 1-800-452-2273.

J A S O N D J F M A M J J

9% APR Interest Will Be Charged On Past Due Accounts. All Payments Must Be US Currency.

UMATILLA ELECTRIC COOPERATIVE

PREVIOUS MONTHS' AMOUNT DUE	PAYMENTS AND CREDITS (-) SINCE LAST BILLING	CURRENT BILLING
1,072.21	1,072.21	532.09

TOTAL AMOUNT DUE/
CANTIDAD TOTAL QUE SE DEBE
532.09

10427

COOPERATIVE

CURRENT BILL BECOMES PAST DUE AFTER

ACCOUNT NUMBER

07/24/06

BALANCE BROUGHT FORWARD .00

I would like to donate to

4

MO-06 01 70 19306903

CURRENT BILLING 526.02

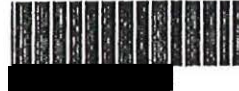
CARE S

UMATILLA ELECTRIC COOPERATIVE

atches every dollar donated to UCARE

TOTAL AMOUNT DUE 526.02

GIRTH DOG LLC
33896 E WALLS RD
HERMISTON OR 97838-6384



Name: GIRTH DOG LLC									AMOUNT DUE/ CANTIDAD DEBIDA	
Account: 12 01		Service Address: 15 HP PUMP/2 CIRC C-19&2								
Meter Number	Rate Type	Service from	Periods To	# of Days	Meter Reading Previous	Meter Reading Present	Meter Mult	Kilowatt Hours Used		
1098626	42A	06/01	07/01	30	79,345	91,005	1	11,660		
Monthly Basic Charge									\$13.50	
Day Time Energy Usage 5,922 kWh @ \$.04700									\$278.33	
Night Time Energy Usage 5,738 kWh @ \$.04250									\$243.87	
BPA Summer Seasonal Adjustment 11,660 kWh @ \$.00970									\$113.10 CR	
kW Peak Demand 19.77 kW @ \$3.60000									\$71.17	
Power Factor Adjustment 2.37 kW @ \$ 3.60									\$8.53	
Jun 06 Availability Demand 19.77 kW @ \$ 1.20									\$23.72	
Current Bill Becomes Past Due 07/24/06									\$526.02	
Beginning Balance									\$281.77	
Payment Received 06/15/06									\$281.77 CR	
Thank You										
Total Due									\$526.02	

RECEIVED

JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

Your Average Daily KWH Usage by Month

Period Ending	Avg Daily Temperature	Total KWH	Average KWH/Day	Cost Per Day
06/06	68	11,660	388	17.53
06/05	66	11,158	371	17.71

172

160

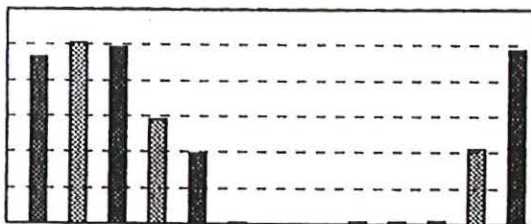
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J J A S O N D J F M A M J

9% APR Interest Will Be Charged On Past Due Accounts. All Payments Must Be US Currency.

Access And Pay Your Bill Online - UEC gives you another value-added service with our new online account access and bill payment option. Online bill payment is a fast, safe and secure way to pay utility bills through the Internet from wherever or whenever you choose. Go to umatillaelectric.com to sign-up!

UMATILLA
ELECTRIC
COOPERATIVE

PREVIOUS MONTHS' AMOUNT DUE	PAYMENTS AND CREDITS (-) SINCE LAST BILLING	CURRENT BILLING
281.77	281.77	526.02

TOTAL AMOUNT DUE/
CANTIDAD TOTAL QUE
SE DEBE

526.02

ILL 382 07/07/06 02:52
50 W. ELM STREET • P.O. BOX 1148 • HERMISTON, OREGON 97838-3148 • PHONE (541) 567-6414 •

GIRTH DOG LLC

-2220

09/23/05

like to donate to

4

MO-08 01 7 19306903

BALANCE BROUGHT FORWARD .00

ELECTRIC COOPERATIVE
Every dollar donated to UCARE

CURRENT BILLING 524.31

TOTAL AMOUNT DUE 524.31

GIRTH DOG LLC
33896 E WALLS RD
HERMISTON OR 97838-6384

Name: GIRTH DOG LLC

Account: 12 01

Service Address: 15 HP PUMP/2 CIRC C-19&2

Meter Number	Rate Type	Service from	Periods To	# of Days	Meter Reading Previous	Meter Reading Present	Meter Mult	Kilowatt Hours Used
1098626	42A	08/01	09/01	31	50,300	62,100	1	11,800

Monthly Basic Charge		\$13.50
Day Time Energy Usage	6,002 kWh @ \$.04700	\$282.09
Night Time Energy Usage	5,798 kWh @ \$.04250	\$246.42
BPA Summer Seasonal Adjustment	11,800 kWh @ \$.00950	\$112.10 CR
kW Peak Demand	17.92 kW @ \$3.60000	\$64.51
Power Factor Adjustment	2.15 kW @ \$ 3.60	\$7.74
Jun 05 Availability Demand	18.46 kW @ \$ 1.20	\$22.15

Current Bill Becomes Past Due	09/23/05	\$524.31
Beginning Balance		\$532.09
Payment Received	08/10/05	\$532.09 CR
Thank You		
Total Due		\$524.31

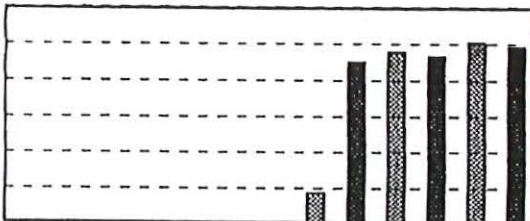
RECEIVED

JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

Your Average Daily KWH Usage by Month

Period Ending	Avg Daily Temperature	Total KWH	Average KWH/Day	Cost Per Day
08/05	75	11,800	380	16.91

72
30
8
16
14
2
0

A S O N D J F M A M J J A

9% APR Interest Will Be Charged On Past Due Accounts. All Payments Must Be US Currency.

UMATILLA
ELECTRIC
COOPERATIVE

PREVIOUS MONTHS' AMOUNT DUE	PAYMENTS AND CREDITS (-) SINCE LAST BILLING	CURRENT BILLING
532.09	532.09	524.31

TOTAL AMOUNT DUE/
CANTIDAD TOTAL QUE
SE DEBE

524.31

BILL 593
750 W. ELM STREET • P.O. BOX 1148 • HERMISTON, OREGON 97838-3148 • PHONE (541) 567-6414 • OREGON 1-800-452-2273 • BOARDMAN (541) 481-2220

GIRTH DOG LLC

10427

2006 Aerial Photo

Area being Transferred to Flying J



RECEIVED

JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

T 10427

AFTER RECORDING, RETURN TO:

WATER RIGHT SALE AGREEMENT

This Water Right Sale Agreement (the "Agreement"), dated as of May __, 2007, is by and between Girth Dog, LLC, an Oregon limited liability company (the "Seller"), and Flying J, Inc. ("Buyer").

RECITALS

A. Seller owns real property including 13.5 acres in the northwest quarter of the northwest quarter of Township 4 North, Range 27 East, W.M. (the "Seller's Property"), as depicted on **Exhibit A**, attached hereto. The Seller's Property is included in the authorized place of use of the water rights evidenced by State of Oregon Water Right Certificate No. 80913, the development of which was authorized pursuant to State of Oregon Water Right Permit No. U-649. Certificate No. 80913 is attached hereto as **Exhibit B**.

B. The water rights evidenced by Certificate No. 80913 include water rights appurtenant to the 13.5 acres of Seller's Property. Certificate No. 80913 authorizes an overall rate limited to 1/80th of 1 cubic foot per second ("cfs") per acre, or a total of 0.48 cfs, for the 38.3 acres of irrigation authorized under the Certificate, and includes a duty of no more than 3.0 acre feet per acre, or a total of 114.9 acre feet, for the 38.3 acres authorized for irrigation under the Certificate. Thus, the portion of the water right evidenced by Certificate No. 80913 that is appurtenant to the 13.5 acres of Seller's Property is 0.16875 cfs, and includes a duty of no more than 40.5 acre feet. The priority date of the water right evidenced by the Certificate is August 9, 1954.

C. Buyer wishes to acquire all of that portion of the water right evidenced by Certificate No. 80913 that is appurtenant to the 13.5 acres of Seller's Property (the "Water Right") from Seller for industrial and/or commercial use on property owned by Buyer (the "Buyer's Property"), identified as "Industrial Use (Truck Stop)" on **Exhibit A**, attached hereto, upon the terms and conditions hereinafter set forth.

D. In consideration of the payment described in Paragraph 1.b of this Agreement, Seller wishes to sell and permanently transfer the Water Right currently appurtenant to the 13.5 acres of Seller's Property, upon the terms and conditions hereinafter set forth.

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RECEIVED

JUL 02 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

T 10427

2006 Aerial Photo

Area being Transferred to Flying J



110427

RECEIVED

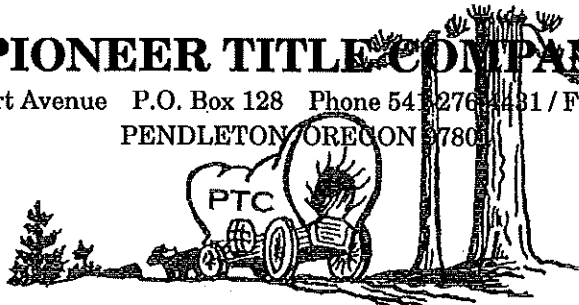
JUL 02 2007 110427

WATER RESOURCES DEPT
SALEM, OREGON

PIONEER TITLE COMPANY

126 S.E. Court Avenue P.O. Box 128 Phone 541-276-4431 / Fax 541-276-2007
PENDLETON OREGON 97801

Pioneer Escrow, Inc.
178 S. Main
Milton-Freewater, OR 97862
Ph. 541-938-3327
Fx. 541-938-5089



Pioneer Escrow, Inc.
P.O. Box 187/630 S. Hwy 395
Hermiston, OR 97838
Ph. 541-567-9743
Fx. 541-567-7307

Pioneer Escrow, Inc.
132 S.E. Court Avenue P.O. Box 1538 Ph. 541-276-5114 / Fx. 541-276-0484
Pendleton, OR 97801

To: William Porfily
PO Box 643
Stanfield, OR 97875

Order No: 81668
Your No : n/a
Owner : GIRTH DOG
Report : Lot Book Report

TYPE OF POLICY:	AMOUNTS	CODE	PREMIUMS
Lot Book Report Guarantee	\$0.00		\$200.00

We hereby certify that we have searched our Tract Indices as to the following described property:

SEE ATTACHED DESCRIPTION

And as of July 13, 2007, at 5 o'clock P.M., we find that the last document of record runs to:

GIRTH DOG, LLC, an Oregon limited liability company
as to a fee simple interest

We also find the following monetary incumbrances appearing of record within ten years prior to the date of this search:

NOTE I: 2006-2007 Taxes, \$83.96 paid in full.
Code No. 8-3, Map No. 4N-27-36, Tax Lot 900, Serial No. 116925

NOTE II: 2006-2007 Taxes, \$148.90 paid in full.
Code No. 8-3, Map No. 4N-27-36, Tax Lot 1100, Serial No. 116913

NOTE III: 2006-2007 Taxes, \$112.42 paid in full.
Code No. 8-3, Map No. 4N-27-36, Tax Lot 1200, Serial No. 116946

NOTE IV: 2006-2007 Taxes, \$84.56 paid in full.
Code No. 8-3, Map No. 4N-27-36, Tax Lot 1300, Serial No. 116945

- 2007-2008 Taxes, which are a lien, but not yet payable.
(First 1/3 due and payable November 15, 2007. Amounts not yet available)
- As disclosed by the tax rolls the premises herein described have been zoned or classified for special use. At any time that said land is disqualified for such use said property will be subject to additional taxes and interest.

3. City Liens, County Liens, Special Assessments if any.
4. Trust Deed, including the terms and provisions thereof, given to secure a note for \$2,351,000.00, with interest thereon,
Grantor : Girth Dog, LLC and Craig F. Coleman and Janna L. Coleman
Trustee : Pioneer Title Company
Beneficiary : Northwest Farm Credit Services, FLCA
Dated : February 23, 2005
Recorded : February 25, 2005, Instrument No. 2005-4770583, Office of Umatilla County Records. (also includes other lands)
5. Trust Deed, including the terms and provisions thereof, given to secure a note for \$962,000.00, with interest thereon,
Grantor : Craig F. Coleman and Janna L. Coleman, husband and wife and Girth Dog, LLC
Trustee : Pioneer Title Company
Beneficiary : Northwest Farm Credit Services, FLCA
Dated : May 8, 2007
Recorded : May 17, 2007, Instrument No. 2007-5190617, Office of Umatilla County Records. (also includes other lands)
6. Line of Credit Deed of Trust, including the terms and provisions thereof, given to secure an indebtedness of a revolving line of credit up to \$1,192,600.00 with interest thereon,
Grantor : Girth Dog, LLC
Trustee : Pioneer Title Company
Beneficiary : Northwest Farm Credit Services, PCA
Dated : June 28, 2005
Recorded : June 28, 2005, Instrument No. 2005-4840326, Office of Umatilla County Records. (also includes other lands)

The lien of the above Line of Credit Deed of Trust was subordinated to the lien of the Trust Deed (Ex. No. 5) by agreement,
Recorded : May 17, 2007, Instrument No. 2007-5190618, Office of Umatilla County Records.

This is NOT A TITLE REPORT, since no examination has been made of the title to the above described property. Our search for apparent incumbrances was limited to our Tract Indices, and therefore above listings do not include additional matters which might have been disclosed by an examination of the record title. We assume no liability in connection with this report and will not be responsible for errors or omissions therein.

Very truly yours,

PIONEER TITLE COMPANY



Jeremy S. Parker
Title Examiner

TOWNSHIP 4 NORTH, RANGE 27, E.W.M.

Section 36: Northwest Quarter of the Northwest Quarter also known as Lot 2 of Block 2 of Meadow Valley Addition.

Excepting therefrom that tract of land conveyed to Peter DeHaan Jr. and Jennifer DeHaan by Statutory Warranty Deed recorded in Instrument No. 2006-4970321, Office of Umatilla County Records.

Section 36: Northeast Quarter of the Northwest Quarter also known as Lot 1 of Block 2 of Meadow Valley Addition.

Section 36: Southeast Quarter of the Northwest Quarter also known as Lot 4 of Block 2 of Meadow Valley Addition.

Section 36: Southwest Quarter of the Northwest Quarter also known as Lot 3 of Block 2 of Meadow Valley Addition.

Excepting therefrom that portion lying within North, Center, First and Second Streets rights-of-ways.

All being East of the Willamette Meridian, Umatilla County, Oregon.

PIONEER TITLE COMPANY

PRIVACY POLICY

An Agent of FIRST AMERICAN TITLE INSURANCE COMPANY OF OREGON
WE ARE COMMITTED TO SAFEGUARDING CUSTOMER INFORMATION

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information, particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

APPLICABILITY. This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use the information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

TYPES OF INFORMATION. Depending upon which our services you are utilizing, the types of nonpublic personal information that we may collect include:

- A. Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means;
- B. Information about your transactions with us, our affiliated companies, or others; and
- C. Information we receive from a consumer reporting agency.

USE OF INFORMATION. We request information from you for our own legitimate business purposes and not for the benefit of any non affiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for use to provide the product or service you have requested to use; or (2) as permitted by law. We may however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purposes, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies and escrow companies. Furthermore, we may also provide all the information we collect, as described above, to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

FORMER CUSTOMERS. Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

CONFIDENTIALITY AND SECURITY. We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and accordance with this Privacy Policy. We currently maintain physical, electronic, and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.

8 89°25' W

VALLEY

PIONEER TITLE COMPANY

126 S. E. COURT AVENUE

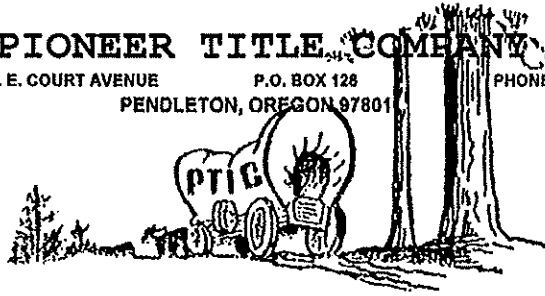
P.O. BOX 128

PHONE 276-4431

PENDLETON, OREGON 97801

BRANCH OFFICE
630 Hwy 395 S.
Hermiston, Oregon
567-7555

BRANCH OFFICE
178 South Main
Milton-Freewater, Oregon
938-3327



William Porfily
PO Box 643
Stanfield, OR 97875

OUR NO: 81668

YOUR NO: n/a

DATE: 07/26/07

BUYER: GIRTH DOG

SELLER: Lot Book Report

STATEMENT

DATE	DESCRIPTION	AMOUNT	BALANCE
07/13/07	LOT BOOK REPORT GUARANTEE \$0.00	\$200.00	\$200.00

PLEASE SHOW OUR NUMBER ON REMITTANCE

RECEIVED

JAN 07 2008

WATER RESOURCES DEPT
SALEM, OREGON

TRANSFER AFFIDAVIT

County of Umatilla)
State of Oregon) SS

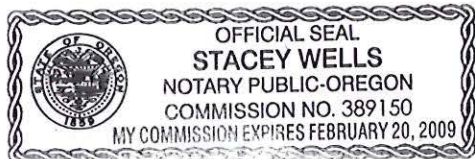
I, William I. Porfily working as a Water Right Co
depose and say:

1. I have assisted in the preparation of the application for Craig Coleman-Flying J Inc.;
2. The information contained in the attached application and map for transfer is true and accurate to the best of my knowledge;
3. I mailed to NW Farm Credit Services, FLCA the attached letters, a copy of the water right transfer application and map per the requirement of the application process "applicant must provide written notification of the transfer to each lien holder".

Dated this 2 day of JANUARY of 2008.

William I. Porfily
William I. Porfily

William I. Porfily, Personally appeared before me and the above statements are true to the best of his knowledge.



Stacey Wells
Notary Public of Oregon

My commission expires 02-20-09

Dorothy
Transfer T-16427

2 IP in attached
E-mail

RECEIVED

JAN 07 2008

WATER RESOURCES DEPT
SALEM, OREGON

RECEIVED
JAN 07 2008
WATER RESOURCES DEPT
SALEM, OREGON

WILLIAM I. PORFILY

P.O. Box 643
Stanfield, OR 97875
(541) 449-1327
bporfily@my180.net

January 2, 2008

205

NW FARM CREDIT SERVICES, FLCA
P.O. BOX 878
Pendleton, OR 97801

RE: WATER RIGHT TRANSFER APPLICATION CRAIG COLEMAN TO FLYING J

Dear Mortgage Holder:

Craig Coleman and Flying J Inc. have retained me to assist in the preparation of a water right transfer application. The purpose of this transfer is to transfer 13.5 acres of ground water right described in Certificate 80913 from Craig Coleman Circle # 19 to Flying J Inc and change the use from irrigation to the operating of a truck stop and associate uses.

I have prepared the attached water right transfer application and map. Along with this application, the OWRD requires that anyone holding an encumbrance on the land involved in the water right transfer be notified of the transfer. A recent Lot Book Report from Pioneer Title Company indicates NW Farm Credit Services, FLCA having encumbrances on the land involved in this transfer. With this letter and copy of the application, our desire is to meet the notification requirement.

If you have any questions regarding this transfer, the transfer process, or if you want a copy of the amended transfer, please contact me at (541) 449-1327.

Sincerely,



William I. Porfily

cc: Craig Coleman, 33896 East Walls Road, Hermiston, Oregon 97838
Flying J Inc. c/o John McSweeney, 1104 Country Hill Lane Drive, Ogden, Utah 84403

File

Bill Porfily

From: Dorothy Pedersen [pedersdi@wrд.state.or.us]
Sent: Wednesday, December 26, 2007 8:16 AM
To: Bill Porfily
Subject: T-10427 request

RECEIVED

JAN 07 2008

WATER RESOURCES DEPT
SALEM, OREGON

Hi Bill,

The contractor has reviewed the ownership report for T-10427 (Craig Coleman) and indicates that there was a water right conveyance agreement in May of 2007 (no date filled in) conveying interest in the water right from Girth Dog to Flying J, Inc. The copy of the agreement submitted for the transfer did not indicate whether the agreement had been recorded with the county. **Please submit evidence that this document has been recorded in the county deed records.**

We notice that there are three trust deeds listed on the report of ownership and lien information. The Partial Release Agreement releases interest in the water rights from two of the three, but not the deed dated May 8, 2007. Please either send notification to the listed beneficiary (Northwest Farm Credit Services, FSLA) and send us a copy of your notification, or explain why they should not need to be notified.

Thanks,

Dorothy

P.S. I hope you had a good Christmas and are keeping warm and dry!

1/3/2008

Applicant
Craig Coleman is
authorized to
sign for
Girth Dog (landowner)

Page 1 of 2
01-16-2008
08:33

Business Registry Business Name Search

[New Search](#)

Business Entity Data

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Duration Date	Renewal Date
257892-98	DLLC	ACT	OREGON	12-16-2004		
Entity Name	GIRTH DOG, LLC					
Foreign Name						

[New Search](#)

Associated Names

Type	PPB	PRINCIPAL PLACE OF BUSINESS		
Addr 1	28000 STAFFORD HANSELL RD			
Addr 2				
CSZ	HERMISTON	OR	97838	Country UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

Type	AGT	REGISTERED AGENT	Start Date	12-16-2004	Resign Date	
Name	CRAIG	F	COLEMAN			
Addr 1	33896 E WALLS RD					
Addr 2						
CSZ	HERMISTON	OR	97838	Country	UNITED STATES OF AMERICA	

Type	MEM	MEMBER		Resign Date	
Name	CRAIG	F	COLEMAN		
Addr 1	33896 E WALLS RD				
Addr 2					
CSZ	HERMISTON	OR	97838	Country	UNITED STATES OF AMERICA

[New Search](#)

Name History

Business Entity Name	Name Type	Name Status	Start Date	End Date
GIRTH DOG, LLC	EN	CUR	12-16-2004	

Please [read](#) before ordering [Copies](#).

[New Search](#)

Summary History

Image	Transaction	Effective	Name/Agent
-------	-------------	-----------	------------

Date	Action	Date	Date	Status	Change	Dissolved By
11-23-2007	ANNUAL REPORT PAYMENT	11-23-2007		SYS		
12-05-2006	ANNUAL REPORT PAYMENT	12-05-2006		SYS		
12-20-2005	AMENDED ANNUAL REPORT	12-20-2005		FI		
04-25-2005	CHANGE OF REGISTERED AGENT/ADDRESS	04-25-2005		FI		
04-25-2005	CHANGE OF MAILING ADDRESS	04-25-2005		FI		
12-16-2004	ARTICLES OF ORGANIZATION	12-16-2004	01-01-2005	FI	Agent	

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Business Registry Business Name Search

[New Search](#)

Business Entity Data

12-04-2007

16:29

Registry Nbr	Entity Type	Entity Status	Jurisdiction	Registry Date	Duration Date	Renewal Date
010753-24	FBC	ACT	UTAH	03-10-1971		
Entity Name	FLYING J INC.					
Foreign Name						

[New Search](#)

Associated Names

Type	PPB	PRINCIPAL PLACE OF BUSINESS				
Addr 1	1104 COUNTRY HILLS DRIVE					
Addr 2						
CSZ	OGDEN	UT	84403		Country	UNITED STATES OF AMERICA

Please click [here](#) for general information about registered agents and service of process.

Type	AGT	REGISTERED AGENT	Start Date	01-11-2001	Resign Date	
Of Record	158720-88	CORPORATION SERVICE COMPANY				
Addr 1	285 LIBERTY ST NE					
Addr 2						
CSZ	SALEM	OR	97301	Country	UNITED STATES OF AMERICA	

Type	MAL				MAILING ADDRESS											
Addr 1	PO BOX 150310															
Addr 2																
CSZ	OGDEN			UT	84415		0310		Country	UNITED STATES OF AMERICA						

Type	PRE	PRESIDENT				Resign Date	
Name	J.PHILLIP			ADAMS			
Addr 1	1104 COUNTRY HILLS DRIVE						
Addr 2							
CSZ	OGDEN	UT	84403		Country	UNITED STATES OF AMERICA	

Type	SEC	SECRETARY						Resign Date	
Name	BARRE		G	BURGON					
Addr 1	1104 COUNTRY HILLS DRIVE								
Addr 2									
CSZ	OGDEN	UT	84403		Country	UNITED STATES OF AMERICA			

[New Search](#)

Name History

Business Entity Name	Name Type	Name Status	Start Date	End Date
FLYING J INC.	EN	CUR	10-29-1976	
FLYING J OIL COMPANY	EN	PRE	03-10-1971	10-29-1976

Please [read](#) before ordering [Copies](#).[New Search](#)

Summary History

Image Date	Action	Transaction Date	Effective Date	Status	Name/Agent Change	Dissolved By
02-06-2007	ANNUAL REPORT PAYMENT	02-06-2007		SYS		
02-13-2006	ANNUAL REPORT PAYMENT	02-13-2006		SYS		
02-09-2005	ANNUAL REPORT PAYMENT	02-09-2005		SYS		
01-16-2004	ANNUAL REPORT	01-16-2004		FI		
02-26-2003	ANNUAL REPORT PAYMENT	02-26-2003		SYS		
02-12-2002	ANNUAL REPORT PAYMENT	02-12-2002		SYS		
08-08-2001	AMENDMENT TO ANNUAL REPORT	08-08-2001		FI		
02-26-2001	ANNUAL REPORT PAYMENT	02-26-2001		SYS		
01-11-2001	AGENT/AUTH REP CHNG	01-11-2001		FI		
03-01-2000	STRAIGHT RENEWAL	03-01-2000		FI		
02-11-1999	STRAIGHT RENEWAL	02-02-1999		FI		
03-20-1998	NOTICE	03-23-1998		SYS		
03-25-1998	STRAIGHT RENEWAL	03-16-1998		FI		
10-31-1997	AGENT/AUTH REP CHNG	10-31-1997		FI		
04-08-1997	STRAIGHT RENEWAL	03-31-1997		FI		
03-14-1997	NOTICE	03-17-1997		SYS		
10-09-1996	AGENT/AUTH REP CHNG	10-14-1996		FI		
02-27-1996	STRAIGHT RENEWAL	02-12-1996		FI		
02-15-1995	STRAIGHT RENEWAL	02-15-1995		FI		

02-17-1994	STRAIGHT RENEWAL	02-10-1994		FI		
01-20-1994	AGENT/AUTH REP CHNG	01-20-1994		FI		
02-17-1993	AMENDED RENEWAL	02-11-1993		FI		
02-10-1992	STRAIGHT RENEWAL	02-05-1992		FI		
03-13-1991	STRAIGHT RENEWAL	03-11-1991		FI		
02-12-1990	STRAIGHT RENEWAL	02-05-1990		FI		
02-10-1989	STRAIGHT RENEWAL	02-06-1989		FI		
02-04-1988	STRAIGHT RENEWAL	02-01-1988		FI		
02-18-1987	STRAIGHT RENEWAL	02-12-1987		FI		
05-15-1986	REINSTATEMENT	05-15-1986		FI		
05-15-1986	REINSTATEMENT	05-15-1986		EX		
04-28-1986	INVOL REVOCATION	04-20-1986		SYS		
03-19-1986	NOTICE	03-21-1986		SYS		
03-01-1985	STRAIGHT RENEWAL	02-25-1985		FI		
10-29-1976	ENTITY NAME CHANGE	10-29-1976		FI		

*Withdrawn at
applicant's agent's
request. 1/25/08*

AGREEMENT

1. Purchase of Water Right.

a. In consideration of the mutual agreements herein contained and the terms of payment described in Paragraph 1.b of this Agreement (the "Payment"), Seller hereby sells to Buyer the Water Right currently appurtenant to the 13.5 acres of Seller's Property.

b. The purchase price for the Water Right currently appurtenant to the 13.5 acres of Seller's Property is [REDACTED]. The total purchase price shall be paid by Buyer to Seller upon closing of this Agreement.

2. Earnest Money Deposit.

Upon execution of this Agreement, Buyer shall deliver to Seller the amount of Ten Thousand Dollars (\$10,000), and such amount shall be held by Seller as an earnest money deposit in accordance with the terms of this Agreement.

3. Water Rights Transfer.

Seller agrees to deliver an executed affidavit and other documents reasonably required to complete successful permanent transfer of the Water Right currently appurtenant to the 13.5 acres of Seller's Property pursuant to the rules, requirements, and procedures of the Oregon Water Resources Department ("OWRD"). Upon execution of this Agreement, Seller shall deliver to Purchaser an affidavit attesting to the use and validity of the Water Right in a form substantially the same as that attached as **Exhibit C**. The parties acknowledge that the transfer shall require a change in the point of appropriation, place of use, type of use, and season of use for the Water Right currently appurtenant to the 13.5 acres of Seller's property. Upon execution of this Agreement, Buyer shall prepare a formal permanent water right transfer application to transfer the Water Right currently appurtenant to the 13.5 acres of Seller's Property to the Buyer's Property. Buyer may elect to identify itself as the applicant for purposes of the water right transfer application, or it may identify Seller as the applicant, or it may identify Buyer and Seller as co-applicants. Buyer may also initiate on its own behalf formal requests regarding or related to the proposed permanent water right transfer, or other governmental permits, approvals, or other actions related to the transfer which Buyer deems necessary or desirable in connection with the transfer. Seller agrees to duly execute and deliver promptly upon Buyer's request, any applications, petitions, consents, approvals, and other documents that have been approved by Buyer for such purposes and to provide support to the extent required by Buyer for the submissions for such permits, approvals, or other such actions consistent with this Agreement. Buyer shall be responsible for the costs of submitting a transfer application to the OWRD.

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SALEM, OREGON

10427

4. Warranty, Representation, and Indemnification.

a. To the best of Seller's knowledge, Seller warrants and represents (i) that Seller or its beneficiaries have used all of the water authorized for use under Certificate No. 80913 (i.e., a total of 0.48 cfs and 114.9 acre feet) to irrigate all of the lands described in Certificate No. 80913, including the 13.5 acres of Seller's Property described in Recital C above, pursuant to all terms and conditions of the Certificate during at least one irrigation season in the past five years and that no portion of the water right evidenced by Certificate No. 80913 has been forfeited; (ii) that Seller owns the Seller's Property to which the Water Right is appurtenant, free and clear of liens and encumbrances, and (iii) that Seller has the right to sell the Water Right to Buyer and to permanently transfer the Water Right to Buyer free and clear of liens and encumbrances.

b. Seller shall indemnify, reimburse, and hold harmless Buyer, its agents and employees, from, and against all damages, losses, claims, costs, and expenses (including reasonable attorney fees) incurred by such persons or entities as a result of any misrepresentation or the breach of any covenant or warranty by Seller up to the amount of [REDACTED] Dollars [REDACTED], and such indemnity shall survive the sale of the Water Right. Such indemnity shall not be waived as a result of Buyer's acquisition of the Water Right unless such waiver is expressly contained in a written agreement to such effect executed by Buyer.

c. Buyer agrees that it has had adequate opportunity to inspect the Water Right and investigate all matters pertaining to it. Buyer has not received or relied upon any statements made by Seller that are not expressed in this Agreement. Buyer further agrees that, except as warranted and represented in Paragraph 4.a above, Seller does not warrant that Buyer can use the Water Right for any particular purpose or use intended by Buyer, nor does Seller warrant or guarantee any future use, preference, or ability to use the Water Right. Buyer agrees that it is Buyer's obligation to investigate whether the Water Right can be used for Buyer's intended current and future purpose and use.

5. Closing.

a. Buyer will endeavor to obtain the approvals by all governmental authorities, including, without limitation, the approval of the Director of the Oregon Water Resources Department, necessary to make the permanent transfer of the Water Right effective and so as to enable Buyer to use the Water Right on Buyer's Property to the satisfaction of Buyer.

b. Closing shall occur and the balance of the purchase price (the purchase price less the earnest money deposit, or [REDACTED] Dollars ([REDACTED])) shall be due and payable in full within ten (10) days after all approvals contemplated in paragraph 5.a above have been obtained, any challenges to said approvals have concluded, and any appeal periods for said approvals have expired. Buyer agrees to deposit the balance of the

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WATER RESC
SALEM, OREGON

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purchase price into an escrow account, with an escrow agent to be mutually agreed to by the Parties, prior to final OWRD approval of the permanent transfer of the Water Right, and said funds shall be delivered to Seller from escrow within the ten-day period described above, with the specific delivery deadline to be agreed to by the Parties. Administrative fees and costs associated with the escrow shall be evenly divided between and paid by the Parties.

c. The purchase price shall be paid by cashier's check at closing.

d. Seller will deliver a certificate at the time of closing that certifies that Seller's representations, warranties, and indemnifications in this Agreement shall remain true and correct as of the delivery of the instruments called for in this Agreement.

e. Seller will deliver at closing an executed water right change in ownership form, in the form currently made available by or otherwise acceptable to the Oregon Water Resources Department.

6. Failure to Close.

a. If the conditions contained in paragraph 5.a above are met, and Buyer fails to close within ten (10) days as contemplated in paragraph 5.b above or Buyer fails to deposit the balance of the purchase price into an escrow account as contemplated by paragraph 5.b above and the OWRD has not issued final approval of the permanent transfer of the Water Right, then this Agreement shall terminate, and the amount previously deposited or paid by Buyer as earnest money shall be retained by Seller as compensation for providing Buyer the opportunity to purchase the Water Right. However, if the conditions contained in paragraph 5.a above are met, and Buyer fails to close within ten (10) days as contemplated in paragraph 5.b above or Buyer fails to deposit the balance of the purchase price into the escrow account as contemplated by paragraph 5.b above and the OWRD has issued final approval of the permanent transfer of the Water Right, then Buyer shall be obligated to tender the balance of the purchase price to Seller whether or not Buyer completes the transaction.

b. If Buyer fully performs its obligations under paragraphs 5.a and 5.b of this Agreement and Seller cannot or does not perform its obligations under this Agreement, or if the approvals contemplated in paragraph 5.a of this Agreement do not occur due to the failure of a warranty or representation described in paragraph 4.a of this Agreement, Buyer shall be entitled to such remedies for breach of contract as may be available under applicable law, including (without limitation) the remedies of specific performance or damages up to the amount of [REDACTED] Dollars (\$[REDACTED]).

7. General Provisions.

a. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver of any breach

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WATER RESOURCES DEPT
SALEM, OREGON

10427

of any provision shall not be a waiver of any succeeding breach of the provision or a waiver of the provision itself or any other provision.

b. In the event suit or action is instituted to interpret or enforce the terms of this Agreement or to rescind this Agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorneys fees at trial, on any appeal, and on any petition for review or other proceeding, including, without limitation, any bankruptcy case or proceeding (and issues peculiar to bankruptcy), in addition to all other sums provided by law.

c. This Agreement supersedes and replaces all written and oral agreements previously made or existing between the parties with respect to the subject matter of this Agreement.

d. This Agreement and any of its terms may only be changed, waived, discharged, or terminated by a written instrument signed by the party against whom enforcement of the change, waiver, discharge, or termination is sought.

e. In the event and to the extent any provision of this Agreement is declared invalid or is unenforceable for any reason, such provision shall be deemed deleted and shall not invalidate any other provision contained in this Agreement or any related document.

f. This Agreement shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns. This Agreement is a covenant that runs with the Water Right.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed as of the day and year first above written.

Girth Dog, LLC ("Seller")

By Gray F. G. Girth
Its Member

Flying J, Inc. ("Buyer")

By Adam R. W.
Its SENIOR VICE PRESIDENT

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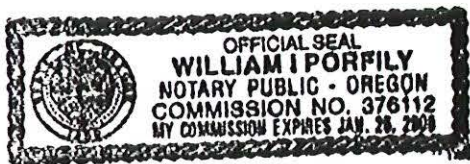
JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

10427

STATE OF Oregon)
) ss.
County of Umatilla)

This instrument was acknowledged before me this 18 day of ^{June}~~May~~, 2007 by
Graig Coleman, the member for Girth Dog, LLC.

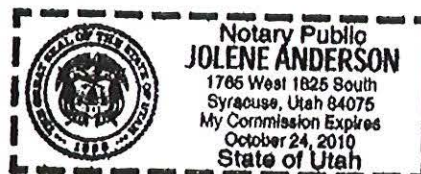


William J Porfily
Notary Public for OR
My commission expires: Jan 28, 2008

STATE OF UTAH)
) ss.
County of Davis)

This instrument was acknowledged before me this 29 day of May, 2007 by
Barre Burgen, the S.V.P. for Flying J, Inc.

Jolene Anderson
Notary Public for _____
My commission expires: 10/24/2010



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JUL 02 2007

WATER RESOURCES DEPT
SALEM, OREGON

T 10427

Dorothy Pedersen

From: Bill Porfily [bporfily@my180.net]
Sent: Thursday, January 24, 2008 4:09 PM
To: Dorothy Pedersen
Cc: 'Filippi, David'; john.mcsweeney@flyingj.com
Subject: RE: T-10427 request
Attachments: Flying J Consent Affidavit to Transfer T-104270001.pdf

Dorothy

Attached is a Consent Affidavit from Flying J consenting to Transfer T-10427. We would request per the discussion below that the agreement document between Coleman and Flying J be withdrawn from the application for Transfer T-10427.

I am mailing a hard copy of the consent today.

Porfily

From: Dorothy Pedersen [mailto:pedersdi@wrld.state.or.us]
Sent: Monday, January 07, 2008 7:53 AM
To: Bill Porfily
Subject: RE: T-10427 request

Bill,

Yes, that would work. The affidavit of consent from the landowner is the default document that we expect to have, absent any other arrangements. A conveyance agreement is usually entered into in order to avoid having to get an affidavit of consent from the landowner at the time the transfer is being evaluated. So, in this case we could easily take the affidavit of consent from the landowner and not concern ourselves with whether or not the conveyance agreement was recorded.

Have a good day,
Dorothy

From: Bill Porfily [mailto:bporfily@my180.net]
Sent: Friday, January 04, 2008 7:43 AM
To: Dorothy Pedersen
Cc: 'Filippi, David'; john.mcsweeney@flyingj.com
Subject: RE: T-10427 request

Dorothy

While I am driving around my mine most often is not on my driving but thinking through thing like the problem below. The reason for the agreement being attached to the transfer is to show that Flying J as the receiving land owner consent to the transfer. What if we request to withdraw the agreement and substitute a consent affidavit from Flying J.

Porfily

From: Dorothy Pedersen [mailto:pedersdi@wrld.state.or.us]
Sent: Friday, January 04, 2008 7:24 AM

1/25/2008

To: Bill Porfily
Subject: RE: T-10427 request

Bill,

I've not run up against that quirk before. It will be interesting to see how they resolve the issue of recording the transaction with the deed record.

I'll be watching for the other documentation.

Thanks,
Dorothy

From: Bill Porfily [mailto:bporfily@my180.net]
Sent: Wednesday, January 02, 2008 3:55 PM
To: Dorothy Pedersen
Cc: 'Filippi, David'; john.mcsweeney@flyingj.com
Subject: RE: T-10427 request

Dorothy

I have prepared an affidavit of mailing to the creditors and mailed Farm Credit Services, FSLA copy of the Transfer. You will get the affidavit and the transmittal letter in a few days. The issue about evidence that the agreement was filed with the county deed records is being discussed with client's attorney of how to address it. The agreement was not filed with the Cty as there is information in the agreement that parties did not want the public to know. Thus I am waiting word from the Attorney.

Porfily

From: Dorothy Pedersen [mailto:pedersdi@wrđ.state.or.us]
Sent: Wednesday, December 26, 2007 8:16 AM
To: Bill Porfily
Subject: T-10427 request

Hi Bill,

The contractor has reviewed the ownership report for T-10427 (Craig Coleman) and indicates that there was a water right conveyance agreement in May of 2007 (no date filled in) conveying interest in the water right from Girth Dog to Flying J, Inc. The copy of the agreement submitted for the transfer did not indicate whether the agreement had been recorded with the county. **Please submit evidence that this document has been recorded in the county deed records.**

We notice that there are three trust deeds listed on the report of ownership and lien information. The Partial Release Agreement releases interest in the water rights from two of the three, but not the deed dated May 8, 2007. Please either send notification to the listed beneficiary (Northwest Farm Credit Services, FSLA) and send us a copy of your notification, or explain why they should not need to be notified.

Thanks,

Dorothy

P.S. I hope you had a good Christmas and are keeping warm and dry!

1/25/2008

AFFIDAVIT OF CONSENT OF WATER RIGHT TRANSFER

State of Utah)

County of Weber) SS

I, Michael Eades, Director of Development of Flying J Inc., 1104 Country Hill Drive, Ogden, Utah 84403 being first duly sworn, dispose and say:

Flying J Inc. is the owner of tax lots 200 and 202 in the NE ¼ of Section 25, Township 4 North, Range 27 East, W.M. Umatilla County, Oregon,

Flying J Inc. consents to Transfer T-10427, transferring 13.5 acres of irrigation water rights described in Water Right Certificate 80913 to these tax lots for industrial use and any lawful uses related to the operation of a travel plaza.

Michael Eades Director of Development 1-21-08
Signature Title Date

State of Utah

County of ~~Weber~~ DAVIS

Subscribed and Sworn to Before me this 21st day of January, 2008 by
Michael Eades

Jolene Anderson
Notary Public – State of Utah
My commission expires 10/24/2010



Bill Porfily

From: Bill Porfily [bporfily@my180.net]
Sent: Thursday, January 24, 2008 4:09 PM
To: 'Dorothy Pedersen'
Cc: 'Filippi, David'; 'john.mcsweeney@flyingj.com'
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Subject: RE: T-10427 request

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Have a good day,
Dorothy

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Sent: Friday, January 04, 2008 7:43 AM
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Cc: 'Filippi, David'; 'john.mcsweeney@flyingj.com'
Subject: RE: T-10427 request

Dorothy

While I am driving around my mine most often is not on my driving but thinking through thing like the problem below. The reason for the agreement being attached to the transfer is to show that Flying J as the receiving land owner consent to the transfer. What if we request to withdraw the agreement and substitute a consent affidavit from Flying J.

Porfily

From: Dorothy Pedersen [mailto:pedersdi@wrđ.state.or.us]
Sent: Friday, January 04, 2008 7:24 AM
To: Bill Porfily

1/24/2008

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JAN 28 AM
WATER RESOURCES DEPT
SALEM, OREGON

Subject: RE: T-10427 request

Bill,

I've not run up against that quirk before. It will be interesting to see how they resolve the issue of recording the transaction with the deed record.

I'll be watching for the other documentation.

Thanks,
Dorothy

From: Bill Porfily [mailto:bporfily@my180.net]
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To: Dorothy Pedersen
Cc: 'Filippi, David'; john.mcsweeney@flyingj.com
Subject: RE: T-10427 request

Dorothy

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Porfily

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To: Bill Porfily
Subject: T-10427 request

Hi Bill,

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We notice that there are three trust deeds listed on the report of ownership and lien information. The Partial Release Agreement releases interest in the water rights from two of the three, but not the deed dated May 8, 2007. Please either send notification to the listed beneficiary (Northwest Farm Credit Services, FSLA) and send us a copy of your notification, or explain why they should not need to be notified.

Thanks,

Dorothy

P.S. I hope you had a good Christmas and are keeping warm and dry!

1/24/2008

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JAN 28 2008
WATER RESOURCES DEPT
SALEM, OREGON

AFFIDAVIT OF CONSENT OF WATER RIGHT TRANSFER

State of Utah)

County of Weber)

SS

I, Michael Eades, Director of Development of Flying J Inc., 1104 Country Hill Drive, Ogden, Utah 84403 being first duly sworn, dispose and say:

Flying J Inc. is the owner of tax lots 200 and 202 in the NE ¼ of Section 25, Township 4 North, Range 27 East, W.M. Umatilla County, Oregon,

Flying J Inc. consents to Transfer T-10427, transferring 13.5 acres of irrigation water rights described in Water Right Certificate 80913 to these tax lots for industrial use and any lawful uses related to the operation of a travel plaza.

Michael Eades
Signature

DIRECTOR OF DEVELOPMENT
Title

1-21-08
Date

State of Utah

County of ~~Weber~~ DAVIS

Subscribed and Sworn to Before me this 21st day of January, 2008 by

Michael Eades

Jolene Anderson
Notary Public – State of Utah

My commission expires 10/24/2010

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JAN 28 2008

WATER RESOURCES DEPT
SALEM, OREGON



Dorothy Pedersen

From: Greg Kupillas [phggek@bctonline.com]
Sent: Wednesday, December 05, 2007 9:50 AM
To: Dorothy Pedersen
Subject: RE: T-10427 report of ownership

Dorothy,

I am a little over budget right now. Next time I get something for Craig Coleman, I will make my best estimate, and then add at least 20%. Please let me know if you need me to prepare the letter anyway. It would not be the first time I did some work "pro bono."

Regards,

Greg Kupillas, R.G., C.W.R.E.

Pacific Hydro-Geology Inc.
18477 S. Valley Vista Rd.
Mulino, OR 97042
503.632.5016

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

From: Dorothy Pedersen [mailto:pedersdi@wrdd.state.or.us]
Sent: Tuesday, December 04, 2007 4:50 PM
To: phggek@bctonline.com
Subject: RE: T-10427 report of ownership

Greg,

The situation with this transfer application is interesting. It appears that the interest in the water right was conveyed on May (?) of 2007 from Girth Dog (Gary Coleman) to Flying J, Inc. (signature appears to match the name Barre Burgon, who is listed as the secretary of Flying J Inc. on the Oregon Secretary of State Corporation Division website). **However, we will need to request a "recorded" copy of the document.**

The ROLI identifies that on July 13, 2007 Girth Dog was the owner of the property from which the water right is to be transferred. Flying J, Inc. is identified as the receiving landowner. So, Girth Dog was in a position to convey interest in the water right to Flying J, Inc.

On June 6, 2007 in a Partial Release Agreement, Northwest Farm Credit Services, FLCA released Girth Dog, LLC from the Deed of Trust dated February 23, 2005 and the Line of Credit Deed of Trust dated June 28, 2005 in relation to the water right on the 13.5 acres involved in the transfer. I take it that what happens with the water right is not involved with those deeds anymore.

However, a third Trust Deed dated May 8, 2007 was not mentioned in the Partial Release Agreement. In addition, the ROLI indicates that on May 17, 2007 the June 28, 2005 Line of Credit Deed of trust was subordinated to the lien of the May 8, 2007 Trust Deed. I am assuming, then, that **the applicant needs to send notice to that lienholder in relation to that Trust Deed, or send us a copy of the deed that shows the interest in that part of the water right is not involved, or a release document for that trust deed.**

Can you put together a letter requesting these things without going over your estimated amount?

Thanks,

12/18/2007

Dorothy

Dorothy Pedersen
(503) 986-0890

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

From: Greg Kupillas [mailto:phggek@bctonline.com]
Sent: Monday, December 03, 2007 12:08 PM
To: Dorothy Pedersen
Subject: RE: T-10427 report of ownership

Dorothy,

The ROLI you sent lists two trust deeds and one line of credit deed of trust. Both trust deeds list Northwest Farm Credit Services, FLCA as the beneficiary, and the line of credit deed of trust lists Northwest Farm Credit Services, PCA as the beneficiary. I don't know if there is any difference between NFCS, FLCA and NFCS, PCA, but in any case, I don't find any lien notification letters in my file. Could you check your file for any lien notification letters? Let me know if you need me to generate a letter requesting the lien notification letter(s).

Thanks,

Greg Kupillas, R.G., C.W.R.E.

Pacific Hydro-Geology Inc.
18477 S. Valley Vista Rd.
Mulino, OR 97042
503.632.5016

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

From: Dorothy Pedersen [mailto:pedersdi@wrд.state.or.us]
Sent: Monday, December 03, 2007 11:34 AM
To: phggek@bctonline.com
Subject: T-10427 report of ownership

Hi Greg,

Here is the T-10427 report of ownership and lien information. Sorry we missed sending it to you before.

Have a good day,
Dorothy

Dorothy I. Pedersen
Field Services Division
Oregon Water Resources Department
Dorothy.I.PEDERSEN@wrд.state.or.us
503-986-0890

12/18/2007

Dorothy Pedersen

From: Dorothy Pedersen
Sent: Tuesday, December 04, 2007 4:50 PM
To: 'phggek@bctonline.com'
Subject: RE: T-10427 report of ownership

Greg,

The situation with this transfer application is interesting. It appears that the interest in the water right was conveyed on May (?) of 2007 from Girth Dog (Gary Coleman) to Flying J, Inc. (signature appears to match the name Barre Burgon, who is listed as the secretary of Flying J Inc. on the Oregon Secretary of State Corporation Division website). **However, we will need to request a "recorded" copy of the document.**

The ROLI identifies that on July 13, 2007 Girth Dog was the owner of the property from which the water right is to be transferred. Flying J, Inc. is identified as the receiving landowner. So, Girth Dog was in a position to convey interest in the water right to Flying J, Inc.

On June 6, 2007 in a Partial Release Agreement, Northwest Farm Credit Services, FLCA released Girth Dog, LLC from the Deed of Trust dated February 23, 2005 and the Line of Credit Deed of Trust dated June 28, 2005 in relation to the water right on the 13.5 acres involved in the transfer. I take it that what happens with the water right is not involved with those deeds anymore.

However, a third Trust Deed dated May 8, 2007 was not mentioned in the Partial Release Agreement. In addition, the ROLI indicates that on May 17, 2007 the June 28, 2005 Line of Credit Deed of trust was subordinated to the lien of the May 8, 2007 Trust Deed. I am assuming, then, that **the applicant needs to send notice to that lienholder in relation to that Trust Deed, or send us a copy of the deed that shows the interest in that part of the water right is not involved, or a release document for that trust deed.**

Can you put together a letter requesting these things without going over your estimated amount?

Thanks,
Dorothy

Dorothy Pedersen
(503) 986-0890

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

From: Greg Kupillas [mailto:phggek@bctonline.com]
Sent: Monday, December 03, 2007 12:08 PM
To: Dorothy Pedersen
Subject: RE: T-10427 report of ownership

Dorothy,

The ROLI you sent lists two trust deeds and one line of credit deed of trust. Both trust deeds list Northwest Farm Credit Services, FLCA as the beneficiary, and the line of credit deed of trust lists Northwest Farm Credit Services, PCA as the beneficiary. I don't know if there is any difference between NFCS, FLCA and NFCS, PCA, but in any case, I don't find any lien notification letters in my file. Could you check your file for any lien notification letters? Let me know if you need me to generate a letter requesting the lien notification letter(s).

12/4/2007

Thanks,

Greg Kupillas, R.G., C.W.R.E.

Pacific Hydro-Geology Inc.
18477 S. Valley Vista Rd.
Mulino, OR 97042
503.632.5016

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

From: Dorothy Pedersen [mailto:pedersdi@wrд.state.or.us]
Sent: Monday, December 03, 2007 11:34 AM
To: phggekbctonline.com
Subject: T-10427 report of ownership

Hi Greg,

Here is the T-10427 report of ownership and lien information. Sorry we missed sending it to you before.

Have a good day,
Dorothy

Dorothy I. Pedersen
Field Services Division
Oregon Water Resources Department
Dorothy.I.PEDERSEN@wrд.state.or.us
503-986-0890

12/4/2007

Dorothy Pedersen

From: Dorothy Pedersen
Sent: Friday, November 30, 2007 12:27 PM
To: 'phggek@bctonline.com'
Subject: T-10427 response to DPD

Attachments: 10427-dpd response.pdf



10427-dpd
response.pdf (1 MB)

Hi Greg,

I've attached the response to the DPD for T-10427 for your review. They did include the check for \$400, and the ownership and lien report was generated just a couple of days earlier than the 3-month time window, so it will be acceptable. Let me know if you find the ownership and lien report sufficient or if more documentation is required.

Once you notify me that we have everything needed for issuance of the PD, go ahead and invoice the project.

Thanks,
Dorothy

Dorothy I. Pedersen
Field Services Division
Oregon Water Resources Department
Dorothy.I.PEDERSEN@wrdd.state.or.us
503-986-0890

Dorothy Pedersen

From: Dorothy Pedersen
Sent: Thursday, August 02, 2007 5:14 PM
To: 'phggek@bctonline.com'
Subject: Templates for T-10427

Attachments: 10427-rol.i.pdf; 10427-dpd-template.doc; supplemental-lang.dot; Contact List.dot; RR_gw_permit.dot; DPD_cov_approve.dot; DPD_cov_reject.dot; PD_cov_fav_nni.dot; PD_cov_unfav_nni.dot; PD_notice.dot; DeficLet.dot

						
10427-rol.i.pdf (222 KB)	10427-dpd-template.doc (96 KB)...	supplemental-lang.dot (169 KB)...	Contact List.dot (26 KB)	RR_gw_permit.dot (30 KB)	DPD_cov_approve.dot (27 KB)	DPD_cov_reject.dot (28 KB)
						
PD_cov_fav_nni.doc (30 KB)	PD_cov_unfav_nni.doc (30 KB)	PD_notice.dot (29 KB)	DeficLet.dot (27 KB)			

Hi Greg,

I've attached templates and the report of ownership and lien information for T-10427 (Craig Coleman). Our database indicates that the file packet was sent to you on July 17th, but it doesn't indicate that you have a work order for the project yet. Please file these materials in preparation for beginning work on the project once you have a work order.

Thanks,
Dorothy

Dorothy I. Pedersen
Field Services Division
Oregon Water Resources Department
Dorothy.I.PEDERSEN@wrdd.state.or.us
503-986-0890

Shipping Checklist for Reimbursement Authority File

File T- 10427 Applicant: Craig Coleman

Agent/Contact: Bill Porcily

Ship to Contractor: Pacific Hydro-Geology

Items included:

- ☒ Copy of front of file folder
- ☒ Reimbursement Authority Estimate Application
- ☒ Transfer Application form
- ☒ Transfer map
- ☒ Evidence of use affidavit
- ☒ Supporting documentation for evidence of use
- ☒ Land-use Information form
- ☒ Lot book report (or deed if instream or temporary transfer, or application received before 7/1/03)
- ☒ Certificate or copy of decree for each right to be transferred
- ☒ Final Proof map or decree map for each right to be transferred
- ☒ Well logs (if change in POA, SW POD-to-GW POA change)
- ☐ Watermaster review (all transfers)
- ☒ ODFW review (if change in POD)
- ☐ GW review (if Δ POA, or POD-to-POA change)
- ☒ Review Checklist
- ☒ Final Deliverable cover sheet
- ☒ Itemized Estimate sheet for contractor

Additional things to check:

- ☒ All regular application processing fees paid
- ☒ Reimbursement Authority \$125 fee paid for preparing estimate
- ☒ Date of WRD initial Public Notice 7-17-07

Number of sheets copied 52

File contents copied by Lisa Paschke Date 7-9-07

Reimbursement Authority Process Itemized Estimate Sheet for Water Rights Transfer

Application Number T-10427

Name of Applicant: Craig Coleman

Proposed Timeline

7/17/07	Public Notice (start of 30-day comment period).
8/23/07	Completion of draft preliminary determination--1 week after contracts signed and removal of deficiencies, but not before the end of the Public Notice comment period and receipt of all agency reviews (Watermaster, groundwater and ODFW as applicable).
9/28/07	Deadline for applicant review of draft preliminary determination--30 days or more after draft PD mailed to applicant, depending on issues to be resolved.
5 working days after DPD comments received	Completion of contract work: Submittal of PD cover letter, PD public notice (and remaining rights certificates if applicable)--within 5 business days after comments received from applicant that the draft is satisfactory, or after the end of the period for applicant to comment on draft PD and remedy deficiencies.

For purposes of water right transfers, all deliverables must be in Microsoft Word except remaining right certificates for which electronic copies of the existing certificates are currently available in WordPerfect.

Estimate

	Item	Time
1	Review of application for completeness.	
2	Review of "From" lands to confirm consistency with existing right(s) and ownership.	
3	Review of "To" lands for conflicts and preparation of draft deficiency letter (if necessary).	
4	Preparation of draft preliminary determination, DPD cover letter and contact list.	
5	Preparation of PD public notice, PD cover letter (and remaining right certificate(s) if necessary), and processing documentation.	
Total Estimated Time:		

(Indicate the estimated amount of time, in ½ hour increments, needed to complete each item listed.)

Prior to preparing an estimate, contact Department staff if work could not be performed consistent with the proposed timeline. In developing the estimate, review the transfer application, transfer map, existing certificate, and final proof map. Pay particular attention to the clarity of the existing rights and the complexity of the request.

Name of Consultant: Pacific Hydro-Geology

Authorized Representative: _____

Date: _____

Review ChecklistT- 10427Processor: RA**Application**

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

Water right subject to transfer

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

Application Map

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

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

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

Ownership

- ☐ The deed/ROLI matches the "from" lands. (Don't need to check "to" lands.)
- ☐ Have current tax lot map. (*If transfer application is several years old, contact assessor's office*)
- ☐ The applicant is the owner of the "from" lands.
- ☐ All owners on the deed/ROLI have signed the application.
- ☐ 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? ☐ Watermaster ☐ ODFW ☐ GW
- | | | | |
|---------------------|---|---|--|
| Headgate | ☐ When in the judgment | ☐ Prior to diverting | ☐ Existing and maintain |
| Measuring Devices | ☐ When in the judgment | ☐ Prior to diverting | ☐ Existing and maintain |
| Fish Screen Devices | ☐ | | |

Injury: Y N Enlargement: Y N

Conditions to avoid enlargement/injury –

**Reimbursement Authority
Final Deliverables Cover Sheet
for
Transfers**

Transfer # T-10427

Applicant: Craig Coleman

The following items have been submitted electronically*:

- ☐ Contact List
- ☐ Draft Preliminary Determination (DPD)
- ☐ DPD Cover Letter
- ☐ PD Notice
- ☐ PD Cover Letter
- ☐ Remaining Right Certificates (one for each right that is not entirely affected by the transfer)

***NOTE:** Transfer documents should be submitted in MS Word format preferably, or "rich text" format.

The following items are enclosed:

- ☐ Marked copy of transfer application
- ☐ (for POU changes) Plat Card Report marked to indicate any other rights on the "From" lands
- ☐ (for POU changes) Plat Card Report marked to indicate rights overlapping proposed POU
- ☐ Notes or sketches, maps, etc. from evaluation of changes, injury evaluation, etc. that will help document what was considered in reaching the findings and determination in the Preliminary Determination.
- ☐ Copies of each certificate that is only partially included in the transfer, marked as needed to show what portion of the right is being affected, and what remains unchanged.

☐ Signature of Contractor: _____ Date: _____

For WRD use only:

WRD approval by: _____ Date: _____

**WATER RESOURCES DEPARTMENT
REIMBURSEMENT AUTHORITY ESTIMATE APPLICATION**

House Bill 2551(2003 Oregon Laws) authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement. The voluntary agreement can be entered into with any person requesting services and agreeing to pay the Department's costs of providing the service.

The Department has established a pool of qualified contractors to perform expedited services for water right transfers, water right permits extensions, and water right certificates.

The purpose of this application is to obtain an estimate from the next qualified contractor in the appropriate pool. There is a non-refundable application fee of \$125.00 per request. The contractor will provide an estimate of the cost and of the time required to process and develop a recommendation on the request of a: (check one):

<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
☒ XX	Transfer Application	<u>T-10427</u>
☐	Certificate Request	_____
☐	Extension of Time Request	_____

<u>Applicant Information</u>		<u>Applicant's Representative/Contact</u>
Name: (Please Print)	<u>Craig Coleman</u>	<u>William I. Porfily</u>
Address:	<u>33896 E. Walls Road</u>	<u>P.O. Box 643, 415 E. Wheeler</u>
	<u>Hermiston, OR 97838</u>	<u>Stanfield, OR 97875</u>
Phone:	<u>(541)567-1605</u>	<u>(541)449-1327</u>
Fax		<u>(541)449-1327</u>
E-Mail Address:		<u>bporfily@my180.net</u>

I understand the following:

- There is a non-refundable application fee of \$125.00 per request.
- That upon receipt of my non-refundable application fee in the amount of **\$ 125.00**, OWRD will assign my request to the next contractor in the pool of contractors performing expedited services.
- That this fee covers the copying, the mailing cost, as well as the cost for the contractor to evaluate and provide the estimate for processing of the request.
- That OWRD will provide all pertinent information to the assigned contractor within three (3) business days.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimates I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.

I certify that I am the (check one) ☐ Applicant ☒ Applicant's Representative ☐ Other (Please specify) _____

Signature: William I. Porfily Name: William I. Porfily

OWRD USE ONLY	
Contractor Assigned: <u>Pacific Hydro</u>	Total Amount Paid: \$ <u>125.00</u>
OWRD Approval: _____	

RECEIVED

JUL 02 2007

HANSELL BROTHERS INC.

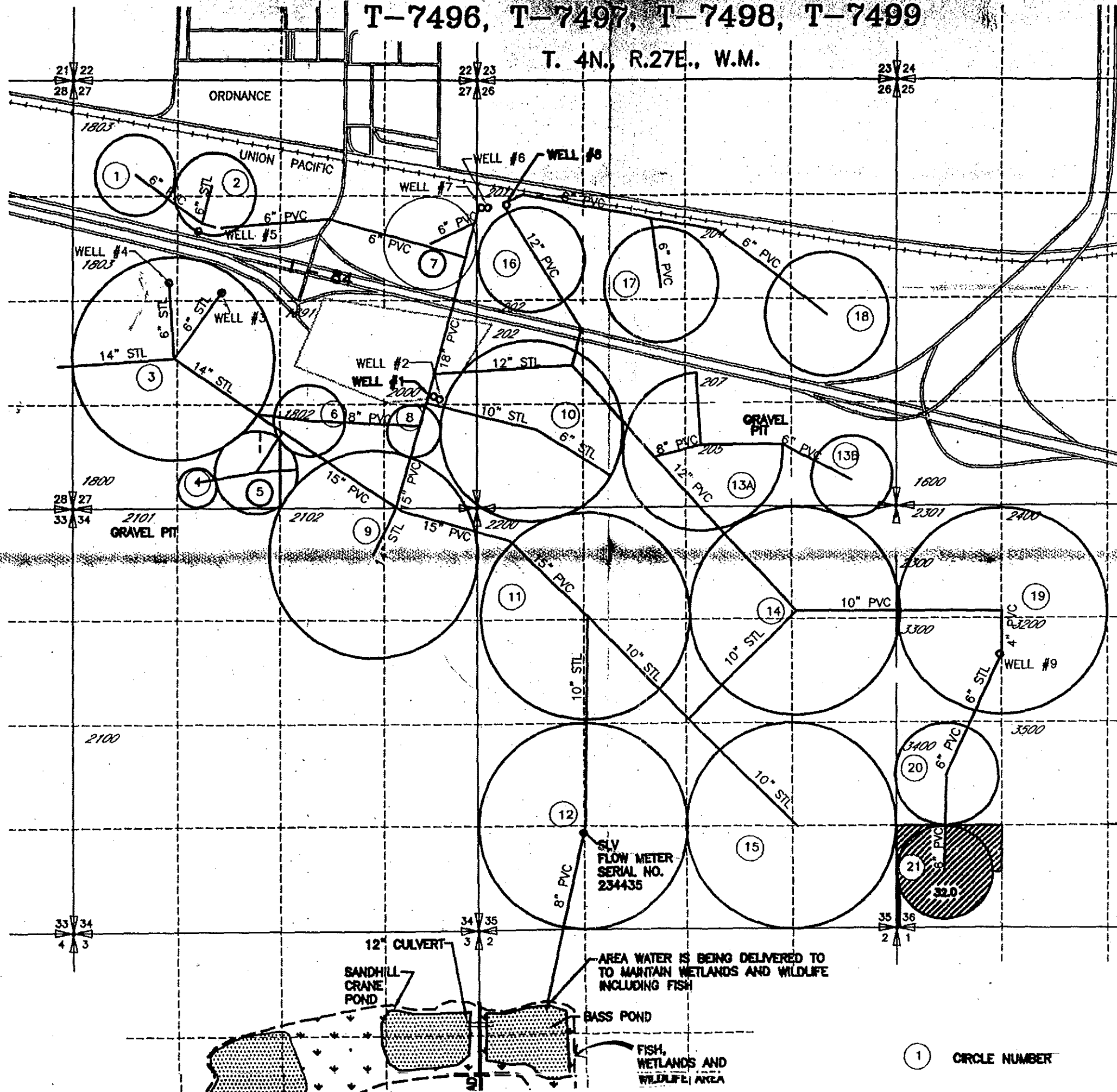
T-7496, T-7497, T-7498, T-7499

T. 4N., R.27E., W.M.

RECEIVED

NOV 13 1998

WATER RESOURCES DEPT.
SALEM, OREGON



① CIRCLE NUMBER