

T-11669

Regular

T-11669

Name Greg AmaralAddress 1606 Amaral Ct.  
Fairfield, CA 94534Change in FOU, FODDate Filed 9-26-13Initial notice date 10-8-13DPD issued date 9-20-17PD issued date 2-21-18PD notice date 2-27-18Date of FO 3/26/2025 Vol 134 Page 152-153

C-Date \_\_\_\_\_

COBU due date \_\_\_\_\_

COBU Received date \_\_\_\_\_

Certificate issued \_\_\_\_\_

## DESCRIPTION OF WATER RIGHT(s)

Name of Stream Bully CreekTrib. of Malheur RiverUse IrrigationCounty Malheur WM 9Quantity of water (CFS) 5.45No. of Acres 109.0

Name of ditch \_\_\_\_\_

App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # 7049 PR Date 12/31/1884

App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

App # \_\_\_\_\_ Per # \_\_\_\_\_ Cert # \_\_\_\_\_ PR Date \_\_\_\_\_

FEES PAID		
Date	Amount	Receipt #
<u>9/26/13</u>	<u>\$2700.00</u>	<u>110076</u>
<u>4/12/18</u>	<u>\$810.00</u>	<u>126394</u>

FEES REFUNDED		
Date	Amount	Receipt#

Assignments: \_\_\_\_\_

Irrigation District \_\_\_\_\_

Agent Lori Graves 300 E. Mallard Dr. Ste 350  
Boise, ID 83706

CWRE \_\_\_\_\_

CC's list \_\_\_\_\_

☐ - Oversized map - Location \_\_\_\_\_



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OCT 13 2017

SALEM, OR





# Oregon

Tina Kotek, Governor

## Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

March 26, 2025

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

### ORDER ON WITHDRAWN APPLICATION

Reference: Transfer Application T-11669

The above referenced transfer application was withdrawn from the record of the Water Resources Department on March 26, 2025, by Special Order Volume 134, Page 152 (copy enclosed).

The transfer application is no further force or effect.

If you have any questions related to the withdrawal of this transfer, you may contact your caseworker, Arla Davis, by telephone at (503) 979-3129 or by e-mail at [Arla.L.Davis@water.oregon.gov](mailto:Arla.L.Davis@water.oregon.gov).

Sincerely,

David V. Jones Jr  
Water Right Services Support  
Transfers and Conservation Section

cc: Jered L. Hoshaw, Watermaster Dist. # 9 (via email)  
Lori Graves, Agent  
Warm Springs Irrigation District, Interested Party  
Nancy Rorick, Interested Party

Enclosure



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	FINAL ORDER WITHDRAWING
T-11669, Malheur County	)	AN APPLICATION FOR A WATER RIGHT
	)	TRANSFER

**Authority**

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

**Applicant**

VALE RANCHES LLC  
C/O GREG AMARAL  
60 S POINTE LANE  
MONETA, VA 24121

**Findings of Fact**

1. On September 6, 2013, Greg Amaral, Trustee of the Greg Amaral Ltd. Pension Plan and Trust, filed an application to change the point of diversion and to change the place of use under Certificate 7049. The Department assigned the application number T-11669.
2. On February 21, 2018, the Department issued a Preliminary Determination proposing to approve T-11669.
3. On April 12, 2018, the Department received a protest from Warm Springs Irrigation District for Transfer Application T-11669.
4. On April 22, 2022, the Department received amended pages to the application. The amended pages did not identify certificates 45539, 48051, 74080 and 74081, or Permits S-29882 and S-18547.
5. On February 25, 2025, the Department sent out a deficiency letter identifying changes needing to be made for the identified layered rights, potential injury, mapping issues and application issues.
6. On March 7, 2025, the applicant submitted a request via e-mail that Transfer Application T-11669 be withdrawn.

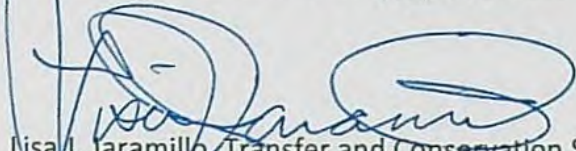
This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director 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.



Now, therefore, it is ORDERED:

Transfer Application T-11669, in the name of Vale Ranches LLC, c/o Greg Amaral, is withdrawn and is of no further force or effect.

Dated in Salem, Oregon on MAR 26 2025

A handwritten signature in blue ink, appearing to read 'Lisa J. Jaramillo', is written over the printed name.

Lisa J. Jaramillo, Transfer and Conservation Section Manager, for  
IVAN GALL, DIRECTOR  
Oregon Water Resources Department

Mailing date: MAR 27 2025



DAVIS Arla L \* WRD

---

**From:** Greg Amaral <amaralranch@gmail.com>  
**Sent:** Friday, March 7, 2025 5:20 AM  
**To:** DAVIS Arla L \* WRD; HOSHAW Jered L \* WRD  
**Cc:** Graves, Lori; Austin Amaral; Elizabeth Mobbley  
**Subject:** Fwd: Follow up of discussion re:T-11669 and Deficiency Letter  
**Attachments:** Withdrawal of Application for Transfer.pdf; Merritt Farm, Vale Ranches LLC - WITHDRAWAL OF APPLICATION FOR TRANSFER OF WATER RIGHTS - March 7, 2025 - Signed by Greg Amaral March 7, 2025.pdf; Merritt Farm, Vale Ranches LLC - WITHDRAWAL OF APPLICATION FOR TRANSFER OF WATER RIGHTS including cover letter from Arla at Oregon Department of Water Resources - March 7, 2025 - Signed by Greg Amaral March 7, 2025.pdf

Arla, Jered & Lori:

Attached are copies of the signed documents.

Merritt Farm, Vale Ranches LLC - WITHDRAWAL OF APPLICATION FOR TRANSFER OF WATER RIGHTS - March 7, 2025 - Signed by Greg Amaral March 7, 2025  
Merritt Farm, Vale Ranches LLC - WITHDRAWAL OF APPLICATION FOR TRANSFER OF WATER RIGHTS including cover letter from Arla at Oregon Department of Water Resources - March 7, 2025 - Signed by Greg Amaral March 7, 2025

I appreciate your time, effort, and work on this transfer proposal - THANK YOU!

Sincerely,

*Greg Amaral*

**AMARAL RANCH**

Tel: 707-373-8000

E-mail: amaralranch@gmail.com

----- Forwarded message -----

**From:** Graves, Lori <lgraves@hdrinc.com>  
**Date:** Wed, Feb 26, 2025 at 12:29 PM  
**Subject:** RE: Follow up of discussion re:T-11669 and Deficiency Letter  
**To:** Greg Amaral <amaralranch@gmail.com>

Hi Greg,

Please sign the attached and scan back to Arla for processing.



**Lori Graves**, Sr. Water Rights Specialist

D 208.872.9519 M 208.850.4601

[hdrinc.com/follow-us](http://hdrinc.com/follow-us)

---

**From:** Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>

**Sent:** Tuesday, February 25, 2025 2:48 PM

**To:** DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>

**Cc:** Graves, Lori <[lgraves@hdrinc.com](mailto:lgraves@hdrinc.com)>; HOSHAW Jered L \* WRD <[Jered.L.HOSHAW@water.oregon.gov](mailto:Jered.L.HOSHAW@water.oregon.gov)>;  
[austin@amaralranch.com](mailto:austin@amaralranch.com); [liz@amaralranch.com](mailto:liz@amaralranch.com)

**Subject:** Re: Follow up of discussion re:T-11669 and Deficiency Letter

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
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**Arla:**

I really enjoyed the "Microsoft Teams Meeting" this morning, thank you. It was good to meet you "face to face". Lori will draft a termination letter and Email it to me for signature. I'll sign and return it to you, hopefully, later this week.

**We move forward!**

Sincerely,

*Greg Amaral*  
**AMARAL RANCH**

Tel: 707-373-8000

E-mail: [amaralranch@gmail.com](mailto:amaralranch@gmail.com)



On Tue, Feb 25, 2025 at 4:36 PM DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov> wrote:

Good Afternoon Greg,

Thank you again for taking the time to speak with me this morning. Please find attached the requested follow-up letter to our discussion this morning. I will also place a copy of this letter in the transfer file (hard and electronic files) and in the mail so you have a record of our conversation for your files. I did not put a deadline for a response in the letter as I did not discuss that with you this morning, but I would like to make a 30 day deadline for response (March 25, 2025) from you with how you would like to proceed. If you feel this isn't a sufficient amount of time or have any questions, please don't hesitate to reach out. I have cc'd the watermaster on this correspondence to keep him in the loop.

Arla L. Davis

She/Her/Hers

Water Rights Transfer Specialist

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



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Work Schedule: Mon-Th – 6:00 a.m. to 4:30 p.m.

**NOTE:** The Salem office is now open to the public. Given that many staff will continue teleworking remotely or have job duties that take them into the field on a regular basis, availability of staff in the office is not guaranteed 8:00 a.m. – 5:00 p.m. every day. Customers and visitors are encouraged to schedule an appointment in advance if they wish to meet in person with specific staff members. Alternative methods for meeting, such as by phone or virtually via Teams, are also available.



**WITHDRAWAL**  
**OF**  
**APPLICATION FOR TRANSFER OF WATER RIGHT(S)**

I/We, Vale Ranches LLC c/o Greg Amaral,  
(Applicant's Printed Name)

hereby withdraw our Application for Transfer No. T- 11669 of Water Right  
No(s). Certificate 7049.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
(Signature/Title of Applicant)

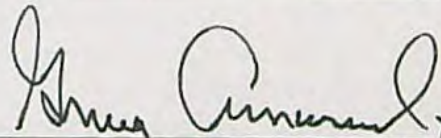


**WITHDRAWAL**  
**OF**  
**APPLICATION FOR TRANSFER OF WATER RIGHT(S)**

I/We, Vale Ranches LLC c/o Greg Amaral,  
(Applicant's Printed Name)

hereby withdraw our Application for Transfer No. T- 11669 of Water Right  
No(s). Certificate 7049

Signed this 7<sup>th</sup> day of March, 20 25.



(Signature/Title of Applicant)

Manager of Vale  
Ranches, LLC





# Oregon

Tina Kotek, Governor

## Water Resources Department

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

February 25, 2025

VIA E-MAIL

GREG AMARAL  
1606 AMARAL COURT  
FAIRFIELD, CA 94534

RE: Permanent Transfer Application T-11669

This letter is to outline the deficiencies in the amended application received by the Department on April 22, 2022, and to summarize the reasons the Department will move forward and deny the application as discussed via teams meeting on February 25, 2025. The Department will deny Transfer Application T-8828 because:

1. Pursuant to OAR 690-380-2240(1), a change in place of use or character of use of a water use subject to transfer, a permit, or a certificate of registration that is layered shall be approved or recognized only if concurrent changes to the other layered water uses subject to transfer, permits, and certificates of registration are approved or recognized.

Certificate 7049 – Primary & Supplemental Irrigation – Priority date 1925 - is layered with portions of the following Certificates:

- (a) Certificate 45539 – Primary Irrigation – Priority date(s) 1885 and 1897
- (b) Certificate 48051 – Primary Irrigation – Priority date 1916
- (c) Certificate 74080 – Primary Irrigation – Priority date 1927
- (d) Certificate 74081 – Supplemental Irrigation – Priority date 1931
- (e) Permit S-29882 – Primary Irrigation & Supplemental Irrigation – Priority date 1939
- (f) Permit S-18547 – Supplemental Irrigation – Priority date 1939

2. The District Manager for the Warm Springs Irrigation District notified the Department regarding concerns related to the amended application, specifically "Going forward on the T-11669 and the previous statements made by the applicant's parties, the resolution that was passed and approved by the board of directors on 3-12-2019, is a governing document describing the district's responsibilities and the increase of annual funds needed to operate for that year. The resolution produces no evidence of any transfer approval by the Board of Directors of Warm Springs Irrigation District. This is a few of my concerns; A) Two POD's for the 7049 certificate, 196 lateral and the Bully Creek pump. B) In the application it states that 5.45 cfs will be pumped out of Bully Creek for irrigation. The 196 lateral will deliver that amount and spill into the creek for that pump. I believe the 196 lateral is insufficient to deliver that much volume at the end. C) certificates 74080 and 74081 along with Permit S-29882, are exercised through the 196 lateral."



3. The revised watermaster review of the revised application included the following:
- (a) There will likely be more water available at the new proposed POD location due to return flows into Bully Creek between the old POD and new proposed POD approx. 2.5 miles downstream. Warm Springs Irrigation District holds a return flow permit (S-18547) and a certificate (74080) which entitles them to this water which is coming from Vale Oregon Irrigation District lands as return flows upstream from the new proposed POD. This proposed POD change creates potential for injury to these existing water rights.  
**Alternative to this issue:** See email chain from September 2020, where a condition being added to the transfer order was discussed prior to this application being revised and re-submitted.
  - (b) Revised transfer map does not show "FROM" lands and does not depict where the remaining 8 acres below Farmers Ditch will remain un-changed.
  - (c) According to WRIS, Certificate 7049 is separated into 65 acres of Primary Irrigation and 44 acres of Supplemental Irrigation. Revised table 2 and the revised transfer map does not separate out primary and supplemental. Table 2 lists all 101 acres as primary. This makes it impossible to review for any layering issues. I recommend that the applicant amend table 2 and the transfer map to accurately describe/illustrate "FROM", "TO", and "REMAINING/UN-CHANGED" acreages. Also, clearly separate out Primary acres and Supplemental acres. If the applicant plans to transfer primary acres to lands that already hold a primary water right (conflicting right), then one of them (most likely the one with junior priority) should be diminished to a supplemental during the transfer process.

The issues identified above could only be resolved after the Department issues a Revised Draft Preliminary Determination denying Transfer Application T-8828. The applicant could at that time:

- 1. Comply with OAR 690-380-2240(1) and amend Transfer Application T-11669 to either include layered Certificates 45539, 48051, 74080, and 74081 and pay the Department any fees associated with this change or cancel the portions of these Certificates layered with Certificate 7049. Additionally, the applicant would also be required to file a Permit Amendment to move Permits S-29882 and S-18547 or cancel the portions of these Permits layered with Certificate 7049. The applicant may also choose to diminish the entirety of Certificate 7049 and move it to another primary with similar reliability.
- 2. The applicant would be required to obtain consent from the Warm Springs Irrigation District in writing and submit it to the Department along with the revisions mentioned below.
- 3. Overcome the deficiencies outlined in the revised watermaster review, the applicant would be required to:
  - (a) Agree to the following condition from the September 2020 email chain referenced in the watermaster's review:

"After June 1<sup>st</sup> of each calendar year, the right to the use of water diverted at the new point of diversion shall not exceed the quantity of water available at the end of 196 later, up to the quantity of water authorized under this right. Before water use may begin, a measuring device approved by the Watermaster shall be installed and maintained at this location."



- (b) Submit a revised transfer map that clearly indicates the "FROM" lands and that clearly depicts where the remaining 8.0 acres located below Farmers Ditch not proposed for transfer will remain un-changed.
- (c) Submit a revised transfer application Table 2 which accurately describes the "FROM" lands, the "TO" lands, and the "REMAINING" lands. Additionally, the acres must be clearly described according to Certificate 7049 and clearly indicate which acres are Primary acres and which acres are Supplemental acres.

The applicant may also at this time, choose to withdraw transfer application T-11669 and the Department will not move forward with a denial of T-11669.

In closing, thank you so much for the time you spent discussing these issues today and allowing me to provide you with this information. I know your time is valuable. If you have any questions, please don't hesitate to contact me.

Sincerely,

*Arla L Davis*

Arla L Davis

Transfer Specialist

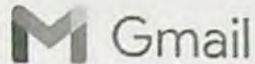
Transfer and Conservation Section

cc: Transfer File T-11669

Lori Graves, HDR, Inc, agent for the applicant (via email)

Jered Hoshaw, District 9 Watermaster (via email)





Greg Amaral <amaralranch@gmail.com>

## Follow up of discussion re:T-11669 and Deficiency Letter

3 messages

Graves, Lori <lgraves@hdrinc.com>  
To: Greg Amaral <amaralranch@gmail.com>

Wed, Feb 26, 2025 at 12:29 PM

Hi Greg,

Please sign the attached and scan back to Arla for processing.

**Lori Graves**, Sr. Water Rights Specialist

D 208.872.9519 M 208.850.4601

[hdrinc.com/follow-us](http://hdrinc.com/follow-us)

**From:** Greg Amaral <amaralranch@gmail.com>

**Sent:** Tuesday, February 25, 2025 2:48 PM

**To:** DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>

**Cc:** Graves, Lori <lgraves@hdrinc.com>; HOSHAW Jered L \* WRD <Jered.L.HOSHAW@water.oregon.gov>; austin@amaralranch.com; liz@amaralranch.com

**Subject:** Re: Follow up of discussion re:T-11669 and Deficiency Letter

3/7/2025  
Withdrawal of  
Transfer  
Signed & approved  
by Greg Amaral  
by [Signature]

CAUTION: [EXTERNAL] This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

[Quoted text hidden]

Withdrawal of Application for Transfer.pdf  
88K



Greg Amaral <amaralranch@gmail.com>

Tue, Feb 25, 2025 at 4:47 PM

To: DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>

Cc: "lgraves@hdrinc.com" <lgraves@hdrinc.com>, HOSHAW Jered L \* WRD <Jered.L.HOSHAW@water.oregon.gov>, "austin@amaralranch.com" <austin@amaralranch.com>, "liz@amaralranch.com" <liz@amaralranch.com>

Arla:

I really enjoyed the "Microsoft Teams Meeting" this morning, thank you. It was good to meet you "face to face". Lori will draft a termination letter and Email it to me for signature. I'll sign and return it to you, hopefully, later this week.

We move forward!

Sincerely,

*Greg Amaral*

**AMARAL RANCH**

Tel: 707-373-8000

E-mail: amaralranch@gmail.com

[Quoted text hidden]

DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>

Tue, Feb 25, 2025 at 4:36 PM

To: Greg Amaral <amaralranch@gmail.com>

Cc: "lgraves@hdrinc.com" <lgraves@hdrinc.com>, HOSHAW Jered L \* WRD <Jered.L.HOSHAW@water.oregon.gov>, "austin@amaralranch.com" <austin@amaralranch.com>, "liz@amaralranch.com" <liz@amaralranch.com>

Good Afternoon Greg,

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*Arla L. Davis*

She/Her/Hers

Water Rights Transfer Specialist

Transfer and Conservation Section



725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129




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---

 **T-11669-deficiency letter.pdf**  
221K



## Place of Use Conflict Report

The following rights have acreage in the same quarter-quarter as Cert:7049 OR \*

Right	Name	Decree	App	Permit	Cert	Priority	Status	Use	T-R-S-QQ	DLC	Gov't Lot	Acre
<a href="#">CERT:45539 CF *</a>	WARMSPRINGS IRRIGATION DISTRICT	MALHEUR RIVER			45539	12/31/1897	NC	IR	19.00S-44.00E-04-NENW		3	8.000
									19.00S-44.00E-04-SWNW			1.200
									19.00S-44.00E-04-SWNW			36.00
<a href="#">CERT:48051 OR *</a>	WARMSPRINGS IRRIGATION DISTRICT		S-4752	S-4303	48051	2/14/1916	NC	IR	19.00S-44.00E-04-NENW		3	10.60
									19.00S-44.00E-04-NWNW			0.200
									19.00S-44.00E-04-SWNW		4	37.60
									19.00S-44.00E-04-SWNW			37.60
<a href="#">CERT:74080 CF *</a>	GAIL MCGARRY		S-10762	S-7867	74080		NC	IR	19.00S-44.00E-04-NENW			6.300
									19.00S-44.00E-04-NWNW			15.70
									19.00S-44.00E-04-SWNW			1.100
<a href="#">PERMIT: S 29882 *</a>	VALE OREGON IRRIGATION DISTRICT		S-16497	S-29882		8/7/1936	NC	IR	19.00S-44.00E-04-NENW			20.00
									19.00S-44.00E-04-NWNW			39.00
<a href="#">PERMIT: S 18547 *</a>	WARMSPRINGS IRRIGATION DISTRICT		S-18423	S-18547		10/16/1939	NC	IS	19.00S-44.00E-04-NENW			15.00
									19.00S-44.00E-04-SWNW			37.00
<a href="#">CERT:74081 CF *</a>	GAIL MCGARRY		S-21304	S-16707	74081		NC	IS	19.00S-44.00E-04-NENW			6.300
									19.00S-44.00E-04-NWNW			15.70
									19.00S-44.00E-04-SWNW			1.100



45539 - ~~at Vaynaw~~ Primary - 1897  
8 ac in NE NW  
36 ac in SW NW  
1.2 ac in SW NW<sup>1885</sup>

amount of usage  
48051 - Primary 1916  
Supp 10.6 ac in NE NW  
37.6 ac in SW NW 0.2 ac in NW NW ✓  
37.6 ac in SW NW

74080 - Primary 1927  
6.3 ac in NE NW  
15.7 ac in NW NW ✓  
1.1 ac in SW NW

Cancellation of supp rights  
S-29882 - Primary 1936  
~~1936~~ - Expired  
20.0 ac in NE NW  
Supple 39.0 ac in NW NW ✓

S-18547 - Supple ~~1939~~ 1939  
15.0 ac in NE NW  
37.0 ac in SW NW

74081 - Supple 1931  
6.3 ac in NE NW ✓  
15.7 ac in NW NW  
1.1 ac in SW NW



## Watermaster Review Form: Water Right Transfer



Oregon Water Resources Department  
725 Summer St NE, Suite A  
Salem, Oregon 97301-1266  
(503) 986-0900  
[www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

Transfer Application: T-11669

Review Due Date:

Applicant Name: Vale Ranches LLC c/o Greg Amaral (Revised Application)

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

Reviewer(s): Jered Hoshaw

Date of Review: 11/04/2024

1. Do you have evidence that the right has not been used in the last 5 years and that the presumption of forfeiture would not likely be rebuttable? ☐ Yes ☒ No If "Yes", attach evidence (e.g. dated aerial photo showing pavement or building on the land for >5 yrs.)
2. Is there a history of regulation on the source that serves this (or these) right(s) that has involved the transferred right(s) and downstream water rights? ☐ Yes ☒ No Generally characterize the frequency of any regulation or explain why regulation has not occurred:
3. Have headgate notices been issued for the source that serves the transferred right(s)?  
☐ Yes ☒ No ☒ Records not available.
4. In your estimation, after the proposed change, would distribution of water for the right(s) result in regulation of other water rights that would not have occurred if use under the original right(s) was/were maximized? ☐ Yes ☒ No If "Yes", explain:
5. In your estimation, if the proposed change is approved, are there upstream water rights that would be affected? ☐ Yes ☒ No If "Yes", describe how the rights would be affected and list the rights most affected:



6. Check here ☐ if it appears that downstream water rights benefit from return flows resulting from the current use of the transferred right(s)? If you check the box, generally characterize the locations where the return flows likely occur and list the water rights that benefit most:

☐ N/A

7. 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:

☐ N/A

8. For instream transfers that propose protection of a reach beyond the mouth of the source stream:

☒ N/A Would the quantity be measureable into the receiving stream consistent with OAR 690-077-0015(8)? ☐ Yes ☐ No

9. For POU changes: ☐ N/A Is it likely the original place of use would continue to receive water from the same source? ☐ Yes ☒ No If "Yes", explain:

10. For POU or USE changes: ☐ N/A In your best judgment, 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:

11. For POU changes that involve micro-irrigation: ☒ N/A

- a. Has the applicant made changes (absent a transfer) to convert to micro-irrigation within the current place of use boundary of the water right proposed for transfer, and previously demonstrated to the Department through monitoring and site inspections by the Watermaster that the proposed transfer will not result in injury or enlargement?

☐ Yes ☐ No If "Yes", explain:



- b. Has a temporary transfer of this nature been previously filed and approved on the same lands (or portions thereof) as those lands involved in this transfer?

☐ Yes ☐ No If "Yes", answer the following:

- i. Were there any problems with more acres being irrigated (or wetted) than were authorized under the temporary transfer? ☐ Yes ☐ No If "Yes", explain:

- ii. Did the designated areas that were to remain dry (or not wetted) under the temporary transfer actually remain dry? ☐ Yes ☐ No If "No", explain:

- iii. Did the applicant comply with and meet all of the conditions of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- iv. Do you have any other observations regarding the temporary transfer?

☐ Yes ☐ No If "Yes", describe:

- v. Did the applicant demonstrate to the Department through monitoring and site inspections by the Watermaster that neither injury nor enlargement occurred as a result of the temporary transfer? ☐ Yes ☐ No If "No", explain:

- c. To the best of your knowledge, if this transfer is approved, does it appear that:

- i. "Injury" will occur to other water rights that share the same source?

☐ Yes ☐ No If "Yes", explain:

- ii. "Enlargement" of the water right being transferred will occur?

☐ Yes ☐ No If "Yes", explain:



12. Are there other issues not identified through the above questions that should be considered in determining whether the change "can be effected without injury to other rights"?

☒ Yes ☐ No If "Yes", explain:

See attached Watermaster Notes dated 11/4/2024.

13. What alternatives may be available for addressing any issues identified above:

See attached Watermaster Notes dated 11/4/2024.

14. Do conditions need to be included in the transfer order to avoid enlargement of the right or injury to other rights? ☐ No ☒ Yes, as checked and provided below:

☐ For POU changes that involve micro-irrigation, provide the monitoring and reporting conditions necessary to prevent injury/enlargement:

☐ A Headgate should be required prior to diverting water.

☒ Measurement Devices for POD or POA: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install a **totalizing flow meter\***, or, with prior approval of the Director, another suitable measuring device, ☐ at each point of diversion/appropriation (new and existing) OR at each new point of diversion/appropriation ☒ with the exception that water rights issued to the Bureau of Reclamation or an irrigation district (or similar entity) are not subject to this condition.*

*b. The water user shall maintain the meters or measuring devices in good working order.*

*c. The water user shall allow the Watermaster access to the meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the Watermaster shall request access upon reasonable notice.*

☐ Reservoir water use measurement: (if this condition is selected, also fill in the top sections of Page 4)

*a. Before water use may begin under this order, the water user shall install **staff gages\***, or, with prior approval of the Director, other suitable measuring devices, that measure the entire range and stage between empty and full in each reservoir. Staff gages shall be United States Geological Survey style.*

*b. Before water use may begin under this order, if the reservoir is located in channel, weirs or other suitable measuring devices must be installed upstream and downstream of the reservoir, and, an adjustable outlet valve must be installed. The water user shall maintain such devices in good working order. A written waiver may be obtained, if in the judgment of the Director, the installation of weirs or other suitable measuring devices, or the adjustable outlet valve, will provide no public benefit.*

\* The following alternative device(s) should be substituted for the bold, underlined device in the above selected condition:

<input type="checkbox"/> Weir	<input type="checkbox"/> Submerged Orifice
<input type="checkbox"/> Parshall Flume	<input type="checkbox"/> Flow Restrictor
<input type="checkbox"/> Other: _____	



## Oregon Water Resources Department

## Measurement Condition Information for the Applicant

(To be sent with the Draft Preliminary Determination or Final Order)

Transfer #: T- 11669



In order to avoid enlargement of the right or injury to other rights, a Totalizing Flow Meter will be required to be installed prior to diversion of water, as a condition of this transfer:



at each point of diversion/appropriation (new and existing) OR



at each new point of diversion/appropriation.

For additional information, or to obtain approval of a different type of measurement device, the applicant should contact the area Watermaster:

Watermaster name: Jered Hoshaw

District: 9

Address: 251 B Street West

City/State/Zip: Vale, OR 97918

Phone: (541)473-5130

Email: Jered.L.Hoshaw@water.oregon.gov

**Note:** If a device other than the one specified in the Preliminary Determination or Final Order is approved by the Watermaster, fill out and mail the form below to the Salem office.

\*\*\*\*\*

## Approval of an Alternate Measurement Device

T-

(to be filled out after consultation with the applicant, or after a site visit)

On behalf of the Director, I authorize use of the following suitable alternate measurement device:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Watermaster signature

\_\_\_\_\_  
District

\_\_\_\_\_  
Date

If this form is used for approval of an alternative measurement device, it must be mailed to:

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



## HOSHAW Jered L \* WRD

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**From:** HOSHAW Jered L \* WRD  
**Sent:** Wednesday, September 16, 2020 8:36 AM  
**To:** SPRIET Jason D \* WRD; MCCARTY Patricia E \* WRD  
**Subject:** RE: Condition for T - 11669

I hadn't thought of this. I would agree something needs to be added for clarification. I am on board with what Jason has added below, that sounds good to me.

And, Thank You Patricia for the congrats!!

-Jered

**From:** SPRIET Jason D \* WRD <Jason.D.Spriet@oregon.gov>  
**Sent:** Tuesday, September 15, 2020 5:51 PM  
**To:** MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>; HOSHAW Jered L \* WRD <Jered.L.Hoshaw@oregon.gov>  
**Subject:** RE: Condition for T - 11669

Hi Patricia,

You are correct, we need to include something to clarify that the applicant may not take additional water.

How about this:

"After June 1<sup>st</sup> of each calendar year, the right to the use of water diverted at the new point of diversion shall not exceed the quantity of water available at the end of 196 lateral, up to the quantity authorized under this right. Before water use may begin, a measuring device approved by the Watermaster shall be installed and maintained at this location."

I'm happy to set up another quick call if you would like to discuss further.

J

**From:** MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>  
**Sent:** Tuesday, September 15, 2020 3:59 PM  
**To:** SPRIET Jason D \* WRD <Jason.D.Spriet@oregon.gov>; HOSHAW Jered L \* WRD <Jered.L.Hoshaw@oregon.gov>  
**Cc:** MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>  
**Subject:** RE: Condition for T - 11669

Hi Jason and Jered,

I think I need a short conversation about this condition. My questions will be about tweaking the actual language. Where it says "shall not exceed the quantity of water being available at the end of 196 lateral" makes me think that whatever water is in the lateral is the same as the amount he is entitled to. Do we need to add anything like "not to exceed the authorized amount"? This is probably not clear so let's find a time to talk. I clearly don't know what's coming down the lateral.



## T-11669 WM Notes (Revised Application)

11/04/2024

- There will likely be more water available at the new proposed POD location due to return flows into Bully Creek between the old POD and new proposed POD approx. 2.5 miles downstream. Warm Springs Irrigation District holds a return flow permit (S-18547) and a certificate (74080) which entitles them to this water which is coming from Vale Oregon Irrigation District lands as return flows upstream from the new proposed POD. This proposed POD change creates potential for injury to these existing water rights.

**Alternative to this issue:** See email chain from September 2020 (attached), where a condition being added to the transfer order was discussed prior to this application being revised and re-submitted.

- Revised transfer map does not show "FROM" lands and does not depict where the remaining 8 acres below Farmers Ditch will remain un-changed.
- According to WRIS, Certificate 7049 is separated into 65 acres of Primary Irrigation and 44 acres of Supplemental Irrigation. Revised table 2 and the revised transfer map does not separate out primary and supplemental. Table 2 lists all 101 acres as primary. This makes it impossible to review for any layering issues. **I recommend that the applicant amend table 2 and the transfer map to accurately describe/illustrate "FROM", "TO", and "REMAINING/UN-CHANGED" acreages. Also, clearly separate out Primary acres and Supplemental acres. If the applicant plans to transfer primary acres to lands that already hold a primary water right (conflicting right), then one of them (most likely the one with junior priority) should be diminished to a supplemental during the transfer process.**



Thanks, and CONGRATULATIONS JERED!!!

Patricia McCarty

**From:** SPRIET Jason D \* WRD <[Jason.D.Spriet@oregon.gov](mailto:Jason.D.Spriet@oregon.gov)>  
**Sent:** Friday, September 4, 2020 2:16 PM  
**To:** MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>  
**Subject:** FW: Condition for T - 11669

Hi Patricia,

Below is what Jered and I think might work.

"After June 1<sup>st</sup> of each calendar year, the right to the use of water diverted at the new point of diversion shall not exceed the quantity of water being available at the end of 196 lateral. Before water use may begin, a measuring device approved by the Watermaster shall be installed and maintained at this location."

I was also thinking about adding something to the beginning like "The original point of diversion has been abandoned for many years, which led to this property being irrigated from the 196 lateral. As a result ..."

Jason

**From:** SPRIET Jason D \* WRD  
**Sent:** Friday, September 04, 2020 1:16 PM  
**To:** HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>  
**Subject:** RE: Condition for T - 11669

This is what I'm thinking, or something similar. A suitable measuring device can include a staff plate if we think that will work.

I was also thinking about adding something to the beginning like "The original point of diversion has been abandoned for many years, which led to this property being irrigated from the 196 lateral. As a result ..."

Jason

**From:** HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>  
**Sent:** Friday, September 04, 2020 9:38 AM  
**To:** SPRIET Jason D \* WRD <[Jason.D.Spriet@oregon.gov](mailto:Jason.D.Spriet@oregon.gov)>  
**Subject:** Condition for T - 11669

Jason,

Here is my first swing at the condition for T – 11669.

"After June 1<sup>st</sup> of each calendar year, the right to the use of water diverted at the new point of diversion shall not exceed the ~~is restricted to the same~~ quantity of water being available at the end of 196 lateral. Before water use may begin, a ~~staff plate or other~~ suitable measuring device approved by the Watermaster shall be



installed and maintained at this location."

Let me know what you think. I'm trying to keep it short and to the point without leaving anything out.

Thanks!

*Jered Hoshaw*

Region Assistant Watermaster, East Region

251 B Street W, Vale OR 97918 | Phone 541-473-5130



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking



## DAVIS Arla L \* WRD

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**From:** DAVIS Arla L \* WRD  
**Sent:** Friday, February 25, 2022 2:42 PM  
**To:** Graves, Lori; Graves, Lori; MCCARTY Patricia E \* WRD  
**Cc:** Scanlan, Terry; Greg Amaral; STARNES Patrick K \* WRD; JARAMILLO Lisa J \* WRD  
**Subject:** RE: Greg Amaral T-11669  
**Attachments:** evidence\_of\_use\_form.pdf; land\_use\_form.pdf; permanent\_wr\_transfer\_app.pdf

Good Afternoon,

Specifically regarding the inquiry email sent December 15, 2021 regarding "a discrepancy of the order that we would like corrected before it is carried over to the future preliminary order for the transfer amendment" I am still working on a resolution for this question. We are not able to alter or amend the duty of a water right certificate, however that being said, I understand the request outlined in the email from December 15, 2021 and I have scheduled a time to discuss this with my program lead in order to hammer out an answer/solution. I will not move forward with the revised Preliminary Determination until this issue has been resolved. The meeting is early next week, and I will follow up with everyone soon after. I apologize that I was not able to schedule it sooner, but there are folks are on vacation whom I would like to include in the discussion.

Without the answer to the issue above, we can move forward and amend Transfer Application T-11669 to include the additional 36.0 acres. In order to do that the Department will require a fully amended application packet. Because a change in place of use was a part of the original application received by the Department on September 26, 2013, additional fees are not required to submit the amended application packet. I have reviewed the fee schedule from 2013 and the original application and do not anticipate this changing, however if for any reason additional fees are required, I will notify you immediately. Once the new amended application packet is received, reviewed and considered complete, I can withdraw the Preliminary Determination issued by the Department on February 21, 2018. As a general practice, we normally set 30-day deadlines when working with applicants to amend applications. I would like to set a soft 60 day deadline of May 1, 2021 for the Department to receive the amended Transfer Application, Transfer Application Map, Land Use Form and Evidence of Use Affidavit. This allows more time if needed to complete and submit the items to the Department, but still keeps it on the radar and moving forward.

The items required to be received by the Department to consider the amended application packet to be complete are as follows. I have also included Rules below in Blue for your reference and I have attached the required documents to this email as well:

An updated Transfer Application (the application attached is our newest 2021 version and will differ from the 2013 application. The application must be signed by the applicant. Please let me know if there are concerns or questions or assistance needed to fill it out.

An updated Transfer Application map – this map will need to include all of the acres being proposed for transfer and must be prepared and stamped by a CWRE.

An updated Evidence of use affidavit and supporting documentation – the affidavit will need to include evidence of use for all of the acres being proposed for transfer, be notarized and signed by the applicant. The evidence of use is required for the use of the water right within the 5 years prior to the date of submittal of the original application. The time period would be September 26, 2009 – September 26, 2013. Please let me know if this is confusing or you have questions. See Rule below:

690-380-3000 (12)



(12) Evidence that the water has been used over the past five years in accordance with the terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610. The evidence shall include the following information:

(a) If the right has been used during the past five years, one or more affidavits from persons, such as the owner or operator, a neighbor, crop field person for a cannery or other product buyer, or Natural Resources Conservation Service (NRCS) representatives, who can attest from personal knowledge or professional expertise that the right was exercised at the authorized location and for the authorized purpose. Such affidavits shall state the specific grounds for the affiant's knowledge, the specific use to which the water was put (e.g., the crops grown, the nursery stock watered), and the delivery system used to apply the water and include supporting documentation such as:

(A) Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;

(B) Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers; or

(C) Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph, or

(b) 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).

**An updated Land Use Form – Although a Land Use form was included when the original application was submitted, the additional 35 acres were not reviewed by the County. The form will need include all acres proposed for transfer and must be approved and signed by the County. See rule below:**

690-380-3000 (19)

(19) Land use information as outlined in the Department's Land Use Planning Procedures Guide, except for those transfers that meet the following four requirements:

(a) Where existing and proposed water uses would be located entirely within lands zoned for exclusive farm use as provided in ORS 215.203 or within irrigation districts;

(b) That involve changes in place of use only;

(c) That do not involve the placement or modification of structures including but not limited to water diversion, impoundment, or distribution facilities, water wells, and well houses; and

(d) That involve irrigation water uses only.

**A Report of Ownership that includes all acres included in the amended application and is date within 90 days of the issuance of the Revised Preliminary Determination. This can be submitted with the application packet, or I can request this after the application is received and reviewed, whichever is easier for the applicant. Please see rule below:**

690-380-0100

(10) "Report of ownership information" means a document prepared by a title company that includes ownership and a legal description of the lands to which the water right is appurtenant.

690-380-4010

(5) For permanent transfers under OAR 690-380-2000, upon receipt of the draft preliminary determination, an applicant other than an entity that meets the criteria described in OAR 690-380-3000(13)(b) or (c) shall submit the following information:

(a) A report of ownership information as defined in OAR 690-380-0100(10) for the land to which the water right is appurtenant;



Permit S29882 (Bully Creek Reservoir permit)

If for irrigation, this appropriation shall be limited to 1/40th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

Certificate 7049

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1 1/2 acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre;  
A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purpose, the place where such water is put to beneficial use), is as follows:

Please confirm the correction will be made. Thank you and Merry Christmas.

From: Lori Graves

Sent: Wednesday, October 6, 2021 6:32 PM

To: nrorick@nlr-water.com; 'Randy Kinney - Warm Springs Irrigation Dist. (rkinney@widh2o.com)' <rkinney@widh2o.com>; Jessi Hansen <void@fmtc.com>

Cc: Greg Amaral <amaralranch@gmail.com>; Terry Scanlan <TScanlan@spfwater.com>; 'MCCARTY Patricia E \* WRD' <Patricia.E.Mccarty@oregon.gov>; HOSHAW Jered L \* WRD <Jered.L.Hoshaw@oregon.gov>; bartlhorses@gmail.com

Subject: FW: Req for adjustment to PD on Greg Amaral T-11669

Hi Nancy, Randy, Ty and Jesse,

From the options presented in Patricia's email below, Greg's preference is to file an AMENDED transfer application to allow a total of 101 water right acres be transferred above the Farmers Ditch per the WID Resolution, rather than 53.2 as currently proposed. This will require (1) the Department withdrawing the preliminary determination, (2) Greg submitting an amended transfer application to include the additional resolution acres along with more processing fees. As a result, the amended application will be subject to another review process, which includes re-advertising. Patricia confirmed this option would be the quickest to get the acres included and the current agreed upon conditions between WID, VOID and Greg would be preserved. The current case manager is very familiar with the transfer issues, thereby processing the amendment would be somewhat expedited since a new application would probably be assigned to a different case manager who is not familiar with the transfer history.

Before moving forward with the amendment option, we just want to make sure everyone is on board and that we can be assured the amendment will not be protested by WID and/or VOID during re-advertising. Please let me know if there are any concerns with this chosen approach. Thank you.

----- Forwarded message -----

From: MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>

Date: Wed, Sep 29, 2021, 6:38 PM

Subject: req for adjustment to PD on Greg Amaral T-11669



To: Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>, Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>, [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com) <[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)>, Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>, [nrorick@nlr-water.com](mailto:nrorick@nlr-water.com) <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>, DAVIS Arla L \* WRD <[Arla.L.Davis@oregon.gov](mailto:Arla.L.Davis@oregon.gov)>, HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>, Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>, [rkinney@widh2o.com](mailto:rkinney@widh2o.com) <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>  
Cc: MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>

Hello everyone,

Lori sent a message on Sept 2 requesting the following:

Can we submit an 2<sup>nd</sup> amendment transfer map and table based on the WID resolution passed 3/12/2019 allowing Greg to transfer a total of 101 acres north of the Farmers Ditch (see email chain below). Currently, the settlement agreement and draft approval reflect 53.2 acres. Fortunately, Nancy Rorick notified me yesterday regarding the Order not reflecting WID's resolution, which she believes can be accommodated under Transfer T-11669

We looked at the request and file and concluded that we cannot do this type of thing at this stage. The application was filed on September 6, 2013 and the Preliminary Determination (PD) was issued on February 21, 2018. There are a lot of process requirements that occur between the application and the preliminary determination. A change between the PD and the final order of this magnitude without the accompanying processes, is beyond WRD's authority.

However, there are a few options. First, Mr. Amaral can withdraw the application and file a new application covering all the acres. Second, WRD can withdraw the preliminary determination, and Mr. Amaral can amend the application, pay the additional processing and other fees, and WRD can put the amended application through the whole process again. Third, a settlement agreement and final order can be issued on the existing application. If Mr. Amaral wishes, he can file another application for the other acres when he is ready. There may not be much time or money savings for Mr. Amaral, but much of the discussion and agreement between you all would be preserved with any of the options.

When you have a chance, please let me know how you would like to proceed.

Sincerely,

Patricia McCarty



S29882 are the primary water rights and they have a duty of 4.5 acre-feet per acre. The water-right duties are not cumulative but are limited to the 4.5 acre-feet per acre. Under these water rights, Mr. Amaral has the right to 4.5-acre feet per acre in any combination, but not to exceed a total of 4.5-acre feet, of which only 3 acre-feet is available from certificate 7049.

Certificate 74080 (VOID primary irrigation right)

The amount of water used for irrigation or supplemental irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 4.5 ACRE-FEET PER ACRE, or the equivalent for each acre irrigated during the irrigation season of each year.

Permit S29882 (Bully Creek Reservoir permit)

If for irrigation, this appropriation shall be limited to  $\frac{1}{40}$ th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

Certificate 7049

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1 $\frac{1}{2}$  acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre;  
A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purpose, the place where such water is put to beneficial use), is as follows:

Please confirm the correction will be made. Thank you and Merry Christmas.

From: Lori Graves

Sent: Wednesday, October 6, 2021 6:32 PM

To: [nrorick@nir-water.com](mailto:nrorick@nir-water.com); 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>

Cc: Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)

Subject: FW: Req for adjustment to PD on Greg Amaral T-11669

Hi Nancy, Randy, Ty and Jesse,

From the options presented in Patricia's email below, Greg's preference is to file an AMENDED transfer application to allow a total of 101 water right acres be transferred above the Farmers Ditch per the WID Resolution, rather than 53.2 as currently proposed. This will require (1) the Department withdrawing the preliminary determination, (2) Greg submitting an amended transfer application to include the additional resolution acres along with more processing fees. As a result, the amended application will be subject to another review process, which includes re-



advertising. Patricia confirmed this option would be the quickest to get the acres included and the current agreed upon conditions between WID, VOID and Greg would be preserved. The current case manager is very familiar with the transfer issues, thereby processing the amendment would be somewhat expedited since a new application would probably be assigned to a different case manager who is not familiar with the transfer history.

Before moving forward with the amendment option, we just want to make sure everyone is on board and that we can be assured the amendment will not be protested by WID and/or VOID during re-advertising. Please let me know if there are any concerns with this chosen approach. Thank you.

----- Forwarded message -----

From: MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>

Date: Wed, Sep 29, 2021, 6:38 PM

Subject: req for adjustment to PD on Greg Amaral T-11669

To: Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>, Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>, [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com) <[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)>, Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>, [nrorick@nlr-water.com](mailto:nrorick@nlr-water.com) <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>, DAVIS Arla L \* WRD <[Arla.L.Davis@oregon.gov](mailto:Arla.L.Davis@oregon.gov)>, HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>, Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>, [rkinney@widh2o.com](mailto:rkinney@widh2o.com) <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>

Cc: MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>

Hello everyone,

Lori sent a message on Sept 2 requesting the following:

Can we submit an 2<sup>nd</sup> amendment transfer map and table based on the WID resolution passed 3/12/2019 allowing Greg to transfer a total of 101 acres north of the Farmers Ditch (see email chain below). Currently, the settlement agreement and draft approval reflect 53.2 acres. Fortunately, Nancy Rorick notified me yesterday regarding the Order not reflecting WID's resolution, which she believes can be accommodated under Transfer T-11669

We looked at the request and file and concluded that we cannot do this type of thing at this stage. The application was filed on September 6, 2013 and the Preliminary Determination (PD) was issued on February 21, 2018. There are a lot of process requirements that occur between the application and the preliminary determination. A change between the PD and the final order of this magnitude without the accompanying processes, is beyond WRD's authority.

However, there are a few options. First, Mr. Amaral can withdraw the application and file a new application covering all the acres. Second, WRD can withdraw the preliminary determination, and Mr. Amaral can amend the application, pay the additional processing and other fees, and WRD can put the amended application through the whole process again. Third, a settlement agreement and final order can be issued on the existing application. If Mr. Amaral wishes, he can file another application for the other acres when he is ready. There may not be much time or money savings for Mr. Amaral, but much of the discussion and agreement between you all would be preserved with any of the options.

When you have a chance, please let me know how you would like to proceed.

Sincerely,

Patricia McCarty



## MCCARTY Patricia E \* WRD

---

**From:** Lori Graves <LGraves@spfwater.com>  
**Sent:** Thursday, February 21, 2019 10:11 AM  
**To:** JACOBS Ronald K \* WRD; MCCARTY Patricia E \* WRD; nrorick@nlr-water.com  
**Cc:** bartlhorses@gmail.com; Greg Amaral; Terry Scanlan  
**Subject:** RE: RE: T-11669 Protest Resolution

As advised by Ron Jacobs, item 2 listed in the original email below has been modified as follows:

2. Divert Certificate 7049 when natural flows are available at the original point of diversion as determined by the Watermaster.

Ty King, Manager of Vail Oregon Irrigation District, will also be asked to attend the meeting.

**From:** Lori Graves  
**Sent:** Tuesday, February 19, 2019 2:33 PM  
**To:** 'JACOBS Ronald K \* WRD' <Ronald.K.Jacobs@oregon.gov>; 'MCCARTY Patricia E \* WRD' <Patricia.E.Mccarty@oregon.gov>; 'nrorick@nlr-water.com' <nrorick@nlr-water.com>  
**Cc:** 'bartlhorses@gmail.com' <bartlhorses@gmail.com>; Greg Amaral <amaralranch@gmail.com>; Terry Scanlan <TScanlan@spfwater.com>  
**Subject:** RE: T-11669 Protest Resolution

Per the request of Tom McElroy, President of Warm Springs Irrigation District (WID), and our client Greg Amaral, we would like to schedule a meeting in Vale to discuss the following proposed transfer amendments and conditions. Both Tom and Greg have been in discussions and wish for the WID protest be resolved as an outcome of the meeting rather than proceed to hearing.

1. Transfer Certificate 7049 acres out of WID south of Farmers Ditch, into Vail Oregon Irrigation District (VOID) north of Farmers Ditch. It is our understanding that WID passed a resolution at their 3/12/2019 Board meeting to allow the acre transfer. This will allow complete coverage of the half pivot area and make water management easier. There are ~101 irrigable acres north of Farmers Ditch. Certificate 7049 allows for irrigation of 109 acres. Consequently 8 acres may be lost due to non-use.
2. Divert Certificate 7049 only when natural flows are available above Bully Creek Reservoir.
3. Add the VOID 196 Ditch pump as an additional point of diversion for Certificate 7049, and utilize the Bully Creek pump or the VOID 196 Ditch pump for natural flow delivery.
4. When natural flows are available above Bully Creek Reservoir and the 196 Ditch pump is used, VOID will count Amaral delivery through the 196 Ditch as natural flow water under Certificate 7049, not VOID storage water. When Bully Creek natural flows are exhausted, VOID will count Amaral delivery through the 196 Ditch as VOID storage water.
5. To implement the above conditions as stipulated in accordance with OWRD policy, designate all the authorized acres under Certificate 7049 as primary acres.
6. Another option that would be ideal would be for VOID to allow delivery of Greg's storage water through Bully Creek via the Bully Creek pump. When natural flows are available above Bully Creek Reservoir, use of the Bully Creek pump would be attributed to Certificate 7049. When Bully Creek flows are exhausted, use of the Bully



Creek pump would be attributed to VOID storage water that would be released past the 196 diversion point to satisfy the Bully Creek pump.

Concerns and/or Department implications regarding the above transfer amendments and conditions can be discussed at the meeting. Patricia is welcome to participate by telephone. Please let me know your available times within the next two weeks. Tom offered the WID office in Vale as a possible meeting location. Ron, please let me know if you recommend Ty King (VOID Manager) attend the meeting also.

Thank you.

---

**Lori Graves | Water Rights Specialist**

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2148

e. [lgraves@spfwater.com](mailto:lgraves@spfwater.com) | w. [www.spfwater.com](http://www.spfwater.com)



**SPF WATER**  
ENGINEERING



## DAVIS Arla L \* WRD

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**From:** DAVIS Arla L \* WRD  
**Sent:** Friday, March 11, 2022 10:40 AM  
**To:** Graves, Lori  
**Cc:** 'Greg Amaral'; Scanlan, Terry; MCCARTY Patricia E \* WRD; JARAMILLO Lisa J \* WRD; STARNES Patrick K \* WRD  
**Subject:** RE: Greg Amaral T-11669

Good Morning Lori,

Thank you for your patience as I work towards a resolution for this Transfer.

My response for the Limit/Duty language is below in Blue. There is another issue regarding subordination language that is included in the Preliminary Determination for Transfer application T-11669 and that is below in Red:

Regarding the language included in the Limit/Duty paragraph on the Preliminary Determination for Transfer Application T-11669 issued February 21, 2018, the Department agrees there are scrivener's errors in the language. The paragraph will be corrected on the superseding Preliminary Determination for Transfer Application T-11669 and moving forward the paragraph will carry forward the language from the original Certificate 7049. The paragraph will appear as follows:

**Limit/Duty:** The amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially issued for said purposes, and shall not exceed 1.5 acre feet per acre in any 30 day period prior to June 1<sup>st</sup>, of each year, or 3.0 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre;

Included in the Preliminary Determination for Transfer Application T-11669 issued February 21, 2018 is language regarding subordination of Certificate 7049 to Certificate 74080 and Certificate 74081 as follows:

### Finding of Fact 4 which appears on page 1

The proposed place of use is within Vale and Warm Springs Irrigation District boundaries. Vale Irrigation District requested a condition that the new proposed place of use under C-7049 (1884 priority date) be subordinate to the priority dates for the district rights under C-74080 (January 11, 1927 priority date) and C-74081 (November 29, 1945 priority date). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary. The applicant consented to this condition.

### Condition 3 which appears on page 4

*The new proposed place of use under Certificate 7049 (1884 priority date) shall be subordinate to the priority dates for the district rights under Certificates 74080 (January 11, 1927) and 74081 (November 29, 1945). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary.*

Through communications with DOJ, the Department has been instructed that we do not have the authority to change the priority date of any Water Right, which means the language to subordinate the priority date of Certificate 7049 cannot be included moving forward. A private agreement between parties to subordinate whom is junior and whom is senior can of course be done, but the Water Resources Department will not regulate any private agreement nor include the above subordination language in the superseding Preliminary Determination for Transfer Application T-11669.



If you have any questions please let me know.

Arla L. Davis

Water Rights Transfer Specialist  
Transfer and Conservation Section  
725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



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**From:** DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>  
**Sent:** Monday, March 7, 2022 2:15 PM  
**To:** Graves, Lori <Lori.Graves@hdrinc.com>  
**Cc:** 'Greg Amaral' <amaralranch@gmail.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>; MCCARTY Patricia E \* WRD <Patricia.E.MCCARTY@water.oregon.gov>  
**Subject:** Re: Greg Amaral T-11669

Hi Lori,

A further discussion is needed regarding the preliminary determination and that meeting is scheduled for Wednesday morning and so I should be able to get back to you by Thursday of this week. I apologize for the delay. Please let me know if you have any other questions.

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**From:** Graves, Lori <Lori.Graves@hdrinc.com>  
**Sent:** Monday, March 7, 2022 1:59:30 PM  
**To:** DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>  
**Cc:** 'Greg Amaral' <amaralranch@gmail.com>; Scanlan, Terry <Terry.Scanlan@hdrinc.com>; MCCARTY Patricia E \* WRD <Patricia.E.MCCARTY@water.oregon.gov>  
**Subject:** RE: Greg Amaral T-11669

Any progress Arla,

A decision cannot be made on whether to proceed with an amended application until we know the Department's stances requested in the preceding emails including:

1. Our request to have a discrepancy of the order corrected before it is carried over to the future preliminary order for the transfer amendment.
2. If corrected and an amendment is prepared for submittal, confirmation that only the additional 47.8 acres the applicant wishes to add will be subject to the information requirements shown in blue below.

Thanks for your attention to this matter Arla.

**Lori Graves**, Sr. Water Rights Specialist  
D 208.872.9519 M 208.850.4601

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**From:** Graves, Lori  
**Sent:** Friday, February 25, 2022 4:16 PM  
**To:** DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>  
**Cc:** 'Greg Amaral' <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; [terry.scanlan@hdrinc.com](mailto:terry.scanlan@hdrinc.com); [Patricia.E.MCCARTY@water.oregon.gov](mailto:Patricia.E.MCCARTY@water.oregon.gov)  
**Subject:** RE: Greg Amaral T-11669

Thanks Arla. Because this will be an amendment to an existing transfer application that has been reviewed by the Department through issuance of a "preliminary determination", only the additional 47.8 acres we wish to add will be subject to the information requirements shown in blue below. Thanks for your attention to this matter.

**Lori Graves**, Sr. Water Rights Specialist  
D 208.872.9519 M 208.850.4601

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**From:** DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>  
**Sent:** Friday, February 25, 2022 3:42 PM  
**To:** Graves, Lori <[Lori.Graeves@hdrinc.com](mailto:Lori.Graeves@hdrinc.com)>; Graves, Lori <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>; MCCARTY Patricia E \* WRD <[Patricia.E.MCCARTY@water.oregon.gov](mailto:Patricia.E.MCCARTY@water.oregon.gov)>  
**Cc:** Scanlan, Terry <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; STARNES Patrick K \* WRD <[Patrick.K.STARNES@water.oregon.gov](mailto:Patrick.K.STARNES@water.oregon.gov)>; JARAMILLO Lisa J \* WRD <[Lisa.J.JARAMILLO@water.oregon.gov](mailto:Lisa.J.JARAMILLO@water.oregon.gov)>  
**Subject:** RE: Greg Amaral T-11669

**CAUTION: [EXTERNAL]** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Afternoon,

Specifically regarding the inquiry email sent December 15, 2021 regarding "a discrepancy of the order that we would like corrected before it is carried over to the future preliminary order for the transfer amendment" I am still working on a resolution for this question. We are not able to alter or amend the duty of a water right certificate, however that being said, I understand the request outlined in the email from December 15, 2021 and I have scheduled a time to discuss this with my program lead in order to hammer out an answer/solution. I will not move forward with the revised Preliminary Determination until this issue has been resolved. The meeting is early next week, and I will follow up with everyone soon after. I apologize that I was not able to schedule it sooner, but there are folks are on vacation whom I would like to include in the discussion.

Without the answer to the issue above, we can move forward and amend Transfer Application T-11669 to include the additional 36.0 acres. In order to do that the Department will require a fully amended application packet. Because a change in place of use was a part of the original application received by the Department on September 26, 2013, additional fees are not required to submit the amended application packet. I have reviewed the fee schedule from 2013 and the original application and do not anticipate this changing, however if for any reason additional fees are required, I will notify you immediately. Once the new amended application packet is received, reviewed and considered complete, I can withdraw the Preliminary Determination issued by the Department on February 21, 2018. As a general practice, we normally set 30-day deadlines when working with applicants to amend applications. I would like to set a soft 60 day deadline of May 1, 2021 for the Department to receive the amended Transfer Application, Transfer Application Map, Land Use Form and Evidence of Use Affidavit. This allows more time if needed to complete and submit the items to the Department, but still keeps it on the radar and moving forward.

The items required to be received by the Department to consider the amended application packet to be complete are as follows. I have also included Rules below in Blue for your reference and I have attached the required documents to this email as well:



An updated Transfer Application (the application attached is our newest 2021 version and will differ from the 2013 application. The application must be signed by the applicant. Please let me know if there are concerns or questions or assistance needed to fill it out.

An updated Transfer Application map – this map will need to include all of the acres being proposed for transfer and must be prepared and stamped by a CWRE.

An updated Evidence of use affidavit and supporting documentation – the affidavit will need to include evidence of use for all of the acres being proposed for transfer, be notarized and signed by the applicant. The evidence of use is required for the use of the water right within the 5 years prior to the date of submittal of the original application. The time period would be September 26, 2009 – September 26, 2013. Please let me know if this is confusing or you have questions. See Rule below:

690-380-3000 (12)

(12) Evidence that the water has been used over the past five years in accordance with the terms and conditions of the right or that the right is not subject to forfeiture under ORS 540.610. The evidence shall include the following information:

(a) If the right has been used during the past five years, one or more affidavits from persons, such as the owner or operator, a neighbor, crop field person for a cannery or other product buyer, or Natural Resources Conservation Service (NRCS) representatives, who can attest from personal knowledge or professional expertise that the right was exercised at the authorized location and for the authorized purpose. Such affidavits shall state the specific grounds for the affiant's knowledge, the specific use to which the water was put (e.g., the crops grown, the nursery stock watered), and the delivery system used to apply the water and include supporting documentation such as:

(A) Copies of receipts from sales of irrigated crops or for expenditures relating to use of water;

(B) Records such as Farm Service Agency crop reports, irrigation district records, an NRCS farm management plan, or records of other water suppliers; or

(C) Dated aerial photographs of the lands or other photographs containing sufficient detail to establish the location and date of the photograph, or

(b) 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).

An updated Land Use Form – Although a Land Use form was included when the original application was submitted, the additional 35 acres were not reviewed by the County. The form will need include all acres proposed for transfer and must be approved and signed by the County. See rule below:

690-380-3000 (19)

(19) Land use information as outlined in the Department's Land Use Planning Procedures Guide, except for those transfers that meet the following four requirements:

(a) Where existing and proposed water uses would be located entirely within lands zoned for exclusive farm use as provided in ORS 215.203 or within irrigation districts;

(b) That involve changes in place of use only;

(c) That do not involve the placement or modification of structures including but not limited to water diversion, impoundment, or distribution facilities, water wells, and well houses; and

(d) That involve irrigation water uses only.

A Report of Ownership that includes all acres included in the amended application and is date within 90 days of the issuance of the Revised Preliminary Determination. This can be submitted with the application packet, or I can



request this after the application is received and reviewed, whichever is easier for the applicant. Please see rule below:

690-380-0100

(10) "Report of ownership information" means a document prepared by a title company that includes ownership and a legal description of the lands to which the water right is appurtenant.

690-380-4010

(5) For permanent transfers under OAR 690-380-2000, upon receipt of the draft preliminary determination, an applicant other than an entity that meets the criteria described in OAR 690-380-3000(13)(b) or (c) shall submit the following information:

(a) A report of ownership information as defined in OAR 690-380-0100(10) for the land to which the water right is appurtenant;

(b) A copy of any water right conveyance agreement(s) for the land to which the water right is appurtenant; and

(c) If the landowner identified in the report of ownership information is not the applicant, documentation to demonstrate that the applicant is authorized to pursue the transfer, which shall include:

(A) A notarized statement by the landowner(s) identified in the report of ownership information consenting to the transfer;

(B) If the interest in the water right has been conveyed, a notarized statement consenting to the transfer from the person or authorized representative(s) of the entity to whom the interest in the water right has been conveyed identified in a water right conveyance agreement; or

(C) Other documentation demonstrating that the applicant is authorized to pursue the transfer.

**(6) The report of ownership information required under subsection (5)(a) of this rule must:**

(a) Be prepared no earlier than three months prior to the date of the draft preliminary determination showing current ownership; or

(b) If the interest in the water right has been conveyed be prepared within three months of the date the water right conveyance agreement was recorded or show ownership for the appurtenant land at the time the water right conveyance agreement was recorded.

Arla L. Davis

Water Rights Transfer Specialist

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



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From: Graves, Lori <[Lori.Graves@hdrinc.com](mailto:Lori.Graves@hdrinc.com)>

Sent: Monday, February 7, 2022 2:45 PM

To: DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>; Graves, Lori <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>; MCCARTY Patricia E \* WRD <[Patricia.E.MCCARTY@water.oregon.gov](mailto:Patricia.E.MCCARTY@water.oregon.gov)>

Cc: Scanlan, Terry <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>

Subject: RE: Greg Amaral T-11669

Just checking in Arla.



**Lori Graves**, Sr. Water Rights Specialist  
D 208.872.9519 M 208.850.4601

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**From:** DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>  
**Sent:** Thursday, December 16, 2021 12:29 PM  
**To:** Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>; MCCARTY Patricia E \* WRD <[Patricia.E.MCCARTY@water.oregon.gov](mailto:Patricia.E.MCCARTY@water.oregon.gov)>  
**Cc:** Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>  
**Subject:** RE: Greg Amaral T-11669

Good Morning Lori,

Thank you so much for your email. I am going to review the file to make sure I give you an accurate answer regarding Transfer 11669. If you have any other questions, please let me know. Have a great weekend!

Arla L. Davis

Water Rights Transfer Specialist  
Transfer and Conservation Section  
725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



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**From:** Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>  
**Sent:** Wednesday, December 15, 2021 2:55 PM  
**To:** MCCARTY Patricia E \* WRD <[Patricia.E.MCCARTY@water.oregon.gov](mailto:Patricia.E.MCCARTY@water.oregon.gov)>; DAVIS Arla L \* WRD <[Arla.L.DAVIS@water.oregon.gov](mailto:Arla.L.DAVIS@water.oregon.gov)>  
**Cc:** Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>  
**Subject:** FW: Greg Amaral T-11669

Hi Patricia and Arla,

Although the attached Preliminary Determination will now be withdrawn since Greg has chosen to pursue Patricia's option 2 highlighted below, we would like to point out a discrepancy of the order that we would like corrected before it is carried over to the future preliminary order for the transfer amendment.

Item 10 on page 2 of the attached Preliminary Order states:

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 1.5 acre feet per acre in any 30 day period prior to June 1<sup>st</sup>, 1.0 acre foot per acre in any 30 day period after June 1<sup>st</sup>, of each year or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of one cubic foot per second per acre.

The language "together with the amount secured under any other right existing for the same lands" should not be included. The following taken from an email from Nancy Rorick dated 2/22/2019 explains why:

The duty of a water right is the volume of water that can be use during the irrigation season expressed in acre-feet per acre. The excerpts below are the duties of Mr. Amaral's water rights. Certificate 74080 and permit



S29882 are the primary water rights and they have a duty of 4.5 acre-feet per acre. The water-right duties are not cumulative but are limited to the 4.5 acre-feet per acre. Under these water rights, Mr. Amaral has the right to 4.5-acre feet per acre in any combination, but not to exceed a total of 4.5-acre feet, of which only 3 acre-feet is available from certificate 7049.

Certificate 74080 (VOID primary irrigation right)

The amount of water used for irrigation or supplemental irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 4.5 ACRE-FEET PER ACRE, or the equivalent for each acre irrigated during the irrigation season of each year.

Permit S29882 (Bully Creek Reservoir permit)

If for irrigation, this appropriation shall be limited to  $\frac{1}{40}$ th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 $\frac{1}{2}$  acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

Certificate 7049

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1 $\frac{1}{2}$  acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre;  
A description of the lands irrigated under such right, and to which the water is appurtenant (or, if for other purpose, the place where such water is put to beneficial use), is as follows:

Please confirm the correction will be made. Thank you and Merry Christmas.

From: Lori Graves

Sent: Wednesday, October 6, 2021 6:32 PM

To: [nrorick@nir-water.com](mailto:nrorick@nir-water.com); 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>

Cc: Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)

Subject: FW: Req for adjustment to PD on Greg Amaral T-11669

Hi Nancy, Randy, Ty and Jesse,

From the options presented in Patricia's email below, Greg's preference is to file an AMENDED transfer application to allow a total of 101 water right acres be transferred above the Farmers Ditch per the WID Resolution, rather than 53.2 as currently proposed. This will require (1) the Department withdrawing the preliminary determination, (2) Greg submitting an amended transfer application to include the additional resolution acres along with more processing fees. As a result, the amended application will be subject to another review process, which includes re-



advertising. Patricia confirmed this option would be the quickest to get the acres included and the current agreed upon conditions between WID, VOID and Greg would be preserved. The current case manager is very familiar with the transfer issues, thereby processing the amendment would be somewhat expedited since a new application would probably be assigned to a different case manager who is not familiar with the transfer history.

Before moving forward with the amendment option, we just want to make sure everyone is on board and that we can be assured the amendment will not be protested by WID and/or VOID during re-advertising. Please let me know if there are any concerns with this chosen approach. Thank you.

----- Forwarded message -----

From: MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>

Date: Wed, Sep 29, 2021, 6:38 PM

Subject: req for adjustment to PD on Greg Amaral T-11669

To: Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>, Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>, [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com) <[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)>, Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>, [nrorick@nlr-water.com](mailto:nrorick@nlr-water.com) <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>, DAVIS Arla L \* WRD <[Arla.L.Davis@oregon.gov](mailto:Arla.L.Davis@oregon.gov)>, HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>, Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>, [rkinney@widh2o.com](mailto:rkinney@widh2o.com) <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>

Cc: MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>

Hello everyone,

Lori sent a message on Sept 2 requesting the following:

Can we submit an 2<sup>nd</sup> amendment transfer map and table based on the WID resolution passed 3/12/2019 allowing Greg to transfer a total of 101 acres north of the Farmers Ditch (see email chain below). Currently, the settlement agreement and draft approval reflect 53.2 acres. Fortunately, Nancy Rorick notified me yesterday regarding the Order not reflecting WID's resolution, which she believes can be accommodated under Transfer T-11669

We looked at the request and file and concluded that we cannot do this type of thing at this stage. The application was filed on September 6, 2013 and the Preliminary Determination (PD) was issued on February 21, 2018. There are a lot of process requirements that occur between the application and the preliminary determination. A change between the PD and the final order of this magnitude without the accompanying processes, is beyond WRD's authority.

However, there are a few options. First, Mr. Amaral can withdraw the application and file a new application covering all the acres. Second, WRD can withdraw the preliminary determination, and Mr. Amaral can amend the application, pay the additional processing and other fees, and WRD can put the amended application through the whole process again. Third, a settlement agreement and final order can be issued on the existing application. If Mr. Amaral wishes, he can file another application for the other acres when he is ready. There may not be much time or money savings for Mr. Amaral, but much of the discussion and agreement between you all would be preserved with any of the options.

When you have a chance, please let me know how you would like to proceed.

Sincerely,

Patricia McCarty



RESOLUTION 2019-2

WARMSPRINGS IRRIGATION DISTRICT

A RESOLUTION, PURSUANT TO CHAPTER 545, OREGON REVISED STATUTES, ESTABLISHING ANNUAL INCURRED CHARGES OF WARMSPRINGS IRRIGATION DISTRICT.

WHEREAS, in accordance with the provisions of ORS 545.484 the Board of Directors of Warmsprings Irrigation District ("District") has computed the total amount of money necessary to be raised by the District in the year 2019 for the purpose of carrying out the Irrigation District Law, including an allowance for delinquencies in collections, and after considering the amounts necessary for:

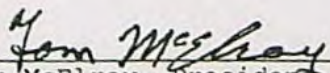
- (a) The care, operation and maintenance of District facilities;
- (b) Reasonable reserve funds for major maintenance, improvement and replacement of capital improvements and facilities;
- (c) The acquisition of land or water rights;
- (d) Other expenses of the District; and

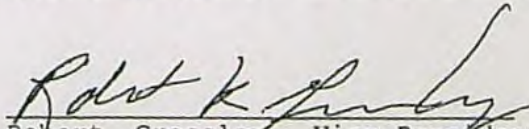
WHEREAS, The Board of Directors of the District has determined the total number of acres of land in the District that are entitled to irrigation and has apportioned the amount of money to be raised to such acres as provided by the Irrigation District Law,

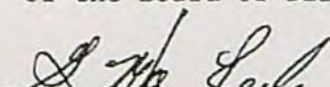
NOW, THEREFORE, IT IS HEREBY RESOLVED, that the annual incurred charges of the District for 2019 shall be \$40.00 per acre together with a tract fee of \$85.00 per account. The annual charges shall be due and payable on or before the 1<sup>st</sup> day of April, and charges remaining unpaid after the 1<sup>st</sup> day of May shall be deemed delinquent.

DATED as of the 12<sup>th</sup> day of March, 2019.

The foregoing Resolution is hereby adopted and approved by the Board of Directors of Warmsprings Irrigation District, as indicated by their signatures below.

  
Tom McElroy, President  
of the Board of Directors

  
Robert Gressley, Vice-President  
of the Board of Directors

  
G. Michael Recla, Secretary  
of the Board of Directors



RESOLUTION 2019-2

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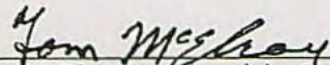
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- (b) Reasonable reserve funds for major maintenance, improvement and replacement of capital improvements and facilities;
- (c) The acquisition of land or water rights;
- (d) Other expenses of the District; and

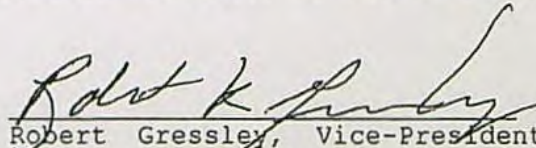
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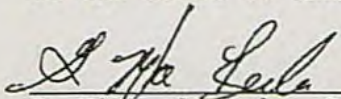
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of the Board of Directors

  
Robert Gressley, Vice-President  
of the Board of Directors

  
G. Michael Recla, Secretary  
of the Board of Directors



## Part 3 of 5 – Fee Worksheet

[illegible]

\*Example for Line 5a calculation to transfer 45.0 acres of Primary Certificate 12345 (total 1.25 cfs for 100 acres) and 45.0 acres of Supplemental Certificate 87654 (1/80 cfs per acre) on the same land:

1. For irrigation calculate cfs for each water right involved as follows:
  - a. Divide total authorized cfs by total acres in the water right (for C12345,  $1.25 \text{ cfs} \div 100 \text{ ac}$ ); then multiply by the number of acres to be transferred to get the transfer cfs ( $\times 45 \text{ ac} = 0.56 \text{ cfs}$ ).
  - b. If the water right certificate does not list total cfs, but identifies the allowable use as 1/40 or 1/80 of a cfs per acre; multiply number of acres proposed for change by either 0.025 (1/40) or 0.0125 (1/80). (For C87654,  $45.0 \text{ ac} \times 0.0125 \text{ cfs/ac} = 0.56 \text{ cfs}$ )
2. Add cfs for the portions of water rights on all the land included in the transfer; however **do not count cfs for supplemental rights on acreage for which you have already calculated the cfs fee for the primary right on the same land.** The fee should be assessed only once for each "on the ground" acre included in the transfer. (In this example, blank 5a would be only 0.56 cfs, since both rights serve the same 45.0 acres. Blank 5b would be 0 and Line 5 would then also become 0).

FEE WORKSHEET for SUBSTITUTION			
1	Base Fee (includes change to one well)	1	\$990.00
	Number of wells included in substitution _____ (2a) Subtract 1 from the number in 2a above: _____ (2b) <i>If only one well this will be 0</i>		
2	Multiply line 2b by \$480 and enter » » » » » » » » » » » » » » » »	2	
3	Add entries on lines 1 through 2 above » » » » » » <b>Fee for Substitution:</b>	3	



## Part 4 of 5 – Applicant Information and Signature

### Applicant Information

APPLICANT/BUSINESS NAME <b>Vale Ranches LLC c/o Greg Amaral</b>			PHONE NO. <b>707-373-8000</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>60 S Pointe Lane</b>			FAX NO.	
CITY <b>Moneta</b>	STATE <b>VA</b>	ZIP <b>24121</b>	E-MAIL <b>amaralranch@gmail.com</b>	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

**Agent Information** – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT/BUSINESS NAME <b>Lori Graves/HDR Inc</b>			PHONE NO. <b>208-872-9519</b>	ADDITIONAL CONTACT NO.
ADDRESS <b>412 E Parkcenter Blvd, Ste 1000</b>			FAX NO.	
CITY <b>Boise</b>	STATE <b>ID</b>	ZIP <b>83702</b>	E-MAIL <b>lori.graves@hdrinc.com</b>	
BY PROVIDING AN E-MAIL ADDRESS, CONSENT IS GIVEN TO RECEIVE ALL CORRESPONDENCE FROM THE DEPARTMENT ELECTRONICALLY. COPIES OF THE FINAL ORDER DOCUMENTS WILL ALSO BE MAILED.				

Explain in your own words what you propose to accomplish with this transfer application, and why:  
Applicant wishes to amend T-11669 to move additional acres currently authorized for irrigation below Farmers Ditch (WID service area) to lands above Farmers Ditch (VOID service area). This will allow full pivot coverage of 101 acres rather than partial pivot coverage of 53.1 acres as currently approved. Eight acres will remain unchanged. WID approved of this change in a resolution passed 3/12/2019 and email dated 1/3/2022. VOID approved of this change in an email dated 12/6/2021. The email chains are included as Attachments 1A & 1B.

If you need additional space, continue on a separate piece of paper and attach to the application as "Attachment 1".

### Check One Box

- ☒ By signing this application, I understand that, upon receipt of the draft preliminary determination and prior to Department approval of the transfer, I will be required to provide landownership information and evidence that I am authorized to pursue the transfer as identified in OAR 690-380-4010(5); OR
- ☐ I affirm the applicant is a municipality as defined in ORS 540.510(3)(b) and that the right is in the name of the municipality or a predecessor; OR
- ☐ I affirm the applicant is an entity with the authority to condemn property and is acquiring by condemnation the property to which the water right proposed for transfer is appurtenant and have supporting documentation.

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By my signature below, I confirm that I understand:

- Prior to Department approval of the transfer application, I may be required to submit payment to the Department for publication of a notice in a newspaper with general circulation in the area where the water right is located, once per week for two consecutive weeks. If more than one qualifying newspaper is available, I suggest publishing the notice in the following newspaper: The Argus Observer.
- Amendments to the application may only be made in response to the Department's Draft Preliminary Determination (DPD). The applicant will have a period of at least 30 days to amend the application to address any issues identified by the Department in the DPD, or to withdraw the application. Note that amendments may be subject to additional fees, pursuant to ORS 536.050.
- Failure to complete an approved change in place of use and/or change in character of use, will result in loss of the water right (OAR 690-380-6010).
- Refunds may only be granted upon request and, as set forth in ORS 536.050(4)(a), if the Director determines that a refund of all or part of a fee is appropriate in the interests of fairness to the public or necessary to correct an error of the Department.

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

Applicant signature

Print Name (and Title if applicable)

Date

Applicant signature

Print Name (and Title if applicable)

Date

Is the applicant the sole owner of the land on which the water right, or portion thereof, proposed for transfer is located? ☒ Yes ☐ No\*

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

Check the following boxes that apply:

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

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

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

If a property sells, the certificated water right(s) located on the land belong to the new owner, unless a sale agreement or other document states otherwise. For more information see:

[https://www.oregon.gov/owrd/WRDFormsPDF/Transfer\\_Property\\_Transactions.pdf](https://www.oregon.gov/owrd/WRDFormsPDF/Transfer_Property_Transactions.pdf)

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



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

IRRIGATION DISTRICT NAME <b>See Attachments 1A &amp; 1B</b>	ADDRESS	
CITY	STATE	ZIP

☐ Check here if water for any of the rights supplied under a water service agreement or other contract for stored water with a federal agency or other entity.

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP



To meet State Land Use Consistency Requirements, you must list all county, city, municipal corporation, or tribal governments within whose jurisdiction water will be diverted, conveyed or used.

ENTITY NAME <b>Malheur County Planning &amp; Zoning</b>	ADDRESS <b>251 "B" Street West #12</b>	
CITY <b>Vale</b>	STATE <b>OR</b>	ZIP <b>97918</b>

ENTITY NAME	ADDRESS	
CITY	STATE	ZIP

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## INSTRUCTIONS for editing the Application Form

To add additional lines to tables within the forms or to copy and paste additional Part 5 pages, please **save the application form to your computer**. Unlock the document by using one of the following instructions for your Microsoft Word software version:

### Microsoft Word 2003

Unlock the document by one of the following:

- Using the **Tools** menu => click **Unprotect Document**;  
**OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

To relock the document to enable the checkboxes to work, you will need to:

- Using the **Tools** menu => click **Protect Document**;  
**OR**
- Using the **Forms** toolbar => click on the **Protect/Unprotect** icon.

### Microsoft Word 2007

- Unlock the document by clicking the **Review** tab, then click **Protect Document**, then click **Stop Protect**
- To relock the document, click **Editing Restrictions**, then click **Allow Only This Type of Editing**, select **Filling In Forms** from the drop-down menu, then check **Yes, Start Enforcing Protection**.

### Microsoft Word 2010

- Unlock the document by clicking the **Review** tab; toggle the **Restrict Editing** icon at the upper right, then click **Stop Protect** at the bottom right. Then uncheck the "**Allow only this type of editing in the document: Filling in forms**" in the "Editing restrictions" section on the right-hand list of options.
- To relock the document, check the **Editing Restrictions/Allow Only This Type of Editing/Filling In Forms** box from the drop-down menu, then check **Yes, Start Enforcing Protection**. You do not need to assign a password for the editing restrictions.

### Other Alternatives:

- Photocopy pages or tables in Part 5, ~~mark through~~ any non-applicable information, insert/attach photocopied pages to document in the appropriate location, and manually amend page numbers as necessary (e.g. Page 5 6 of 9 10).
- You may refer to additional attachments that you may include, such as separately produced tables or spreadsheets to convey large numbers of rows of place of use listings, owner/property parcels, etc. You may contact the Department at 503-986-0900 and ask for Transfer Staff if you have questions.

Once the application has been unlocked, you may:

- add additional rows to tables using the Table tools, and
- select and copy the pages of Part 5 and paste as many additional sets of Part 5 pages as needed at the end of the application.

After editing, re-lock the document to enable checkboxes to work.

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## Part 5 of 5 – Water Right Information

Please use a separate Part 5 for each water right being changed. See instructions on page 6, to copy and paste additional Part 5s, or to add additional rows to tables within the form.

CERTIFICATE # 7049

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### Description of Water Delivery System

System capacity: 5.45 cubic feet per second (cfs) OR

2446 gallons per minute (gpm)

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Describe the current water delivery system or the system that was in place at some time within the last five years. Include information on the pumps, canals, pipelines, and sprinklers used to divert, convey, and apply the water at the authorized place of use. The original Harris Ditch diversion system changed when VOID was formed. Water under this certificate is now diverted from Bully Creek Reservoir and exercised through the 196 Vale Canal

**Table 1. Location of Authorized and Proposed Point(s) of Diversion (POD) or Appropriation (POA)**

(Note: If the POD/POA name is not specified on the certificate, assign it a name or number here.)

POD/POA Name or Number	Is this POD/POA Authorized on the Certificate or Is it Proposed?	If POA, OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
1	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed		18 S	44 E	19	SE		Original Harris Ditch pod
2	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed		19 S	44 E	4	NE NW	3	
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed							
	<input type="checkbox"/> Authorized <input type="checkbox"/> Proposed							

Check all type(s) of change(s) proposed below (change "CODES" are provided in parentheses):

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Place of Use (POU)                 | <input type="checkbox"/> Supplemental Use to Primary Use (S to P) |
| <input type="checkbox"/> Character of Use (USE)                        | <input type="checkbox"/> Point of Appropriation/Well (POA)        |
| <input checked="" type="checkbox"/> Point of Diversion (POD)           | <input type="checkbox"/> Additional Point of Appropriation (APOA) |
| <input type="checkbox"/> Additional Point of Diversion (APOD)          | <input type="checkbox"/> Substitution (SUB)                       |
| <input type="checkbox"/> Surface Water POD to Ground Water POA (SW/GW) | <input type="checkbox"/> Government Action POD (GOV)              |

Will all of the proposed changes affect the entire water right?

- ☐ Yes Complete only the Proposed ("to" or "on" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- ☒ No Complete all of Table 2 to describe the portion of the water right to be changed.



Please use and attach additional pages of Table 2 as needed.  
See page 6 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer Staff.

**Table 2. Description of Changes to Water Right Certificate # 7049**

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

AUTHORIZED (the "from" or "off" lands) The listing that appears on the certificate BEFORE PROPOSED CHANGES List only that part or portion of the water right that will be changed.													Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.												
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp	Rng	Sec		¼ ¼	Tax Lot	Gvt Lot or DLC	Acres	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date						
EXAMPLE																										
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901
														2	S	9	E	2	SW	NW	500		5.0		POD #6	1901
19	S	44	E	4	NE	NW	3700	3	21	Irrigation	1	1884		19	S	44	E	4	NE	NW	3700	3	12		2	1884
19	S	44	E	4	NW	NW	3700	4	40	Irrigation	1	1884		19	S	44	E	4	NW	NW	3700	4	39.5		2	1884
19	S	44	E	4	SW	NW	3700		40	Irrigation	1	1884		19	S	44	E	4	SW	NW	3700		0.5		2	1884
														19	S	44	E	5	NE	NE	3700	1	40.5		2	1884
														19	S	44	E	5	NW	NE	3700	2	7		2	1884
														19	S	44	E	5	SE	NE	3700		1.5		2	1884
TOTAL ACRES:									101					TOTAL ACRES:									101			

Additional remarks: 8 acres below Farmers Ditch in WID will remain unchanged.



**For Place of Use or Character of Use Changes**

Are there other water right certificates, water use permits or ground water registrations associated with the "from" or the "to" lands? ☒ Yes ☐ No

If YES, list the certificate, water use permit, or ground water registration numbers: 74080, 74081, S29882.

Pursuant to ORS 540.510, any "layered" water use such as an irrigation right that is supplemental to a primary right proposed for transfer must be included in the transfer or be cancelled. Any change to a ground water registration must be filed separately in a ground water registration modification application.

**For Substitution** (ground water supplemental irrigation will be substituted for surface water primary irrigation)

Ground water supplemental Permit or Certificate # \_\_\_\_\_;

Surface water primary Certificate # \_\_\_\_\_.

**For a change from Supplemental Irrigation Use to Primary Irrigation Use**

Identify the primary certificate to be cancelled. Certificate # \_\_\_\_\_

**For a change in point(s) of appropriation (well(s)) or additional point(s) of appropriation:**

- ☐ Well log(s) are attached for each authorized and proposed well(s) that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

Tip: You may search for well logs on the Department's web page at:

[http://apps.wrd.state.or.us/apps/gw/well\\_log/Default.aspx](http://apps.wrd.state.or.us/apps/gw/well_log/Default.aspx)

**AND/OR**

- ☐ Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide the information will delay the processing of your transfer application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well: OWRD Well ID Tag No. L-____	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc)	Well specific rate (cfs or gpm). If less than full rate of water right

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# Application for Permanent Water Right Transfer



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

## Part 1 of 5 – Minimum Requirements Checklist

This transfer application will be returned if Parts 1 through 5 and all required attachments are not completed and included.

For questions, please call (503) 986-0900, and ask for Transfer Section.

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

- ☒ Part 1 – Completed Minimum Requirements Checklist.
- ☒ Part 2 – Completed Transfer Application Map Checklist.
- ☒ Part 3 – Application Fee, payable by check to the Oregon Water Resources Department, and completed Fee Worksheet, page 3. Try the new online fee calculator at:  
[http://apps.wrd.state.or.us/apps/misc/wrd\\_fee\\_calculator](http://apps.wrd.state.or.us/apps/misc/wrd_fee_calculator).
- ☒ Part 4 – Completed Applicant Information and Signature.
- ☒ Part 5 – Information about Water Rights to be Transferred: **How many water rights are to be transferred? 1 List them here: 7049**  
Please include a separate Part 5 for each water right. (See instructions on page 6)  
**NOTE: A separate transfer application is required for each water right unless the criteria in OAR 690-380-3220 are met.**

### Attachments:

- ☒ Completed Transfer Application Map.
- ☒ Completed Evidence of Use Affidavit and supporting documentation.
- ☐ ☒ N/A Affidavit(s) of Consent from Landowner(s) (if the applicant does not own the land the water right is on.)
- ☐ ☒ N/A Supplemental Form D – For water rights served by or issued in the name of an irrigation district. Complete when the transfer applicant is not the irrigation district.
- ☒ ☐ N/A Oregon Water Resources Department's Land Use Information Form with approval and signature (or signed land use form receipt stub) from each local land use authority in which water is to be diverted, conveyed, and/or used. Not required if water is to be diverted, conveyed, and/or used only on federal lands or if all of the following apply: a) a change in place of use only, b) no structural changes, c) the use of water is for irrigation only, and d) the use is located within an irrigation district or an exclusive farm use zone.
- ☐ ☒ N/A Water Well Report/Well Log for changes in point(s) of appropriation (well(s)) or additional point(s) of appropriation.
- ☐ ☒ N/A Geologist Report for a change from a surface water point of diversion to a ground water point of appropriation (well), if the proposed well is more than 500' from the surface water source and more than 1000' upstream or downstream from the point of diversion. See OAR 690-380-2130 for requirements and applicability.

### (For Staff Use Only)

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

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

Other/Explanation \_\_\_\_\_

Staff: \_\_\_\_\_ 503- \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_



APR 23 2021

## Part 2 of 5 – Transfer Application Map

OWRD

Your transfer application will be returned if any of the map requirements listed below are not met.

Please be sure that the transfer application map you submit includes all the required items and matches the existing water right map. Check all boxes that apply.

- ☒ ☐ N/A Certified Water Right Examiner (CWRE) Stamp and Original Signature. For a list of CWREs, see [http://apps.wrd.state.or.us/apps/wr/cwre\\_license\\_view/](http://apps.wrd.state.or.us/apps/wr/cwre_license_view/). CWRE stamp and signature are not required for substitutions.
- ☐ ☒ N/A If **more than three** water rights are involved, separate maps are needed for each water right.
- ☒ Permanent quality printed with dark ink on good quality paper.
- ☒ The size of the map can be 8½ x 11 inches, 8½ x 14 inches, 11 x 17 inches, or up to 30 x 30 inches. For 30 x 30 inch maps, one extra copy is required.
- ☒ A north arrow, a legend, and scale.
- ☒ The scale of the map must be: 1 inch = 400 feet, 1 inch = 1,320 feet, the scale of the Final Proof/Claim of Beneficial Use Map (the map used when the permit was certificated), the scale of the county assessor map if the scale is not smaller than 1 inch = 1,320 feet, or a scale that has been pre-approved by the Department.
- ☒ Township, Range, Section, ¼ ¼, DLC, Government Lot, and other recognized public land survey lines.
- ☒ Tax lot boundaries (property lines) are required. Tax lot numbers are recommended.
- ☒ Major physical features including rivers and creeks showing direction of flow, lakes and reservoirs, roads, and railroads.
- ☒ Major water delivery system features from the point(s) of diversion/appropriation such as main pipelines, canals, and ditches.
- ☒ Existing place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions. If less than the entirety of the water right is being changed, a separate hachuring is needed for lands left unchanged.
- ☒ ☐ N/A Proposed place of use that includes separate hachuring for each water right, priority date, and use including number of acres in each quarter-quarter section, government lot, or in each quarter-quarter section as projected within government lots, donation land claims, or other recognized public land survey subdivisions.
- ☒ Existing point(s) of diversion or well(s) with distance and bearing or coordinates from a recognized survey corner. This information can be found in your water right certificate or permit.
- ☒ ☐ N/A If you are proposing a change in point(s) of diversion or well(s), show the proposed location and label it clearly with distance and bearing or coordinates. If GPS coordinates are used, latitude-longitude coordinates may be expressed as either degrees-minutes-seconds with at least one digit after the decimal (example – 42°32'15.5") or degrees-decimal with five or more digits after the decimal (example – 42.53764°).



## Part 4 of 4 – Groundwater Registration Information

Please use a separate Part 4 for each registration being modified. See instructions on page 5, to copy and paste additional Part 4s, or to add additional rows to tables within the form.

### Groundwater Registration # GR-1500 (Certificate # GR-1450)

**Table 1. Location of Authorized and Proposed Point(s) of Appropriation (POA)**

(Note: If the POA name is not specified in the registration, assign it a name or number here.)

POA Name or Number	Is this POA Authorized by the registration or is it Proposed?	OWRD Well Log ID# (or Well ID Tag # L-___)	Twp	Rng	Sec	¼ ¼	Tax Lot, DLC or Gov't Lot	Measured Distances (from a recognized survey corner)
Well #3	<input checked="" type="checkbox"/> Authorized <input type="checkbox"/> Proposed	LAKE 406	26 S	15 E	17	SE SE	2200	150' NORTH AND 350' WEST OF THE SE CORNER, SECTION 17
Well #1	<input type="checkbox"/> Authorized <input checked="" type="checkbox"/> Proposed	LAKE 4384	26 S	15 E	17	NE SE	2200	1930' NORTH AND 700' WEST OF THE SE CORNER, SECTION 17

Check all type(s) of modifications(s) proposed below (modification "CODES" are provided in parentheses):

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Place of Use (POU)<br><input checked="" type="checkbox"/> Character of Use (USE) | <input checked="" type="checkbox"/> Point of Appropriation (well) (POA)<br><input type="checkbox"/> Additional Point of Appropriation (APOA) |
|--|--|

**Will all of the proposed changes affect the entire Groundwater registration?**

- ☒ Yes    Complete only the proposed ("to" lands) section of Table 2 on the next page. Use the "CODES" listed above to describe the proposed changes.
- ☐ No    Complete all of Table 2 to describe the portion of the registration to be changed.



Please use and attach additional pages of Table 2 as needed.  
See page 5 for instructions.

Do you have questions about how to fill-out the tables?  
Contact the Department at 503-986-0900 and ask for Transfer

**Table 2. Description of Modifications to Registration GR-1500 (Certificate # GR-1450)**

List only the part of the registration that will be modified. For the acreage in each  $\frac{1}{4}$   $\frac{1}{4}$ , list the modification proposed. If more than one modification, specify the acreage associated with each modification. If more than one POA, specify the acreage associated with each POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears in the registration BEFORE PROPOSED CHANGES List only that part or portion of the groundwater registration that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.									
Twp	Rng	Sec	$\frac{1}{4}$ $\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	$\frac{1}{4}$ $\frac{1}{4}$	Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POA(s) to be used (from Table 1)	Priority Date
26 S	15 E	17	SW NE	2200		15.00	Irrigation	Well #3	12/31/ 1922	POU/USE	26 S	15 E	8	NE NE	1400		15.27	Supp. Irrigation	Well #3	12/31/ 1922
26 S	15 E	17	SE NE	2200		15.00	Irrigation	Well #3	12/31/ 1922	POU/USE	26 S	15 E	8	NW NE	1400		15.28	Supp. Irrigation	Well #3	12/31/ 1922
26 S	15 E	17	NE SE	2200		40.0	Irrigation	Well #3	12/31/ 1922	POU/USE	26 S	15 E	8	SW NE	1400		15.12	Supp. Irrigation	Well #3	12/31/ 1922
26 S	15 E	17	NW SE	2200		40.0	Irrigation	Well #3	12/31/ 1922	POU/USE	26 S	15 E	8	SE NE	1400		15.12	Supp. Irrigation	Well #3	12/31/ 1922
26 S	15 E	17	SW SE	2200		40.0	Irrigation	Well #3	12/31/ 1922	POU/POA	26 S	15 E	16	SW NE	2200		3.32	Irrigation	Well #1	12/31/ 1922
26 S	15 E	17	SE SE	2200		40.0	Irrigation	Well #3	12/31/ 1922	POU/POA	26 S	15 E	16	NW SW	2200		5.65	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	16	SW SW	2200		3.45	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	17	SW NE	2200		3.58	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	17	SE NE	2200		5.64	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	17	NW SE	2200		5.66	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	17	SW SE	2200		3.68	Irrigation	Well #1	12/31/ 1922
										POU/POA	26 S	15 E	17	SE SE	2200		4.44	Irrigation	Well #1	12/31/ 1922



**Table 2. Description of Modifications to Registration GR-1500 (Certificate # GR-1450)**

List only the part of the registration that will be modified. For the acreage in each ¼ ¼, list the modification proposed. If more than one modification, specify the acreage associated with each modification. If more than one POA, specify the acreage associated with each POA.

AUTHORIZED (the "from" or "off" lands) The listing that appears in the registration BEFORE PROPOSED CHANGES List only that part or portion of the groundwater registration that will be changed.										Proposed Changes (see "CODES" from previous page)	PROPOSED (the "to" or "on" lands) The listing as it would appear AFTER PROPOSED CHANGES are made.									
Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POA(s) (name or number from Table 1)	Priority Date		Twp	Rng	Sec	¼ ¼	Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POA(s) to be used (from Table 1)	Priority Date
										POA/USE	26 S	15 E	17	SW NE	2200		2.00	Supp. Irrigation	Well #1	12/31/ 1922
										POA/USE	26 S	15 E	17	SE NE	2200		9.05	Supp. Irrigation	Well #1	12/31/ 1922
										POA/USE	26 S	15 E	17	NE SE	2200		38.80	Supp. Irrigation	Well #1	12/31/ 1922
										POA/USE	26 S	15 E	17	NW SE	2200		31.06	Supp. Irrigation	Well #1	12/31/ 1922
										POA/USE	26 S	15 E	17	SW SE	2200		7.12	Supp. Irrigation	Well #1	12/31/ 1922
										POA/USE	26 S	15 E	17	SE SE	2200		15.76	Supp. Irrigation	Well #1	12/31/ 1922
TOTAL ACRES						190.00					TOTAL ACRES						190.00			

Additional remarks: The primary irrigation area being moved and changing POD does not have overlaying rights. The area remaining, changing POD, and diminishing to supplemental is layered with the portion of certificate 53854 that is not affected by transfer T13689. The area that is moving, changing POD, and is being diminished to supplemental is the portion of the right that is layered with certificate 53854 that is being moving with transfer T13689.



## Groundwater Registration # GR-1500 (Certificate # GR-1450)

For a modification in place of use or character of use:

Are there other water right certificates, water use permits, or Groundwater registrations associated with the "from" or "to" lands? ☒ Yes ☐ No

If YES, list the other certificate, water use permit, or other Groundwater registration numbers:

CERTIFICATE 53854, TRANSFER T13689



Pursuant to OAR 690-382-0200, any "layered" water use, such as an irrigation right that is supplemental to a primary irrigation right proposed for transfer, must be concurrently transferred with the registration or be cancelled. Any change to a water right must be filed separately in a transfer application. Any change to a water use permit must be filed separately with a permit amendment. Any modification to a Groundwater registration on the "to" lands must be filed separately with a Groundwater registration modification.

For modifications in point(s) of appropriation (well(s) or additional point(s) of appropriation:

- ☒ Well log(s) are attached for each well that are clearly labeled and associated with the corresponding well(s) in Table 1 above and on the accompanying application map.

(Tip: You may search for well logs on the Department's web page at:

[http://apps.wrd.state.or.us/apps/gw/well\\_log/](http://apps.wrd.state.or.us/apps/gw/well_log/))

AND/OR

- ☒ Describe the construction of the authorized and proposed well(s) in Table 3 for any wells that do not have a well log. For *proposed wells not yet constructed or built*, provide "a best estimate" for each requested information element in the table. The Department recommends you consult a licensed well driller, geologist, or certified water right examiner to assist with assembling the information necessary to complete Table 3.

**Table 3. Construction of Point(s) of Appropriation**

Any well(s) in this listing must be clearly tied to corresponding well(s) described in Table 1 and shown on the accompanying application map. Failure to provide adequate information is likely to delay the processing of your modification application until it is received. The information is necessary for the department to assess whether the proposed well(s) will access the same source aquifer as the authorized point(s) of appropriation (POA). The Department is prohibited by law from approving POA changes that do not access the same source aquifer.

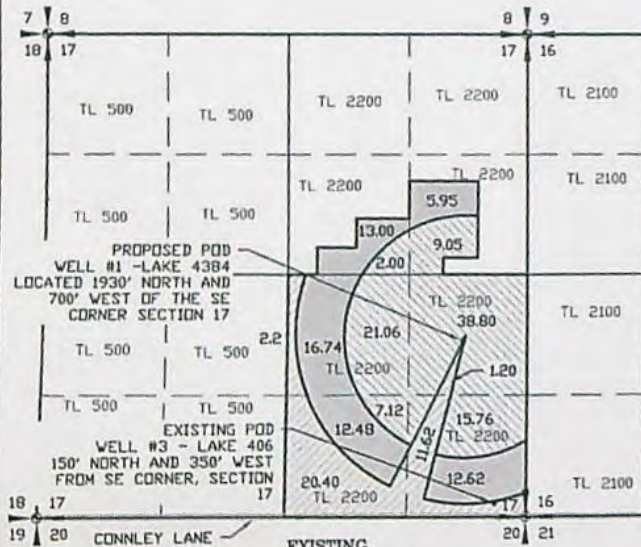
Proposed or Authorized POA Name or Number	Is well already built? (Yes or No)	If an existing well, OWRD Well ID Tag No. L-___	Total well depth	Casing Diameter	Casing Intervals (feet)	Seal depth(s) (intervals)	Perforated or screened intervals (in feet)	Static water level of completed well (in feet)	Source aquifer (sand, gravel, basalt, etc.)	Well - specific rate (cfs or gpm). If less than full rate of water right
Well #1	Yes	LAKE 4384	154'	14"	+2-85	0-18'	NA	23	Lava rock	3.2308
Well #3	Yes	LAKE 406	250'	18", 12", 8"	0-220'	Unknown	Unknown	26.2'	Cinders	2.1971






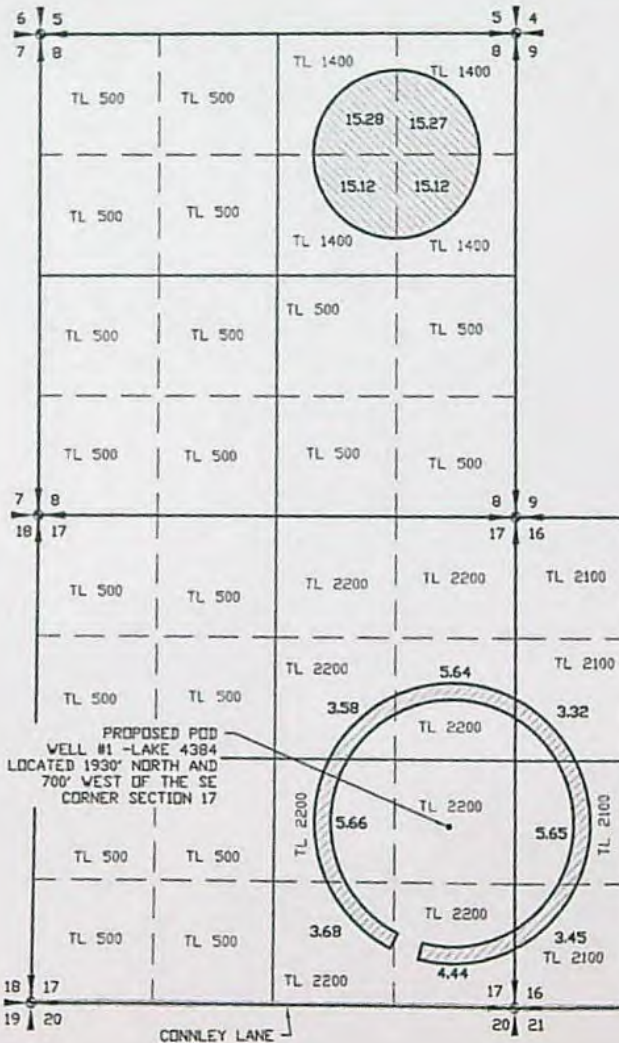
# MAP TO ACCOMPANY GROUND WATER REGISTRATION MODIFICATION APPLICATION

FOR  
KITREDGE PROPERTIES, LLC

SECTIONS 8, 16 & 17, TOWNSHIP 26 SOUTH,  
RANGE 15 EAST, W.M.  
LAKE COUNTY, OREGON



-  EXISTING PLACE OF USE CLAIM GR-1500 TO BE MOVED, 35.42 ACRES, CHANGE POD TO WELL #1, PRIMARY, PRIORITY DATE 12/31/1922
-  EXISTING PLACE OF USE CLAIM GR-1500 TO REMAIN, 93.79 ACRES, CHANGE POD TO WELL #1, DIMINISH TO SUPPLEMENTAL TO CERTIFICATE 53854, PRIORITY DATE 12/31/1922
-  EXISTING PLACE OF USE CLAIM GR-1500 TO BE MOVED ALONG WITH TRANSFER T13689, 60.79 ACRES, CHANGE POD TO WELL #2, DIMINISH TO SUPPLEMENTAL, PRIORITY DATE 12/31/1922






**PROPOSED**

SCALE: 1"=1320'





RENEWAL 12/31/25

## LEGEND

-  SECTION LINE
-  1/4 SECTION LINE
-  1/16 SECTION LINE

NOTE: PREPARATION OF THIS MAP IS FOR IDENTIFYING PROPOSED WATER RIGHTS ONLY. IT HAS NO INTENT TO PROVIDE LOCATIONS OR DIMENSIONS OF PROPERTY BOUNDARIES.

-  PROPOSED PLACE OF USE 35.42 ACRES, PRIMARY
-  PROPOSED PLACE OF USE 60.79 ACRES - SUPPLEMENTAL TO TRANSFER T13689

REVISION	BY
11/08/2024	RC
2/19/2025	RC

**ANDERSON ENGINEERING  
AND SURVEYING, INC.**  
P.O. BOX 28  
LAKEVIEW, OREGON 97630  
(541) 947-4407  
FAX: 947-2321

FOR:  
JANA KITREDGE  
P.O. BOX 149  
PORT ROCK, OR 97765  
541-678-2238

MAP TO ACCOMPANY GROUND WATER  
REGISTRATION MODIFICATION APPLICATION  
SEC. 8, 16 & 17, T26S, R15 E W.M.

DATE:	4/18/2021
SCALE:	1" = 1320'
DWG. BY:	R.C.
JOB:	2021-024
FILE:	2021-024
SHEET:	1



WORKING COPIES AFTER PROTEST



## BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Transfer Application T-11669 in the name of Greg Amaral	PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE
--	--

### Introduction

This protest is filed on behalf of Warm Springs Irrigation District ("Protestant") pursuant to OAR 690-002-0030, OAR 690-380-4030 and ORS 540.520.

On September 6, 2013, Greg Amaral ("Applicant") filed an application to change the point of diversion and place of use of a portion of Certificate 7049 ("Application T-11669"). A portion of Certificate 7049 is located north of Farmers Ditch within the Vale Oregon Irrigation District ("VOID"). The remaining portion of Certificate 7049 is located south of Farmers Ditch within the Warm Springs Irrigation District ("WID"). On February 21, 2018, the Oregon Water Resources Department ("OWRD" or "Department") issued a Preliminary Determination proposing to approve the proposed transfer. For reasons described below, the proposed transfer would result in injury to other water users, including users within WID.

### Background

Applicant currently receives water under Certificate 7049 through the VOID 196 canal. The authorized Harris Ditch point of diversion was abandoned long ago in favor of the canal. The VOID 196 canal delivers water to Applicant from Bully Creek and Bully Creek Reservoir. Water stored in Bully Creek Reservoir originates from Bully Creek and the Malheur River. The sole authorized source for the 65 acres proposed to be transferred under Certificate 7049 is live flow from Bully Creek. Applicant's ability to exercise Certificate 7049 has been limited, in part, by the fact that VOID must deliver water to Applicant's point of delivery at the end of the canal. The lands affected by the proposed transfer have additional water rights under VOID certificates 74080 and 74081, as well as Permit S-29882, all of which are exercised through the VOID 196 canal.

The proposed change in point of diversion ("POD") would preclude Applicant from exercising Certificate 7049 through the VOID 196 canal and would allow (and require) all such water to be diverted solely from the proposed point of diversion on Bully Creek. This change would significantly impact other water users on Bully Creek, resulting in injury to other existing water rights.

### Request for Hearing and Elements of Protest

Protestant hereby requests a contested case hearing. The elements of a protest, as required by OAR 690-002-0030 and 690-380-4030, are addressed below:

1 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL

PDX\129472\212945\SDL\22713859.1

APR 12 2018

OWRD



1. **Protestant's Name and Address**

Warm Springs Irrigation District  
c/o Randy Kinney  
District Manager  
334 Main St. N.  
Vale, OR 97918

2. **Name and Address of Other Persons Necessary to, or Having a Direct Interest In, the Proceeding**

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

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3. **Facts Sufficient to Show the Protestant is Entitled to the Relief or Action Requested; Reasonably Ascertainable Issues and Arguments**

Applicant's proposed transfer, as described in the Preliminary Determination, would result in injury to other existing water rights, including rights within Protestant WID's boundaries. For reasons that follow, Protestant is entitled to the specific relief requested in this Protest:

**A. Protestant's Consent is Required to Proceed with the Proposed Transfer.**

Applicant proposes to change the place of use of 65 acres of water rights, some of which are located within the boundaries of WID. The Malheur Decree map indicates that the entire 65 acres are located on the north side of the Farmers Ditch, within VOID's boundaries. That may have been the case at the time the map was prepared, but since that time the location of the Farmers Ditch has changed. As a result, the decree map (which is the "from" map for this transfer) no longer accurately reflects the division of water right acres to the north (VOID) and south (WID) of the ditch.

Based on Applicant's "to" map, it appears that only 52 of the 65 acres proposed for transfer are in fact located north of the Farmers Ditch and within the existing authorized place of use. The remaining acres must be coming from the south side of the Farmers Ditch. The proposed changes therefore affect Protestant WID and require its consent.

**B. The Proposed Change in POD Would Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

The proposed change in POD would result in Applicant diverting more water from the proposed POD on Bully Creek than would be legally available at the original point of diversion.

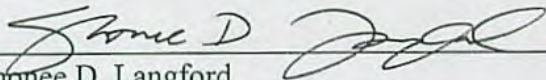


## CONCLUSION

The above described facts and legal arguments demonstrate that the Protestant is entitled to the specific relief requested, including issuance of a final order that is adequately conditioned to ensure that the proposed transfer will not result in injury to other existing water rights. A contested case hearing is requested.

DATED: April 12, 2018

SCHWABE WILLIAMSON and WYATT

  
Shonee D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant

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APR 12 2018

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## CERTIFICATE OF SERVICE

I certify that on April 12, 2018, my office hand delivered the original PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE to the Oregon Water Resources Department at 725 Summer St. NE, Suite A, Salem, Oregon 97301.

I further certify that on the same date I served a true, exact and full copy of the same via United States Postal Service first class mail, postage prepaid, on the following:

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

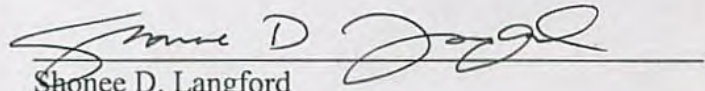
Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

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APR 12 2018

OWRD

SCHWABE WILLIAMSON and WYATT



Shonae D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant



DEC 27 1960  
STATE ENGINEER

AMENDED  
\* APPLICATION FOR PERMIT

# To Appropriate the Public Waters of the State of Oregon

acting through the  
XX The United States of America / Bureau of Reclamation, United States  
(Name of applicant) Department of the Interior  
of P. O. Box 937, Boise  
(Mailing address)  
State of Idaho, do hereby make application for a permit to appropriate the  
following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

If the applicant is a corporation, give date and place of incorporation Applicant is the United States Government, acting pursuant to the provisions of the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto.

1. The source of the proposed appropriation is Malheur River, Bully Creek, and  
(Name of stream)  
Bully Creek Reservoir, a tributary of Snake River

2. The amount of water which the applicant intends to apply to beneficial use is 350 \* 1/2 cfs  
being 1/2 cfs from Malheur River, 1/2 cfs from Bully Creek, and  
cubic feet per second / 31,000 acre-feet from Bully Creek Reservoir.  
(If water is to be used from more than one source, give quantity from each)

\*\*3. The use to which the water is to be applied is primary irrigation of 7,000 acres and  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)  
supplemental irrigation of 32,000 acres

4. The point of diversion is located XX  
(N. or S.) (E. or W.)  
from Malheur River being within NW 1/4 Sec. 21, T. 20 S., R. 43 E., W.M.,  
(Section or subdivision)  
which point is same as that for an earlier diversion right covered by certificate  
dated June 30, 1949, and issued under Permit No. 7867.

(If preferable, give distance and bearing to section corner)  
From Bully Creek and from Bully Creek Reservoir  
(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)  
being within the NW 1/4 SW 1/4 and W 1/4 SW 1/4 of Sec. 12, Tp. 18 S.  
(Give smallest legal subdivision) (N. or S.)  
R. 43 E., W. M., in the county of Malheur  
(E. or W.)

5. The XX to be XX  
(Main ditch, canal or pipe line) (Miles or feet)  
in length, terminating in the XX of Sec. 12, Tp. 18 S.  
(Smallest legal subdivision) (N. or S.)  
R. 43 E., W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

## DESCRIPTION OF WORKS

Diversion Works— See plans in Reservoir Permit Application R-16496

6. (a) Height of dam XX feet, length on top XX feet, length at bottom XX feet; material to be used and character of construction XX  
(Loose rock, concrete, masonry,  
rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate XX  
(Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description XX  
(Site and type of pump)  
XX  
(Site and type of engine or motor to be used, total head water is to be lifted, etc.)

\*A different form of application is provided where storage works are contemplated.

\*\*Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

Amended per letter of Dec. 1, 1961 by M.B. Austin



## Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(b) At ..... miles from headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(c) Length of pipe, ..... ft.; size at intake, ..... in.; size at ..... ft. from intake ..... in.; size at place of use ..... in.; difference in elevation between intake and place of use, ..... ft. Is grade uniform? ..... Estimated capacity, ..... sec. ft.

## 8. Location of area to be irrigated, or place of use

Township	Range	Section	Forty-acre Tract	Number Acres To Be Irrigated
See attached tabulations: 32,000 acres presently having water right under certificate dated June 30, 1949, issued under Permit No. 7867, recorded in State Board of Water Right Certificates, Volume 13, page 15710, which lands will receive supplemental irrigation water, and 7,000 acres of new lands which will receive a primary irrigation water supply. Water appropriated from Volhove River under this application will be for primary irrigation of lands not now having water right. Water appropriated from Bully Creek and from Bully Creek Reservoir under this application is for supplemental irrigation of all lands within the Vale Irrigation District having or acquiring primary rights to divert water from Volhove River (39,000 acres).				
18 S	43 E	12 & 13		5402 acres
18 S	44 E	7, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 32, 33, 34 & 35		
19 S	44 E	2, 3, 4 & 5		
				See attached tabulation

(If more space required, attach separate sheet)

(a) Character of soil .....

(b) Kind of crops raised .....

## Power or Mining Purposes—

9. (a) Total amount of power to be developed ..... theoretical horsepower.

(b) Quantity of water to be used for power ..... sec. ft.

(c) Total fall to be utilized ..... feet.

(Head)

(d) The nature of the works by means of which the power is to be developed .....

(e) Such works to be located in ..... of Sec. ....

(Legal Subdivision)

Tp. ...., R. ...., W. M.

(No. N. or S.)

(No. E. or W.)

(f) Is water to be returned to any stream? .....

(Yes or No)

(g) If so, name stream and locate point of return .....

Sec.

Tp.

(No. N. or S.)

R.

(No. E. or W.)

W. M.

(h) The use to which power is to be applied is .....

(i) The nature of the mines to be served .....



29882

Preliminary estimate of lands to receive  
irrigation water directly from proposed Bully  
Creek Reservoir, Vale Project, Oregon  
March 28, 1961

	Acres	Now irrigated from Bully Cr.
T. 18 S., R. 43 E., W.M., Oregon		
Section 12, NE 1/4 SE 1/4	25	21
NW 1/4 SE 1/4	12	
SW 1/4 SE 1/4	12	3
SE 1/4 SE 1/4	35	35
Section 13, NE 1/4 NE 1/4	11	
SE 1/4 NE 1/4	8	
T. 18 S., R. 44 E., W.M., Oregon		
Section 7, Lot 3 (NW 1/4 SW 1/4)	15	
Lot 4 (SW 1/4 SW 1/4)	48	48
SE 1/4 SW 1/4	16	14
Section 18, SW 1/4 NE 1/4	36	24
NE 1/4 NW 1/4	38	27
Lot 1 (NW 1/4 NW 1/4)	51	47
Lot 2 (SW 1/4 NW 1/4)	50	26 1/2
SE 1/4 NW 1/4	39	39
NE 1/4 SW 1/4	39	16
Lot 3 (NW 1/4 SW 1/4)	22	10
Lot 4 (SW 1/4 SW 1/4)	1	
SE 1/4 SW 1/4	33	
NW 1/4 SE 1/4	26	16
SW 1/4 SE 1/4	38	21 1/2
SE 1/4 SE 1/4	24	13
Section 19, NE 1/4 NE 1/4	36	
NW 1/4 NE 1/4	38	
SW 1/4 NE 1/4	29	
SE 1/4 NE 1/4	32	
NE 1/4 NW 1/4	26	
SE 1/4 NW 1/4	28	
NE 1/4 SW 1/4	15	
NE 1/4 SE 1/4	33	
NW 1/4 SE 1/4	22	
SW 1/4 SE 1/4	35	50 private
SE 1/4 SE 1/4	14	
Section 20, NE 1/4 SW 1/4	15	
NW 1/4 SW 1/4	7	
SW 1/4 SW 1/4	26	
SE 1/4 SW 1/4	13	
Section 24, SE 1/4 SW 1/4	34	
SW 1/4 SE 1/4	36	
SE 1/4 SE 1/4	30	



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## T. 18 S., R. 44 E., W.M., Oregon (Cont'd.)

	Acres	
Section 25, NE 1/4 NE 1/4	20	
NW 1/4 NE 1/4	26	1/2
SW 1/4 NE 1/4	16	
NE 1/4 NW 1/4	33	
NW 1/4 NW 1/4	27	2
SW 1/4 NW 1/4	10	
SE 1/4 NW 1/4	16	2
NE 1/4 SW 1/4	20	
NW 1/4 SW 1/4	33	
SW 1/4 SW 1/4	26	2
Section 26, NE 1/4 NE 1/4	20	3
NW 1/4 NE 1/4	15	
SW 1/4 NE 1/4	23	
SE 1/4 NE 1/4	18	
NE 1/4 NW 1/4	25	
NW 1/4 NW 1/4	15	
SW 1/4 NW 1/4	38	
SE 1/4 NW 1/4	38	2
NE 1/4 SW 1/4	39	1
NW 1/4 SW 1/4	25	
SW 1/4 SW 1/4	29	
SE 1/4 SW 1/4	31	
NE 1/4 SE 1/4	32	2
NW 1/4 SE 1/4	38	
SW 1/4 SE 1/4	23	
SE 1/4 SE 1/4	30	1/2
Section 27, NE 1/4 NE 1/4	10	
NW 1/4 NE 1/4	10	
SW 1/4 NE 1/4	35	
SE 1/4 NE 1/4	37	
SW 1/4 NW 1/4	3	
SE 1/4 NW 1/4	20	
NE 1/4 SW 1/4	39	
NW 1/4 SW 1/4	38	
SW 1/4 SW 1/4	37	
SE 1/4 SW 1/4	38	
NE 1/4 SE 1/4	35	3
NW 1/4 SE 1/4	38	
SW 1/4 SE 1/4	38	
SE 1/4 SE 1/4	39	
Section 28, NW 1/4 SW 1/4	20	
SW 1/4 SW 1/4	29	
SE 1/4 SW 1/4	20	
NE 1/4 SE 1/4	30	
NW 1/4 SE 1/4	10	
SW 1/4 SE 1/4	22	
SE 1/4 SE 1/4	39	1/2



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## T. 18 S., R. 44 E., W.M., Oregon (Cont'd)

	Acres
Section 29, NW 1/4 NE 1/4	12
SW 1/4 NE 1/4	20
SE 1/4 NE 1/4	15
NE 1/4 NW 1/4	29
NW 1/4 NW 1/4	32
SW 1/4 NW 1/4	37
SE 1/4 NW 1/4	21
NE 1/4 SW 1/4	32
NW 1/4 SW 1/4	37
SW 1/4 SW 1/4	27
SE 1/4 SW 1/4	36
NE 1/4 SE 1/4	25
NW 1/4 SE 1/4	29
SW 1/4 SE 1/4	31
SE 1/4 SE 1/4	34
Section 30, NE 1/4 NE 1/4	36
NW 1/4 NE 1/4	23
SW 1/4 NE 1/4	8
SE 1/4 NE 1/4	37
NE 1/4 SE 1/4	21
Section 32, NE 1/4 NE 1/4	38
NW 1/4 NE 1/4	37
SW 1/4 NE 1/4	39
SE 1/4 NE 1/4	36
NE 1/4 NW 1/4	36
NW 1/4 NW 1/4	7
SE 1/4 NW 1/4	16
NE 1/4 SE 1/4	34
NW 1/4 SE 1/4	34
SW 1/4 SE 1/4	24
SE 1/4 SE 1/4	34
Section 33, NE 1/4 NE 1/4	38
NW 1/4 NE 1/4	37
SW 1/4 NE 1/4	39
SE 1/4 NE 1/4	36
NE 1/4 NW 1/4	36
NW 1/4 NW 1/4	22
SW 1/4 NW 1/4	25
SE 1/4 NW 1/4	33
NE 1/4 SW 1/4	30
NW 1/4 SW 1/4	32
SW 1/4 SW 1/4	33
SE 1/4 SW 1/4	29
NE 1/4 SE 1/4	39
SW 1/4 SE 1/4	33
NW 1/4 SE 1/4	39
SE 1/4 SE 1/4	39
Section 34, NE 1/4 NE 1/4	38
NW 1/4 NE 1/4	38
SW 1/4 NE 1/4	38
SE 1/4 NE 1/4	39



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## T. 18 S., R. 44 E., W.M., Oregon (Cont'd)

	Acres
Section 34, NE $\frac{1}{4}$ NW $\frac{1}{4}$	38
NW $\frac{1}{4}$ NW $\frac{1}{4}$	38
SW $\frac{1}{4}$ NW $\frac{1}{4}$	39
SE $\frac{1}{4}$ NW $\frac{1}{4}$	39
NE $\frac{1}{4}$ SW $\frac{1}{4}$	39
NW $\frac{1}{4}$ SW $\frac{1}{4}$	36
SW $\frac{1}{4}$ SW $\frac{1}{4}$	36
SE $\frac{1}{4}$ SW $\frac{1}{4}$	38
NE $\frac{1}{4}$ SE $\frac{1}{4}$	37
NW $\frac{1}{4}$ SE $\frac{1}{4}$	37
SW $\frac{1}{4}$ SE $\frac{1}{4}$	38
SE $\frac{1}{4}$ SE $\frac{1}{4}$	37
Section 35, NE $\frac{1}{4}$ NE $\frac{1}{4}$	14
NW $\frac{1}{4}$ NE $\frac{1}{4}$	36
SW $\frac{1}{4}$ NE $\frac{1}{4}$	28
NE $\frac{1}{4}$ NW $\frac{1}{4}$	35
NW $\frac{1}{4}$ NW $\frac{1}{4}$	37
SW $\frac{1}{4}$ NW $\frac{1}{4}$	32
SE $\frac{1}{4}$ NW $\frac{1}{4}$	26
NE $\frac{1}{4}$ SW $\frac{1}{4}$	37
NW $\frac{1}{4}$ SW $\frac{1}{4}$	35
SW $\frac{1}{4}$ SW $\frac{1}{4}$	24
SE $\frac{1}{4}$ SW $\frac{1}{4}$	15

## T. 19 S., R. 44 E., W.M., Oregon

Section 2, NW $\frac{1}{4}$ NW $\frac{1}{4}$	27
Section 3, NE $\frac{1}{4}$ NE $\frac{1}{4}$	37
NW $\frac{1}{4}$ NE $\frac{1}{4}$	40
SW $\frac{1}{4}$ NE $\frac{1}{4}$	39
SE $\frac{1}{4}$ NE $\frac{1}{4}$	34
NE $\frac{1}{4}$ NW $\frac{1}{4}$	39
NW $\frac{1}{4}$ NW $\frac{1}{4}$	37
SW $\frac{1}{4}$ NW $\frac{1}{4}$	36
SE $\frac{1}{4}$ NW $\frac{1}{4}$	38
NE $\frac{1}{4}$ SW $\frac{1}{4}$	27
NW $\frac{1}{4}$ SW $\frac{1}{4}$	34
SW $\frac{1}{4}$ SW $\frac{1}{4}$	22
SE $\frac{1}{4}$ SW $\frac{1}{4}$	23
NW $\frac{1}{4}$ SE $\frac{1}{4}$	30
SW $\frac{1}{4}$ SE $\frac{1}{4}$	15
Section 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$	40
NW $\frac{1}{4}$ NE $\frac{1}{4}$	25
SE $\frac{1}{4}$ NE $\frac{1}{4}$	34
NE $\frac{1}{4}$ NW $\frac{1}{4}$	20
NW $\frac{1}{4}$ NW $\frac{1}{4}$	39
NE $\frac{1}{4}$ SE $\frac{1}{4}$	19
Section 5, NE $\frac{1}{4}$ NE $\frac{1}{4}$	37
NW $\frac{1}{4}$ NE $\frac{1}{4}$	31
SW $\frac{1}{4}$ NE $\frac{1}{4}$	28
SE $\frac{1}{4}$ NE $\frac{1}{4}$	9

Total 5,402

4875 min. duration in  
min. per hour



## Municipal or Domestic Supply—

10. (a) To supply the city of \_\_\_\_\_

(Name of) \_\_\_\_\_ County, having a present population of \_\_\_\_\_

and an estimated population of \_\_\_\_\_ in 19\_\_\_\_

(b) If for domestic use state number of families to be supplied \_\_\_\_\_

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of proposed works, \$3,326,000 \_\_\_\_\_

12. Construction work will begin on or before \_\_\_\_\_ January 1, 1962 \_\_\_\_\_

13. Construction work will be completed on or before \_\_\_\_\_ October 1, 1967 \_\_\_\_\_

14. The water will be completely applied to the proposed use on or before \_\_\_\_\_ October 1, 1969 \_\_\_\_\_

*M. B. Rustin*Acting (Signature of applicant)  
Regional Director, Region 1  
Bureau of Reclamation

Remarks: The operation of the proposed Bully Creek Reservoir will be coordinated with that of the two existing reservoirs, Agency Valley and Warm Springs, so as to equalize the water supply throughout the Vale Project. The direct delivery of Bully Creek Reservoir storage to approximately 5,000 acres of project lands will reduce the demand on the existing water supply which is diverted from Malheur River, thereby making additional water available for all other lands in the project. The so-called new lands consist of numerous small parcels of land within the existing project area, capable of service by the existing canal system, but which presently do not have water rights. The objective of the proposed plan is to provide a water supply for these new lands and in addition provide a supplemental irrigation water supply for the present water right acreage which already has established water rights but which rights are not adequate to provide a full water supply in some of the low runoff years.

STATE OF OREGON, }  
County of Marion, } ss

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for \_\_\_\_\_

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before \_\_\_\_\_, 194\_\_\_\_

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 194\_\_\_\_

STATE ENGINEER



PERMIT

STATE OF OREGON, }  
County of Marion, } ss

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 121.9 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Bully Creek and 24309 acre feet stored water from Bully Creek Reservoir to be constructed under Application No. R-16496, Permit No. R-4456.  
The use to which this water is to be applied is irrigation and supplemental irrigation

If for irrigation, this appropriation shall be limited to 1/40th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

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

The priority date of this permit is August 7, 1936

Actual construction work shall begin on or before January 8, 1966 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1966

Complete application of the water to the proposed use shall be made on or before October 1, 1967

WITNESS my hand this 8th day of January, 1965

*Chris L. Wheeler*

STATE ENGINEER

Permits for power development are subject to the payment of annual fees as provided in sections 1 and 2, chapter 74, Oregon Laws 1933.

Application No. 16497  
Permit No. 29882

PERMIT

TO APPROPRIATE THE PUBLIC  
WATERS OF THE STATE  
OF OREGON

Division No. .... District No. ....

This instrument was first received in the office of the State Engineer at Salem, Oregon, on the 7th day of August, 1964, at 8:00 o'clock A. M.

Returned to applicant: .....

Corrected application received: .....

Approved: .....

January 8, 1965

Recorded in book No. .... of 29882  
Permits on page .....

CHRIS L. WHEELER

STATE ENGINEER

Drainage Basin No. 10 Page 245

Fees Paid 129.12 2.65



APPROPRIATE  
JUL 2 1960  
STATE ENGINEER

AMENDED  
\* APPLICATION FOR PERMIT

# To Appropriate the Public Waters of the State of Oregon

XX, The United States of America, acting through the Bureau of Reclamation, United States  
(Name of applicant) Department of the Interior  
of P. O. Box 937, Boise  
(Mailing address)  
State of Idaho, do hereby make application for a permit to appropriate the  
following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

If the applicant is a corporation, give date and place of incorporation Applicant is the United States Government, acting pursuant to the provisions of the act of June 17, 1902 (32 Stat. 388) and acts amendatory thereof or supplementary thereto.

1. The source of the proposed appropriation is Malheur River, Bully Creek, and  
(Name of stream)  
Bully Creek Reservoir, a tributary of Snake River

2. The amount of water which the applicant intends to apply to beneficial use is 350 \* 1/2 cfs  
\* being 115 cfs from Malheur River, 115 cfs from Bully Creek, and  
31,000 acre-feet from Bully Creek Reservoir.  
(If water is to be used from more than one source, give quantity from each)

\*\*3. The use to which the water is to be applied is primary irrigation of 7,000 acres and  
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)  
supplemental irrigation of 32,000 acres

4. The point of diversion is located xxxxxx from Malheur River being within 1/4 Sec. 21, T. 20 S., R. 41 E., W. 4,  
(N. or S.) (E. or W.)  
which point is same as that for an earlier diversion right covered by certificate  
(Section or subdivision)  
dated June 30, 1949, and issued under Permit No. 7867.

(If preferable, give distance and bearing to section corner)  
From Bully Creek and from Bully Creek Reservoir  
(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)  
being within the SW 1/4 and W 1/4 of Sec. 12, Tp. 18 S.  
(Give smallest legal subdivision) (N. or S.)  
R. 43 E., W. M., in the county of Malheur  
(E. or W.)

5. The main ditch, canal or pipe line to be \_\_\_\_\_ to be \_\_\_\_\_  
(Main ditch, canal or pipe line) (Miles or feet)  
in length, terminating in the \_\_\_\_\_ of Sec. \_\_\_\_\_, Tp. \_\_\_\_\_  
(Smallest legal subdivision) (N. or S.)  
R. \_\_\_\_\_, W. M., the proposed location being shown throughout on the accompanying map.  
(E. or W.)

## DESCRIPTION OF WORKS

Diversion Works— See plans in Reservoir Permit Application R-16496

6. (a) Height of dam \_\_\_\_\_ feet, length on top \_\_\_\_\_ feet, length at bottom \_\_\_\_\_  
feet; material to be used and character of construction \_\_\_\_\_  
(Loose rock, concrete, masonry,  
rock and brush, timber crib, etc., wasteway over or around dam)

(b) Description of headgate \_\_\_\_\_  
(Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description \_\_\_\_\_  
(Size and type of pump)  
\_\_\_\_\_  
(Size and type of engine or motor to be used, total head water is to be lifted, etc.)

\*A different form of application is provided where storage works are contemplated.

\*\*Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be secured, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

Amended per letter of Dec 1, 1961 by M.B. Austin



## Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(b) At ..... miles from headgate: width on top (at water line) ..... feet; width on bottom ..... feet; depth of water ..... feet; grade ..... feet fall per one thousand feet.

(c) Length of pipe, ..... ft.; size at intake, ..... in.; size at ..... ft. from intake ..... in.; size at place of use ..... in.; difference in elevation between intake and place of use, ..... ft. Is grade uniform? ..... Estimated capacity, ..... sec. ft.

## 8. Location of area to be irrigated, or place of use

Township	Range	Section	Forty-acre Tract	Number Acres To Be Irrigated
See attached tabulations: 22,000 acres presently having water right under certificate dated June 30, 1949, issued under Permit No. 7857, recorded in State Record of Water Right Certificates, Volume 13, page 15710, which lands will receive supplemental irrigation water, and 7,000 acres of new lands which will receive a primary irrigation water supply. Water appropriated from Malheur River under this application will be for primary irrigation of lands not now having water right. Water appropriated from Bully Creek and from Bully Creek Reservoir under this application is for supplemental irrigation of all lands within the Vale Irrigation District having or acquiring primary rights to divert water from Malheur River (22,000 acres).				
18 S	43 E	12 & 13		5402 acres See attached tabulation
18 S	44 E	7, 18, 19, 20	24, 25, 26, 27, 28, 29	
		30, 32, 33	34 & 35	
19 S	44 E	2, 3, 4 & 5		

(If more space required, attach separate sheet)

(a) Character of soil .....

(b) Kind of crops raised .....

## Power or Mining Purposes—

9. (a) Total amount of power to be developed ..... theoretical horsepower.

(b) Quantity of water to be used for power ..... sec. ft.

(c) Total fall to be utilized ..... feet.

(Head)

(d) The nature of the works by means of which the power is to be developed .....

(e) Such works to be located in ..... of Sec. ....

(Legal Subdivision)

Tp. ...., R. ...., W. M. ....

(No. N. or S.)

(No. E. or W.)

(f) Is water to be returned to any stream? .....

(Yes or No)

(g) If so, name stream and locate point of return .....

Sec. ....

Tp. ....

(No. N. or S.)

R. ....

(No. E. or W.)

W. M. ....

(h) The use to which power is to be applied is .....

(i) The nature of the mines to be served .....



29882

Preliminary estimate of lands to receive  
irrigation water directly from proposed Bully  
Creek Reservoir, Vale Project, Oregon  
March 28, 1961

	Acres	Now 1961 from 1954
T. 18 S., R. 43 E., W.M., Oregon		
Section 12, NE $\frac{1}{4}$ SE $\frac{1}{4}$	25	21
NW $\frac{1}{4}$ SE $\frac{1}{4}$	12	1
SW $\frac{1}{4}$ SE $\frac{1}{4}$	12	3
SE $\frac{1}{4}$ SE $\frac{1}{4}$	35	35
Section 13, NE $\frac{1}{4}$ NE $\frac{1}{4}$	11	
SE $\frac{1}{4}$ NE $\frac{1}{4}$	8	
T. 18 S., R. 44 E., W.M., Oregon		
Section 7, Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$ )	15	—
Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$ )	48	48
SE $\frac{1}{4}$ SW $\frac{1}{4}$	16	14
Section 18, SW $\frac{1}{4}$ NE $\frac{1}{4}$	36	24
NE $\frac{1}{4}$ NW $\frac{1}{4}$	38	27
Lot 1 (NW $\frac{1}{4}$ NW $\frac{1}{4}$ )	51	47
Lot 2 (SW $\frac{1}{4}$ NW $\frac{1}{4}$ )	50	26 $\frac{1}{2}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$	39	39
NE $\frac{1}{4}$ SW $\frac{1}{4}$	39	16
Lot 3 (NW $\frac{1}{4}$ SW $\frac{1}{4}$ )	22	10
Lot 4 (SW $\frac{1}{4}$ SW $\frac{1}{4}$ )	1	
SE $\frac{1}{4}$ SW $\frac{1}{4}$	33	
NW $\frac{1}{4}$ SE $\frac{1}{4}$	26	16
SW $\frac{1}{4}$ SE $\frac{1}{4}$	38	21 $\frac{1}{2}$
SE $\frac{1}{4}$ SE $\frac{1}{4}$	24	13
Section 19, NE $\frac{1}{4}$ NE $\frac{1}{4}$	36	
NW $\frac{1}{4}$ NE $\frac{1}{4}$	38	
SW $\frac{1}{4}$ NE $\frac{1}{4}$	29	
SE $\frac{1}{4}$ NE $\frac{1}{4}$	32	
NE $\frac{1}{4}$ NW $\frac{1}{4}$	26	
SE $\frac{1}{4}$ NW $\frac{1}{4}$	28	
NE $\frac{1}{4}$ SW $\frac{1}{4}$	15	
NE $\frac{1}{4}$ SE $\frac{1}{4}$	33	
NW $\frac{1}{4}$ SE $\frac{1}{4}$	22	
SW $\frac{1}{4}$ SE $\frac{1}{4}$	35	50 p.m.
SE $\frac{1}{4}$ SE $\frac{1}{4}$	14	
Section 20, NE $\frac{1}{4}$ SW $\frac{1}{4}$	15	
NW $\frac{1}{4}$ SW $\frac{1}{4}$	7	
SW $\frac{1}{4}$ SW $\frac{1}{4}$	26	
SE $\frac{1}{4}$ SW $\frac{1}{4}$	13	
Section 24, SE $\frac{1}{4}$ SW $\frac{1}{4}$	34	
SW $\frac{1}{4}$ SE $\frac{1}{4}$	36	
SE $\frac{1}{4}$ SE $\frac{1}{4}$	30	



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## T. 18 S., R. 44 E., W.M., Oregon (Cont'd.)

	Acres	
Section 25, NE 1/4 NE 1/4	20	
NW 1/4 NE 1/4	26	1/2
SW 1/4 NE 1/4	16	
NE 1/4 NW 1/4	33	
NW 1/4 NW 1/4	27	2
SW 1/4 NW 1/4	10	
SE 1/4 NW 1/4	16	2
NE 1/4 SW 1/4	20	
NW 1/4 SW 1/4	33	
SW 1/4 SW 1/4	26	2
Section 26, NE 1/4 NE 1/4	20	3
NW 1/4 NE 1/4	15	
SW 1/4 NE 1/4	23	
SE 1/4 NE 1/4	18	
NE 1/4 NW 1/4	25	
NW 1/4 NW 1/4	15	
SW 1/4 NW 1/4	38	
SE 1/4 NW 1/4	38	
NE 1/4 SW 1/4	39	
NW 1/4 SW 1/4	25	
SW 1/4 SW 1/4	29	
SE 1/4 SW 1/4	31	
NE 1/4 SE 1/4	32	2
NW 1/4 SE 1/4	38	
SW 1/4 SE 1/4	23	
SE 1/4 SE 1/4	30	1/2
Section 27, NE 1/4 NE 1/4	10	
NW 1/4 NE 1/4	10	
SW 1/4 NE 1/4	35	
SE 1/4 NE 1/4	37	
SW 1/4 NW 1/4	3	
SE 1/4 NW 1/4	20	
NE 1/4 SW 1/4	39	
NW 1/4 SW 1/4	38	
SW 1/4 SW 1/4	37	
SE 1/4 SW 1/4	38	
NE 1/4 SE 1/4	35	3
NW 1/4 SE 1/4	38	
SW 1/4 SE 1/4	38	
SE 1/4 SE 1/4	39	
Section 28, NW 1/4 SW 1/4	20	
SW 1/4 SW 1/4	29	
SE 1/4 SW 1/4	20	
NE 1/4 SE 1/4	30	
NW 1/4 SE 1/4	10	
SW 1/4 SE 1/4	22	
SE 1/4 SE 1/4	39	1/2



29882

## T. 18 S., R. 44 E., W.M., Oregon (Cont'd)

	Acres
Section 29, NW 1/4 NE 1/4	12
SW 1/4 NE 1/4	20
SE 1/4 NE 1/4	15
NE 1/4 NW 1/4	29
NW 1/4 NW 1/4	32
SW 1/4 NW 1/4	37
SE 1/4 NW 1/4	21
NE 1/4 SW 1/4	32
NW 1/4 SW 1/4	37
SW 1/4 SW 1/4	27
SE 1/4 SW 1/4	36
NE 1/4 SE 1/4	25
NW 1/4 SE 1/4	29
SW 1/4 SE 1/4	31
SE 1/4 SE 1/4	34
Section 30, NE 1/4 NE 1/4	36
NW 1/4 NE 1/4	23
SW 1/4 NE 1/4	8
SE 1/4 NE 1/4	37
NE 1/4 SE 1/4	21
Section 32, NE 1/4 NE 1/4	36
NW 1/4 NE 1/4	37
SW 1/4 NE 1/4	39
SE 1/4 NE 1/4	36
NE 1/4 NW 1/4	36
NW 1/4 NW 1/4	7
SE 1/4 NW 1/4	16
NE 1/4 SE 1/4	34
NW 1/4 SE 1/4	34
SW 1/4 SE 1/4	24
SE 1/4 SE 1/4	34
Section 33, NE 1/4 NE 1/4	38
NW 1/4 NE 1/4	37
SW 1/4 NE 1/4	39
SE 1/4 NE 1/4	36
NE 1/4 NW 1/4	36
NW 1/4 NW 1/4	22
SW 1/4 NW 1/4	25
SE 1/4 NW 1/4	33
NE 1/4 SW 1/4	30
NW 1/4 SW 1/4	32
SW 1/4 SW 1/4	33
SE 1/4 SW 1/4	29
NE 1/4 SE 1/4	39
SW 1/4 SE 1/4	33
NW 1/4 SE 1/4	39
SE 1/4 SE 1/4	39
Section 34, NE 1/4 NE 1/4	38
NW 1/4 NE 1/4	38
SW 1/4 NE 1/4	38
SE 1/4 NE 1/4	39



29882

## T. 18 S., R. 44 E., W.M., Oregon (Cont'd)

		Acres
Section 34,	NE 1/4 NW 1/4	38
	NW 1/4 NW 1/4	38
	SW 1/4 NW 1/4	39
	SE 1/4 NW 1/4	39
	NE 1/4 SW 1/4	39
	NW 1/4 SW 1/4	36
	SW 1/4 SW 1/4	36
	SE 1/4 SW 1/4	38
	NE 1/4 SE 1/4	37
	NW 1/4 SE 1/4	37
	SW 1/4 SE 1/4	38
	SE 1/4 SE 1/4	37
Section 35,	NE 1/4 NE 1/4	14
	NW 1/4 NE 1/4	36
	SW 1/4 NE 1/4	28
	NE 1/4 NW 1/4	35
	NW 1/4 NW 1/4	37
	SW 1/4 NW 1/4	32
	SE 1/4 NW 1/4	26
	NE 1/4 SW 1/4	37
	NW 1/4 SW 1/4	35
	SW 1/4 SW 1/4	24
	SE 1/4 SW 1/4	15

## T. 19 S., R. 44 E., W.M., Oregon

Section 2,		NW 1/4 NW 1/4	27
Section 3,		NE 1/4 NE 1/4	37
		NW 1/4 NE 1/4	40
		SW 1/4 NE 1/4	39
		SE 1/4 NE 1/4	34
		NE 1/4 NW 1/4	39
		NW 1/4 NW 1/4	37
		SW 1/4 NW 1/4	36
		SE 1/4 NW 1/4	38
		NE 1/4 SW 1/4	27
		NW 1/4 SW 1/4	34
		SW 1/4 SW 1/4	22
		SE 1/4 SW 1/4	23
		NW 1/4 SE 1/4	30
		SW 1/4 SE 1/4	15
Section 4,		NE 1/4 NE 1/4	40
		NW 1/4 NE 1/4	25
		SE 1/4 NE 1/4	34
		NE 1/4 NW 1/4	20 20
		NW 1/4 NW 1/4	39 39
		NE 1/4 SE 1/4	19
Section 5,		NE 1/4 NE 1/4	37
		NW 1/4 NE 1/4	31
		SW 1/4 NE 1/4	28
		SE 1/4 NE 1/4	9

Total 5,402



## Municipal or Domestic Supply—

10. (a) To supply the city of \_\_\_\_\_  
 \_\_\_\_\_ County, having a present population of \_\_\_\_\_  
 (Name of) \_\_\_\_\_  
 and an estimated population of \_\_\_\_\_ in 19 \_\_\_\_\_

(b) If for domestic use state number of families to be supplied \_\_\_\_\_

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of proposed works, \$ 3,326,000  
 12. Construction work will begin on or before January 1, 1962  
 13. Construction work will be completed on or before October 1, 1967  
 14. The water will be completely applied to the proposed use on or before October 1, 1969

Acting

*M. B. Austin*  
 (Signature of applicant)  
 Regional Director, Region 1  
 Bureau of Reclamation

Remarks: The operation of the proposed Bully Creek Reservoir will be coordinated with that of the two existing reservoirs, Agency Valley and Warm Springs, so as to equalize the water supply throughout the Vale Project. The direct delivery of Bully Creek Reservoir storage to approximately 5,000 acres of project lands will reduce the demand on the existing water supply which is diverted from Malheur River, thereby making additional water available for all other lands in the project. The so-called new lands consist of numerous small parcels of land within the existing project area, capable of service by the existing canal system, but which presently do not have water rights. The objective of the proposed plan is to provide a water supply for these new lands and in addition provide a supplemental irrigation water supply for the present water right acreage which already has established water rights but which rights are not adequate to provide a full water supply in some of the low runoff years.

STATE OF OREGON, }  
 County of Marion, } ss

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for \_\_\_\_\_

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before \_\_\_\_\_, 194 \_\_\_\_\_

WITNESS my hand this \_\_\_\_\_ day of \_\_\_\_\_, 194 \_\_\_\_\_

STATE ENGINEER



PERMIT

STATE OF OREGON, }  
County of Marion, } ss

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 121.9 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from Bully Creek and 24309 acre feet stored water from Bully Creek Reservoir to be constructed under Application No. R-16496, Permit No. R-4456.  
The use to which this water is to be applied is irrigation and supplemental irrigation

If for irrigation, this appropriation shall be limited to 1/40th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

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

The priority date of this permit is August 7, 1936

Actual construction work shall begin on or before January 8, 1966 and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1966

Complete application of the water to the proposed use shall be made on or before October 1, 1967

WITNESS my hand this 8th day of January, 1965

*Chris L. Wheeler*

STATE ENGINEER

Permits for power development are subject to the payment of annual fees as provided in sections 1 and 2, chapter 74, Oregon Laws 1923.

Application No. 16497  
Permit No. 29882

PERMIT  
TO APPROPRIATE THE PUBLIC  
WATERS OF THE STATE  
OF OREGON

Division No. .... District No. ....

This instrument was first received in the  
office of the State Engineer at Salem, Oregon,  
on the 7th day of August,  
1966, at 8:00 o'clock A. M.

Returned to applicant: .....

Corrected application received: .....

Approved: January 8, 1965

Recorded in book No. 29882 of .....

Permits on page .....

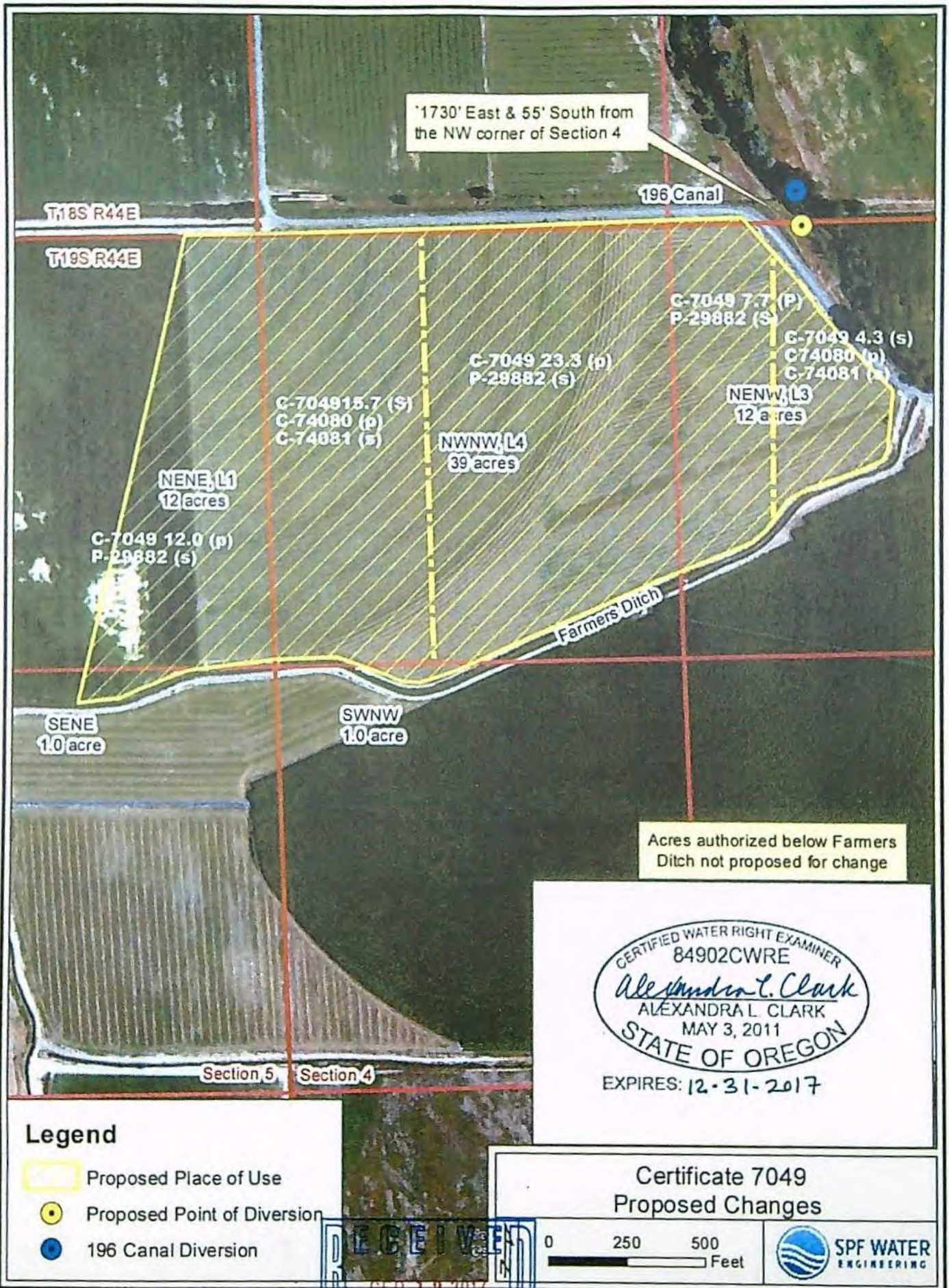
CHRIS L. WHEELER  
STATE ENGINEER

Drainage Basin No. 10 Page 245  
239  
Fees Paid 1.75 2.65





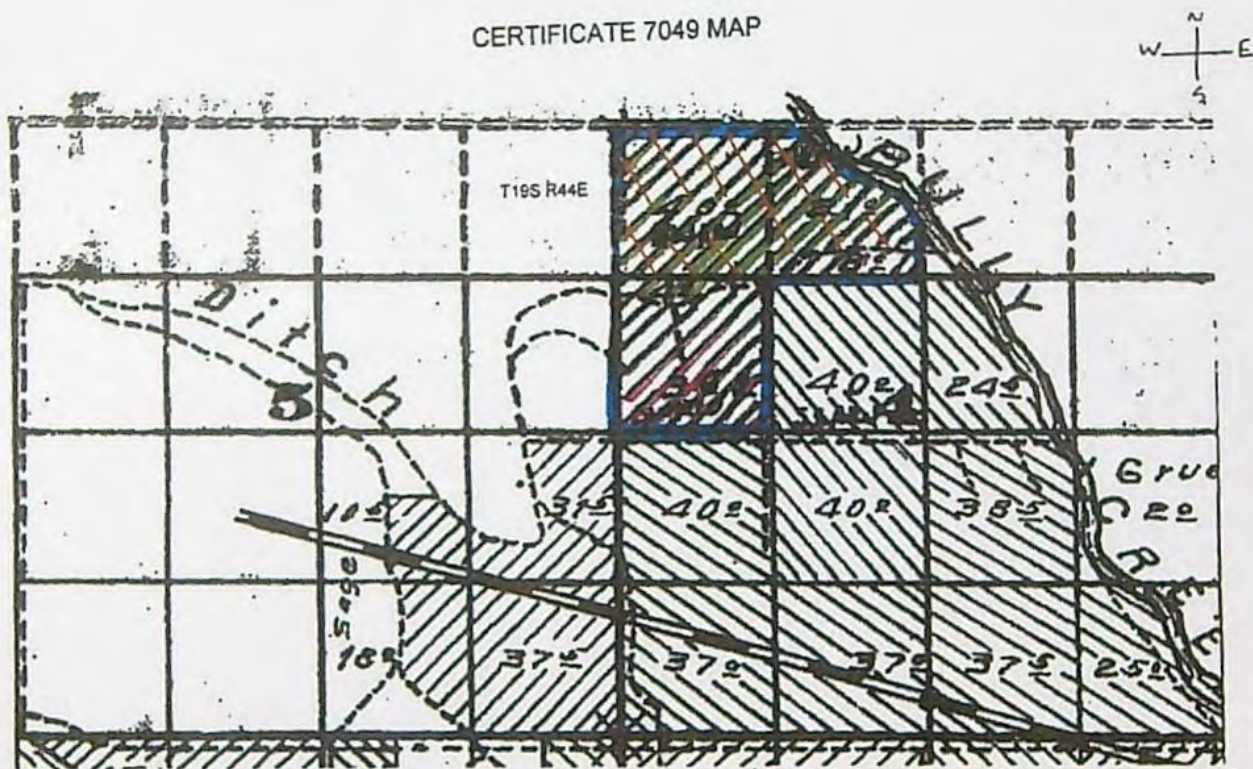




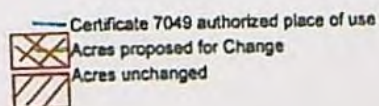




CERTIFICATE 7049 MAP



EXPIRES: 12-31-2017



RECEIVED BY OWRD

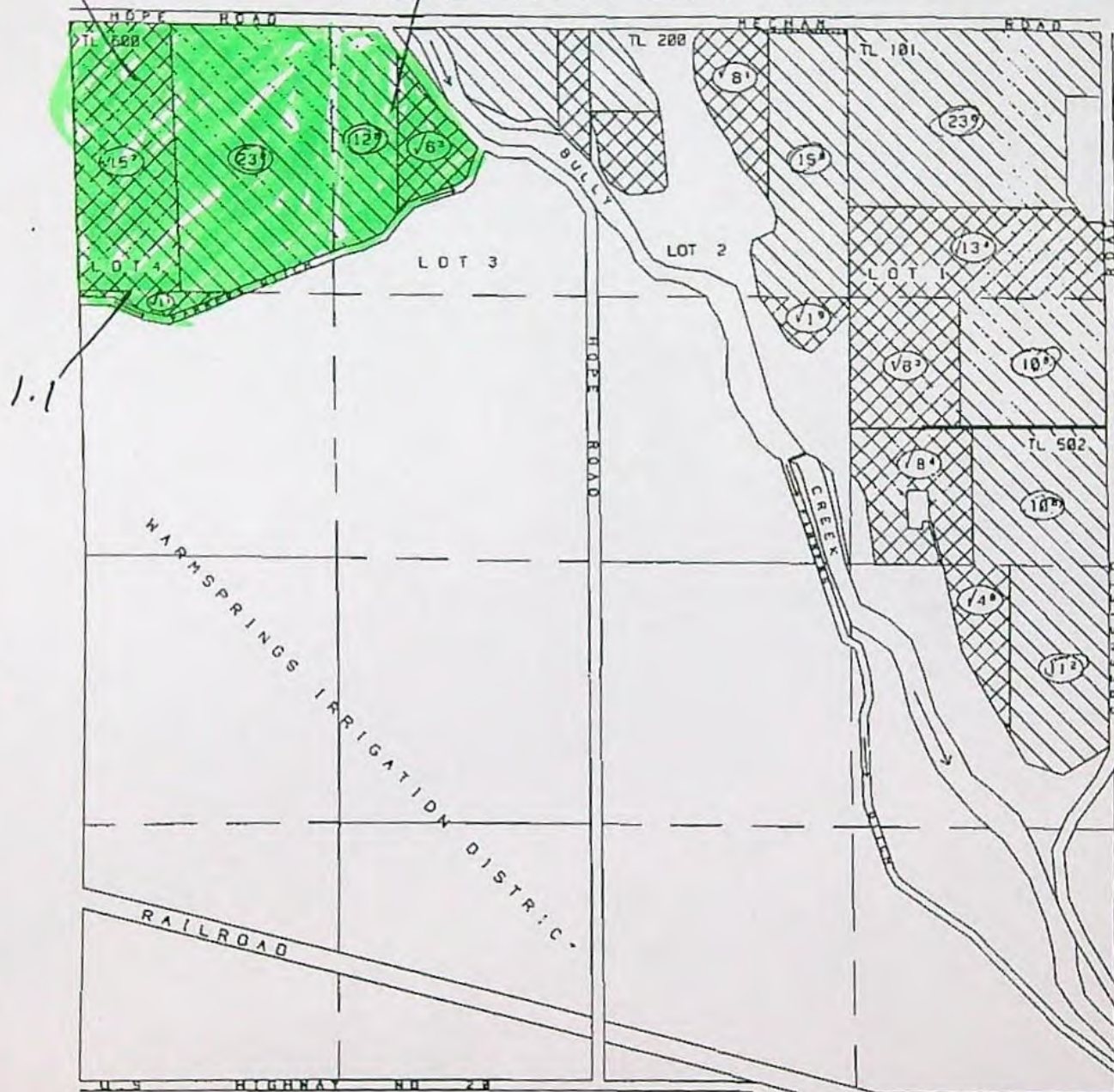
SEP 26 2013

1011668

SALEM, OR



SECTION 4  
T19 S..R44 E.. W.M.



(XX) IRR. ACRES

PRIM. 1926&1927  
CERT. #15719  
SUPP. 1931&1945  
CERT. #15808

PRIMARY  
PERMIT P-29882

PRIM. 1926&1927  
CERT. #15719  
SUPP. 1931&1945  
CERT. #15808 &  
PERMIT P-29882

PROPERTY BOUNDARY

BURIED PIPE

BRIDGE

DIVERSION DAM

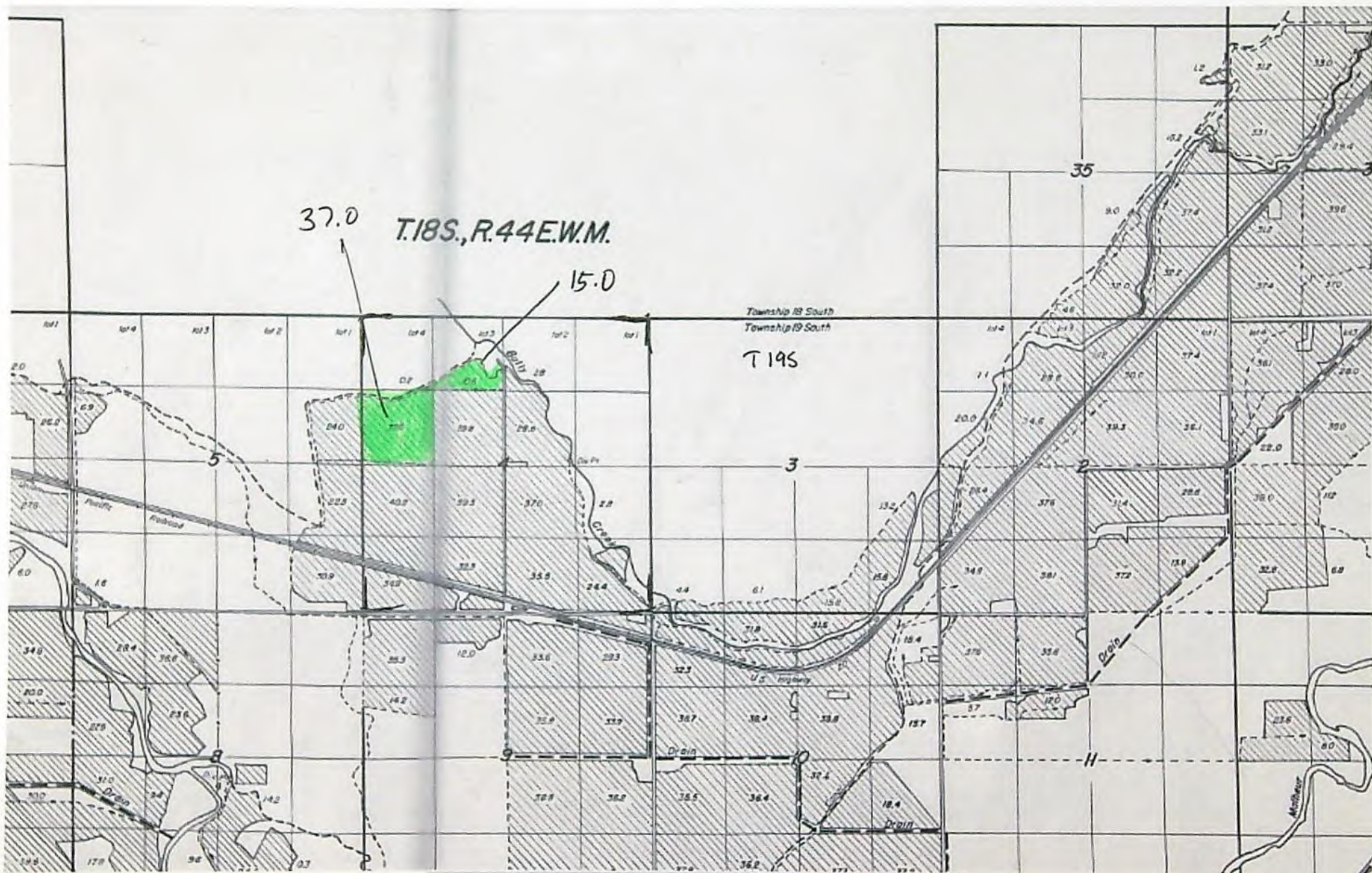


Vale Oregon  
Irrigation  
District

HB 3111 Petition			
Page		of	Pages
Digitized By		Approved	

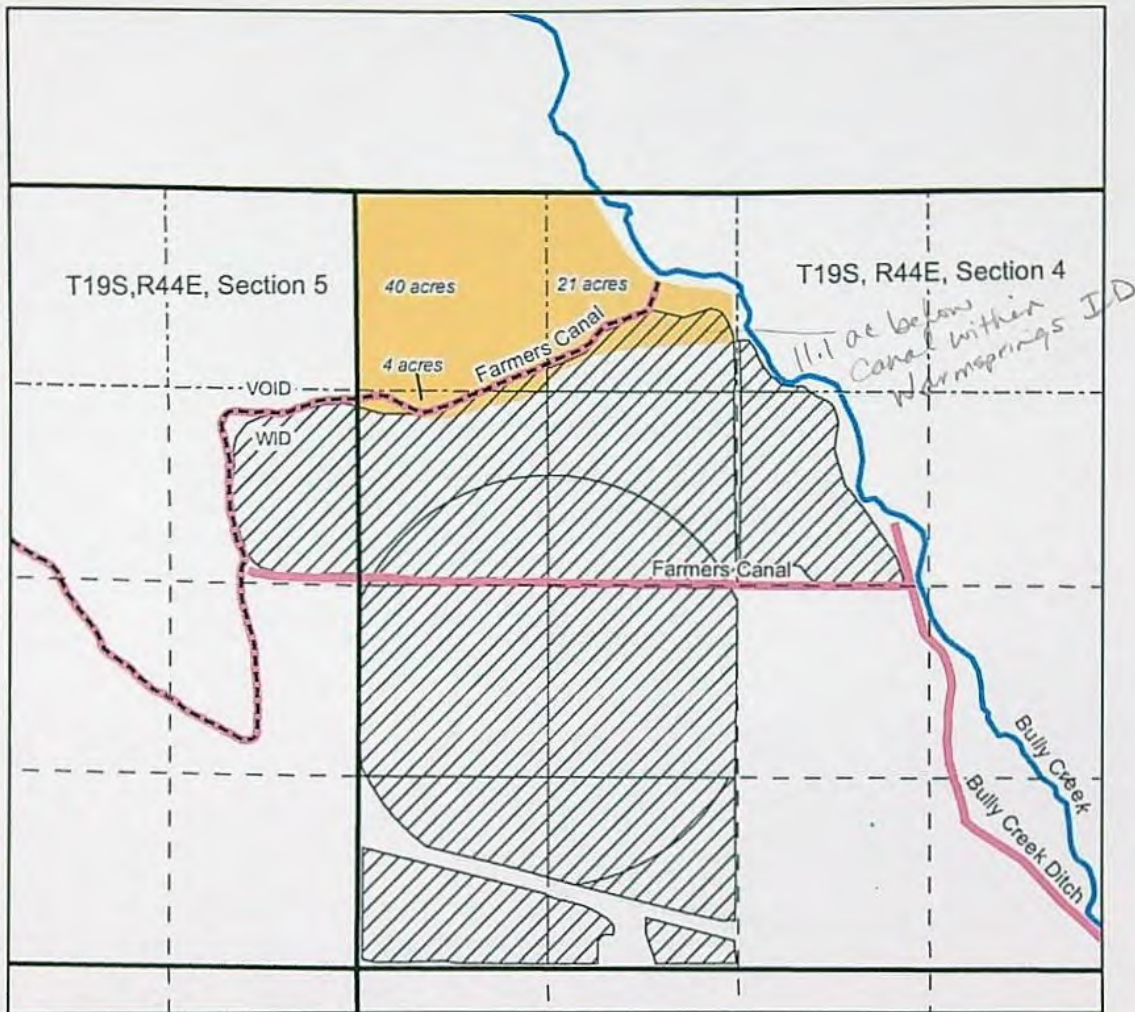
SCALE 1 INCH = 400 FEET







# T19S, R44E, Section 4, W.M.



- Government lot line
- - - Quarter quarter line
- Section line
- Irrigation District Boundary between Vale Oregon Irrigation District (VOID) and Warm Springs Irrigation District (WID)
- Canal
- Acres assessed by the Warm Springs Irrigation District
- Stream

Certificate 7049

Transfer From Lands (T11669)

N  
0 660 1,320  
Feet  
1 inch = 1,320 feet

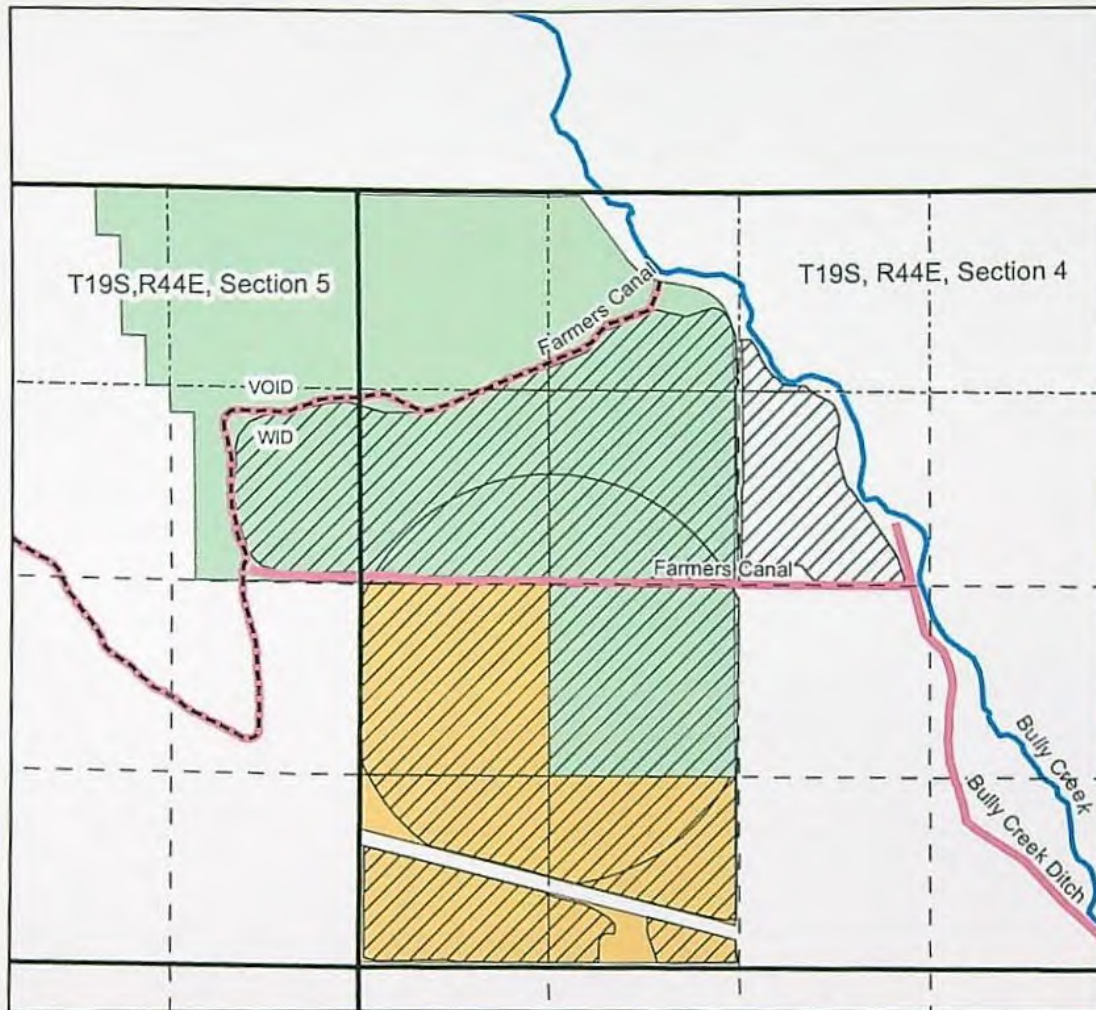
Transfer from Lands for T11669


Map prepared by Nancy Rorick Consulting

10/22/2018





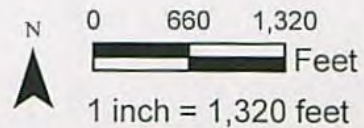
# T19S, R44E, Section 4, W.M.



- Government lot line
- - - Quarter quarter line
- Section line
- Irrigation District Boundary between Vale
- Oregon Irrigation District (VOID) and
- Warm Springs Irrigation District (WID)
- Canal
-  Acres assessed by the Warm Springs
- Irrigation District
- Stream

## Amaral property

-  Merritt Place
-  Mason Place



Places names for the Amaral Property

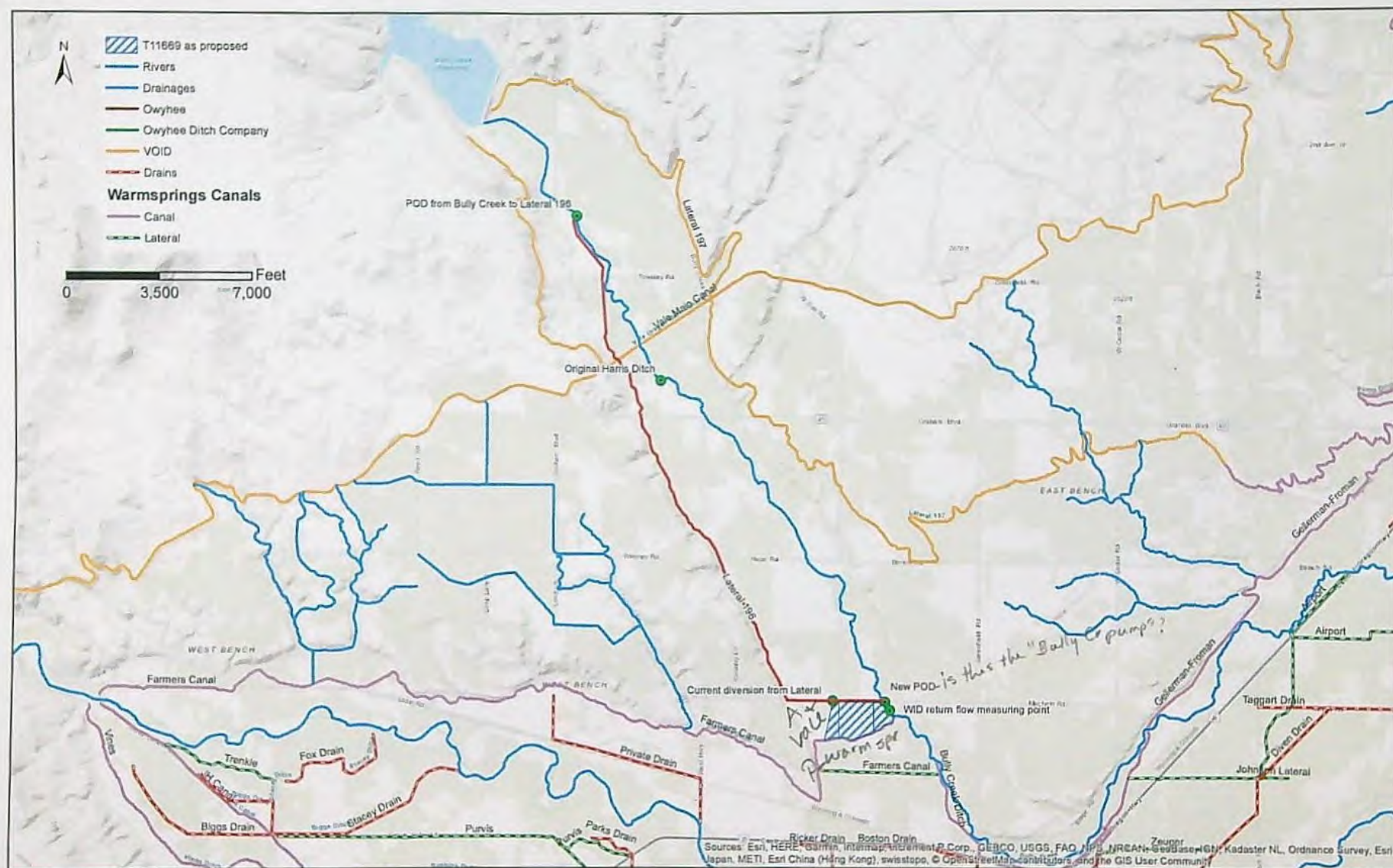
Map prepared by Nancy Rorick Consulting

10/22/2018



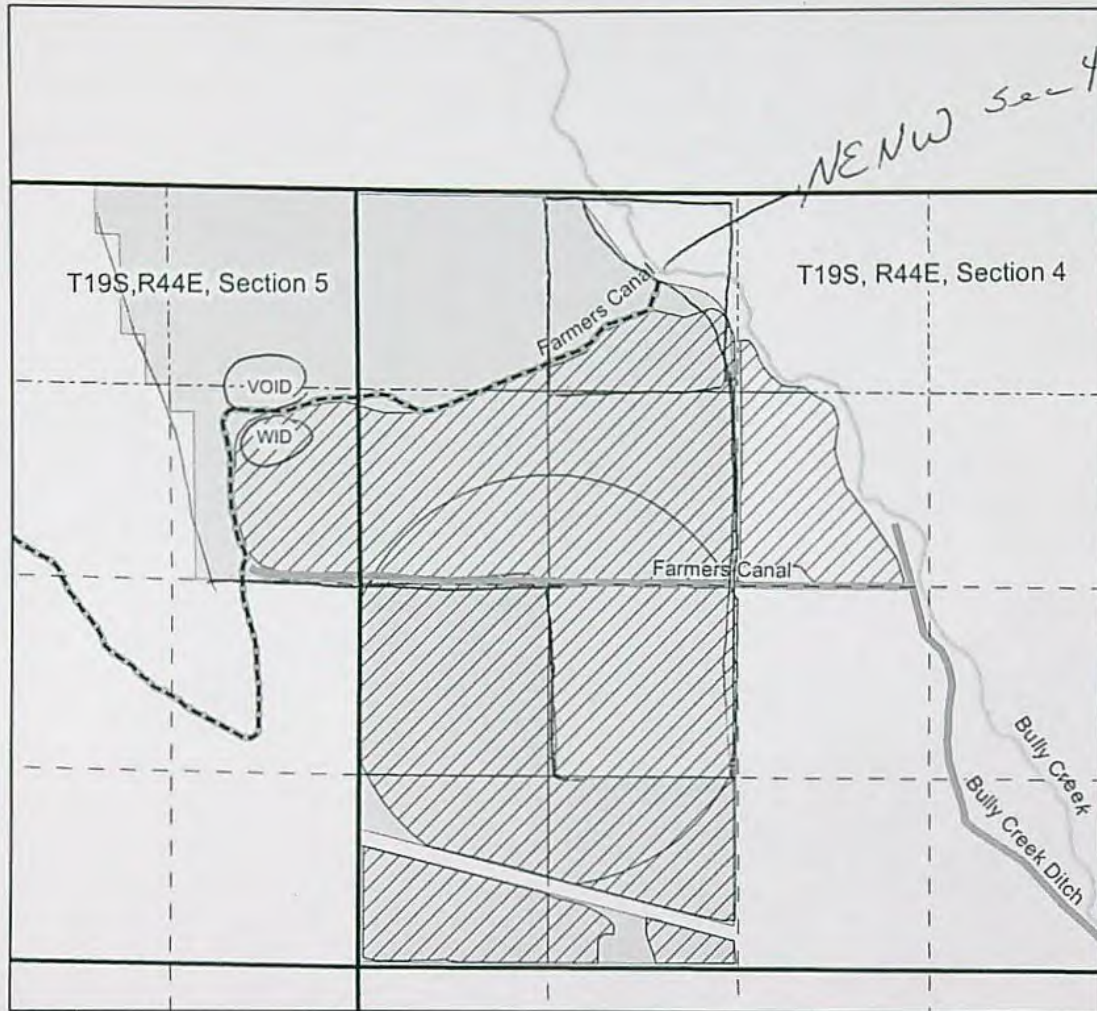











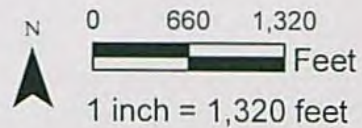
# T19S, R44E, Section 4, W.M.



- Government lot line
- - - - Quarter quarter line
- Section line
- Irrigation District Boundary between Vale
- Oregon Irrigation District (VOID) and
- Warm Springs Irrigation District (WID)
- Canal
-  Acres assessed by the Warm Springs Irrigation District
- Stream

## Amaral property

-  Merritt Place
-  Mason Place



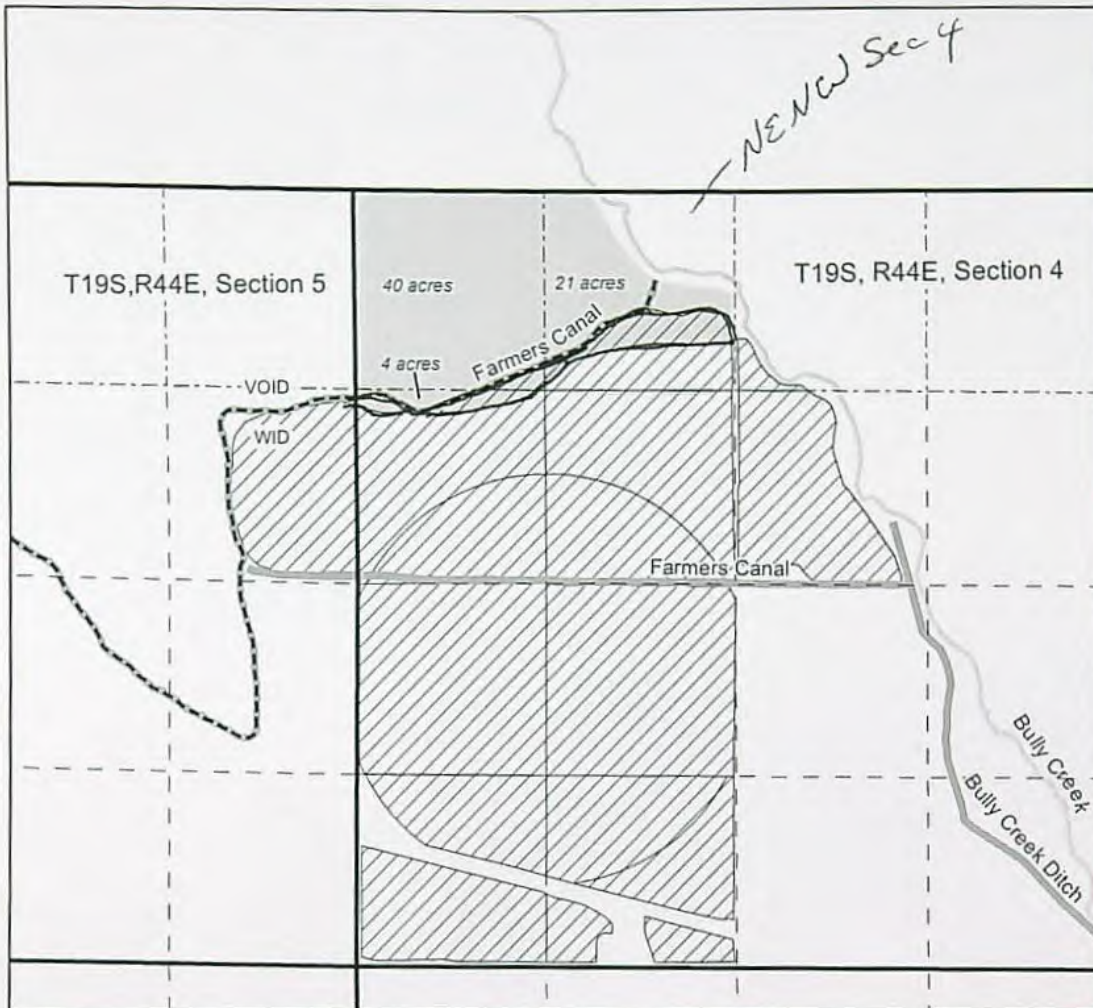
Places names for the Amaral Property

Map prepared by Nancy Rorick Consulting

10/22/2018



# T19S, R44E, Section 4, W.M.



----- Government lot line


- - - Quarter quarter line

— Section line

Irrigation District Boundary between Vale


----- Oregon Irrigation District (VOID) and  
Warm Springs Irrigation District (WID)

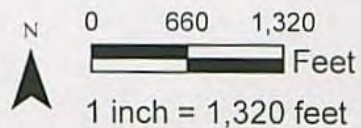
— Canal

 Acres assessed by the Warm Springs  
Irrigation District

— Stream

**Certificate 7049**

 Transfer From Lands (T11669)



Transfer from Lands for T11669

Map prepared by Nancy Rorick Consulting

10/22/2018



APR 18 2018

That would be a prohibited enlargement of Certificate 7049. *See* OAR 690-380-0100(2)(d)(defining enlargement). The proposed transfer would move the POD miles downstream, giving Applicant access to miles of return flows draining back into Bully Creek below the original POD. This would injure other water right holders who are lawfully entitled to use those return flows to satisfy other existing water rights. *See* OAR 690-380-0100(3)(defining injury). For example, WID has a right to divert all drainage water, seepage water, return flow and waste water from the Vale Oregon Project. *See* Certificate 74080 and related contract between WID and the United States, dated April 30, 1926.

The Preliminary Determination recognizes that Applicant cannot take more water at the proposed POD than is lawfully available at the original POD (see preliminary determination page 4, item 5), but it is not adequately conditioned to ensure that Applicant's diversions are limited to quantities lawfully available at the original POD.

**C. The Proposed Change in Place of Use, in Combination with the Proposed Change in POD, Would Further Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

Under Applicant's proposal, Certificate 7049 would cover only a portion of a large irrigation pivot. Protestant is concerned that Applicant would be spreading water diverted from the proposed POD on Bully Creek over the entire area under the pivot. Not only would this enlarge Applicant's water right (i.e. increase the acreage irrigated under the right), it would have the potential to injure downstream water users, particularly during a drought year. OAR 690-380-0100(2) & (3).

Protestant has two related concerns:

**i. Certificate 7049 Should be Made Supplemental to Other Existing Rights on the Same Lands.**

Protestant is concerned that the Preliminary Determination designates Certificate 7049 as a primary source for some acres and a supplemental source for other acres within the same irrigation pivot. *See* Finding of Fact #12. To avoid unlawful use of water, all 65 acres involved in the transfer should be made supplemental to other existing rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. This would ensure that Applicant uses the proposed POD on Bully Creek only when VOID is not delivering water to the proposed place of use, thus reducing the potential for injury to other water rights. Protestant requests that appropriate changes be made to Findings of Fact #12 and 13 to diminish the entire transferred right to supplemental irrigation.

**ii. The Transfer Map Should be Amended to Reflect the Subordination of Certificate 7049 to Permit S-29882.**

The Preliminary Determination proposes to make Certificate 7049 subordinate to VOID's junior priority water rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. Applicant's transfer map should be amended to reflect this determination.



**D. The Preliminary Determination Should Clarify the Duty That Applies to the Proposed Place of Use.**

The proposed transfer should be conditioned to clarify the duty that applies to the proposed place of use, taking into account the authorized duty of 3.0 acre-feet per acre under Certificate 7049 and the 4.5 acre-foot duty specified under other existing water rights on the same lands. Any order approving the transfer should include a condition stating that either 3.0 acre-feet or 4.5 acre-feet is the maximum combined duty that can be applied to the proposed place of use from any combination of sources.

**E. The Proposed Change in POD Should be a Proposed Additional POD.**

The proposed transfer should be for an additional POD instead of a change in POD. The proposed change in POD would remove Applicant's ability to exercise Certificate 7049 from the VOID 196 canal. Applicant would then be required to take all water under Certificate 7049 directly from Bully Creek at the proposed POD, resulting in enlargement and injury for reasons described elsewhere in this Protest.

If Applicant were to add a POD instead, and keep the existing POD, Applicant could exercise Certificate 7049 through the VOID 196 canal whenever water is available in the canal (i.e. when water is available for diversion at VOID's current POD miles upstream on Bully Creek). Protestant proposes that the transfer be amended from a change in POD to an additional POD, and that Applicant be limited to exercising Certificate 7049 through the proposed POD on Bully Creek only during times when VOID is unable to deliver water to Applicant through the 196 canal. This would reduce the potential for enlargement and injury.

**F. Other Provisions of the Preliminary Determination Should be Amended or Clarified.**

Finding of Fact 4 indicates that the "proposed place of use is within Vale and Warm Springs Irrigation District." The proposed place of use is in fact entirely located within VOID's boundaries. Protestant requests that the wording be changed as follows: "The proposed place of use, as described in Finding of Fact 12, is within Vale Oregon Irrigation District."

Under Determination and Proposed Action #3 (on page 4), Protestant requests that the first sentence be modified to include the following underlined words: "The new proposed place of use, as described in Finding of Fact 12, under Certificate 7049..."

**G. Applicant and OWRD Should Clarify Permit S-29882 and Resolve Any Conflicts Before Approving this Transfer.**

The Preliminary Determination proposes to postpone clarification of Permit S-29882, and resolution of any related conflicts, until after the proposed transfer is approved. This will only lead to confusion. Applicant's "to" map appears to confirm the place of use of Permit S-29882, and Finding of Fact #5 makes Certificate subordinate to Permit S-29882, but at the same time Finding of Fact #3 indicates that the "place of use and type of use of this permit will be clarified when the claim of beneficial use is submitted, resolving any conflicts with T-11669." The nature of the referenced "conflicts" is unclear, as is Applicant's (or VOID's) ability to change the place

4 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF  
TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL



## BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Transfer Application T-11669 in the name of Greg Amaral

PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE

### Introduction

This protest is filed on behalf of Warm Springs Irrigation District ("Protestant") pursuant to OAR 690-002-0030, OAR 690-380-4030 and ORS 540.520.

532 On September 6, 2013, Greg Amaral ("Applicant") filed an application to change the point of diversion and place of use of a portion of Certificate 7049 ("Application T-11669"). A portion of Certificate 7049 is located north of Farmers Ditch within the Vale Oregon Irrigation District ("VOID"). The remaining portion of Certificate 7049 is located south of Farmers Ditch within the Warm Springs Irrigation District ("WID"). On February 21, 2018, the Oregon Water Resources Department ("OWRD" or "Department") issued a Preliminary Determination proposing to approve the proposed transfer. For reasons described below, the proposed transfer would result in injury to other water users, including users within WID.

### Background

Applicant currently receives water under Certificate 7049 through the VOID 196 canal. The authorized Harris Ditch point of diversion was abandoned long ago in favor of the canal. The VOID 196 canal delivers water to Applicant from Bully Creek and Bully Creek Reservoir. Water stored in Bully Creek Reservoir originates from Bully Creek and the Malheur River. The sole authorized source for the 65 acres proposed to be transferred under Certificate 7049 is live flow from Bully Creek. Applicant's ability to exercise Certificate 7049 has been limited, in part, by the fact that VOID must deliver water to Applicant's point of delivery at the end of the canal. The lands affected by the proposed transfer have additional water rights under VOID certificates 74080 and 74081, as well as Permit S-29882, all of which are exercised through the VOID 196 canal.

The proposed change in point of diversion ("POD") would preclude Applicant from exercising Certificate 7049 through the VOID 196 canal and would allow (and require) all such water to be diverted solely from the proposed point of diversion on Bully Creek. This change would significantly impact other water users on Bully Creek, resulting in injury to other existing water rights.

### Request for Hearing and Elements of Protest

Protestant hereby requests a contested case hearing. The elements of a protest, as required by OAR 690-002-0030 and 690-380-4030, are addressed below:

1 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL

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APR 12 2018

OWRD



**1. Protestant's Name and Address**

Warm Springs Irrigation District  
c/o Randy Kinney  
District Manager  
334 Main St. N.  
Vale, OR 97918

**2. Name and Address of Other Persons Necessary to, or Having a Direct Interest In, the Proceeding**

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

RECEIVED

APR 12 2018

OWRD

**3. Facts Sufficient to Show the Protestant is Entitled to the Relief or Action Requested; Reasonably Ascertainable Issues and Arguments**

Applicant's proposed transfer, as described in the Preliminary Determination, would result in injury to other existing water rights, including rights within Protestant WID's boundaries. For reasons that follow, Protestant is entitled to the specific relief requested in this Protest:

**A. Protestant's Consent is Required to Proceed with the Proposed Transfer.**

Applicant proposes to change the place of use of 65 acres of water rights, some of which are located within the boundaries of WID. The Malheur Decree map indicates that the entire 65 acres are located on the north side of the Farmers Ditch, within VOID's boundaries. That may have been the case at the time the map was prepared, but since that time the location of the Farmers Ditch has changed. As a result, the decree map (which is the "from" map for this transfer) no longer accurately reflects the division of water right acres to the north (VOID) and south (WID) of the ditch.

*Consent for  
65 acres*

Based on Applicant's "to" map, it appears that only 52 of the 65 acres proposed for transfer are in fact located north of the Farmers Ditch and within the existing authorized place of use. The remaining acres must be coming from the south side of the Farmers Ditch. The proposed changes therefore affect Protestant WID and require its consent.

**B. The Proposed Change in POD Would Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

The proposed change in POD would result in Applicant diverting more water from the proposed POD on Bully Creek than would be legally available at the original point of diversion.

2 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF  
TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL

PDX\129472\212945\SDL\22713859.1



APR 13 2018

That would be a prohibited enlargement of Certificate 7049. *See* OAR 690-380-0100(2)(d)(defining enlargement). The proposed transfer would move the POD miles downstream, giving Applicant access to miles of return flows draining back into Bully Creek below the original POD. This would injure other water right holders who are lawfully entitled to use those return flows to satisfy other existing water rights. *See* OAR 690-380-0100(3)(defining injury). For example, WID has a right to divert all drainage water, seepage water, return flow and waste water from the Vale Oregon Project. *See* Certificate 74080 and related contract between WID and the United States, dated April 30, 1926.

The Preliminary Determination recognizes that Applicant cannot take more water at the proposed POD than is lawfully available at the original POD (see preliminary determination page 4, item 5), but it is not adequately conditioned to ensure that Applicant's diversions are limited to quantities lawfully available at the original POD.

**C. The Proposed Change in Place of Use, in Combination with the Proposed Change in POD, Would Further Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

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Protestant has two related concerns:

**i. Certificate 7049 Should be Made Supplemental to Other Existing Rights on the Same Lands.**

Protestant is concerned that the Preliminary Determination designates Certificate 7049 as a primary source for some acres and a supplemental source for other acres within the same irrigation pivot. *See* Finding of Fact #12. To avoid unlawful use of water, all 65 acres involved in the transfer should be made supplemental to other existing rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. This would ensure that Applicant uses the proposed POD on Bully Creek only when VOID is not delivering water to the proposed place of use, thus reducing the potential for injury to other water rights. Protestant requests that appropriate changes be made to Findings of Fact #12 and 13 to diminish the entire transferred right to supplemental irrigation.

**ii. The Transfer Map Should be Amended to Reflect the Subordination of Certificate 7049 to Permit S-29882.**

The Preliminary Determination proposes to make Certificate 7049 subordinate to VOID's junior priority water rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. Applicant's transfer map should be amended to reflect this determination.



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**D. The Preliminary Determination Should Clarify the Duty That Applies to the Proposed Place of Use.**

The proposed transfer should be conditioned to clarify the duty that applies to the proposed place of use, taking into account the authorized duty of 3.0 acre-feet per acre under Certificate 7049 and the 4.5 acre-foot duty specified under other existing water rights on the same lands. Any order approving the transfer should include a condition stating that either 3.0 acre-feet or 4.5 acre-feet is the maximum combined duty that can be applied to the proposed place of use from any combination of sources.

**E. The Proposed Change in POD Should be a Proposed Additional POD.**

The proposed transfer should be for an additional POD instead of a change in POD. The proposed change in POD would remove Applicant's ability to exercise Certificate 7049 from the VOID 196 canal. Applicant would then be required to take all water under Certificate 7049 directly from Bully Creek at the proposed POD, resulting in enlargement and injury for reasons described elsewhere in this Protest.

If Applicant were to add a POD instead, and keep the existing POD, Applicant could exercise Certificate 7049 through the VOID 196 canal whenever water is available in the canal (i.e. when water is available for diversion at VOID's current POD miles upstream on Bully Creek). Protestant proposes that the transfer be amended from a change in POD to an additional POD, and that Applicant be limited to exercising Certificate 7049 through the proposed POD on Bully Creek only during times when VOID is unable to deliver water to Applicant through the 196 canal. This would reduce the potential for enlargement and injury.

**F. Other Provisions of the Preliminary Determination Should be Amended or Clarified.**

Finding of Fact 4 indicates that the "proposed place of use is within Vale and Warmsprings Irrigation District." The proposed place of use is in fact entirely located within VOID's boundaries. Protestant requests that the wording be changed as follows: "The proposed place of use, as described in Finding of Fact 12, is within Vale Oregon Irrigation District."

Under Determination and Proposed Action #3 (on page 4), Protestant requests that the first sentence be modified to include the following underlined words: "The new proposed place of use, as described in Finding of Fact 12, under Certificate 7049..."

**G. Applicant and OWRD Should Clarify Permit S-29882 and Resolve Any Conflicts Before Approving this Transfer.**

The Preliminary Determination proposes to postpone clarification of Permit S-29882, and resolution of any related conflicts, until after the proposed transfer is approved. This will only lead to confusion. Applicant's "to" map appears to confirm the place of use of Permit S-29882, and Finding of Fact #5 makes Certificate subordinate to Permit S-29882, but at the same time Finding of Fact #3 indicates that the "place of use and type of use of this permit will be clarified when the claim of beneficial use is submitted, resolving any conflicts with T-11669." The nature of the referenced "conflicts" is unclear, as is Applicant's (or VOID's) ability to change the place

4 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF  
TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL



of use for Permit S-29882. Are the places of use that are shown on Applicant's "to" map for Permit S-29882 merely provisional? Protestant respectfully requests clarification and resolution of any conflicts between Permit S-29882 and Transfer T-11669 before the proposed transfer is approved.

**4. Specific Relief or Action Requested**

Protestant requests that the proposed transfer be adequately conditioned to remove the risk of enlargement and injury. The proposed conditions are generally described elsewhere in this Protest. Protestant would welcome an opportunity to discuss the specific wording of conditions to address the concerns expressed in this Protest.

**5. Citation of Legal Authority or Basis for the Claim or Relief Asserted or Requested**

Legal authority known to the Protestant at this time:

ORS 540.510, 540.520 and 540.530 relating to transfer applications.

OAR Chapter 690 Division 380 relating to transfer applications.

OAR Chapter 690 Division 002 relating to protests and contested case hearings.

Specific legal authority cited elsewhere in this protest.

**6. Protest Fee**

Please see the attached check in the amount of \$810.00 payable to the Oregon Water Resources Department.

**7. Proof of Service**

Protestant served a copy of this protest upon the applicant, Greg Amaral, and upon the Vale Oregon Irrigation District, by United States Postal Service first class mail. Proof of service is attached.

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### C. Terms of the Agreement

1. The Final Order will reflect amendments to the transfer application made by the parties to clarify those acres included in the transfer, will include an additional condition limiting water use after June 1 of each year.
2. Once each Party has signed this Agreement, the Department will issue a Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement consistent with the attached draft Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement.
3. Each Party to this Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Agreement.
4. Each Party to this Agreement certifies that it has had a reasonable opportunity to review and request changes to the Agreement, and that it has signed this Agreement of its own free will and accord.
5. The Parties agree that nothing in this Agreement or the draft Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement establishes factual, legal, or policy precedent.
6. This Agreement may be signed in counterparts.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Amaral

\_\_\_\_\_  
Date

\_\_\_\_\_  
Warm Springs Irrigation District

\_\_\_\_\_  
Date



In the Matter of Transfer Application  
T-11669, Malheur County

) SETTLEMENT AGREEMENT  
)

The Oregon Water Resources Department (Department), Greg Amaral and Warms Springs Irrigation District, together referred to herein as “Parties”, do hereby stipulate and agree in this Settlement Agreement as follows:

### A. Background

## Findings of Fact

1. On September 6, 2013, Greg Amaral filed an application to change the point of diversion and to change the place of use under Certificate 7049. The Department assigned the application number T-11669.
2. Notice of the application for transfer was published on October 8, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. On February 21, 2018, the Department issued a Preliminary Determination proposing to approve Transfer T-11669. A timely protest was filed by Warm Springs Irrigation District.
4. The Parties have engaged in settlement discussions and have agreed that all issues in the protest are resolved on the terms contained herein.

### B. Consent

1. Each Party to this Agreement certifies that it has read the entire Settlement Agreement, including the draft Final Order, and understands and agrees with the contents thereof.
2. Each Party to this Agreement understands and agrees that this Agreement and all documents incorporated by reference set forth the entire agreement of the parties.
3. Each Party to this Agreement understands and agrees that this Agreement and the Final Order issued pursuant to this Agreement constitute the complete and final resolution of the protest.
4. Effective upon the signing of this Agreement by the Parties, Greg Amaral and Warms Springs Irrigation District waive any and all right to petition for judicial review of this Agreement, and waive any and all right to request reconsideration, petition for judicial review, or appeal the Final Order.



### C. Terms of the Agreement

1. The Final Order will reflect amendments to the transfer application made by the parties to clarify those acres included in the transfer, will include an additional condition limiting water use after June 1 of each year.
2. Once each Party has signed this Agreement, the Department will issue a Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement consistent with the attached draft Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement.
3. Each Party to this Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Agreement.
4. Each Party to this Agreement certifies that it has had a reasonable opportunity to review and request changes to the Agreement, and that it has signed this Agreement of its own free will and accord.
5. The Parties agree that nothing in this Agreement or the draft Final Order Approving a Change In Point Of Diversion and Place Of Use and Incorporating Settlement Agreement establishes factual, legal, or policy precedent.
6. This Agreement may be signed in counterparts.

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Greg Amaral

\_\_\_\_\_  
Date

\_\_\_\_\_  
Warm Springs Irrigation District

\_\_\_\_\_  
Date



In the Matter of Transfer Application ) SETTLEMENT AGREEMENT  
T-11669, Malheur County )

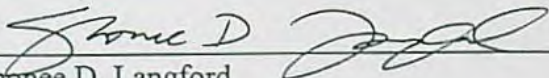


## CONCLUSION

The above described facts and legal arguments demonstrate that the Protestant is entitled to the specific relief requested, including issuance of a final order that is adequately conditioned to ensure that the proposed transfer will not result in injury to other existing water rights. A contested case hearing is requested.

DATED: April 12, 2018

SCHWABE WILLIAMSON and WYATT

  
Shonee D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant

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## CERTIFICATE OF SERVICE

I certify that on April 12, 2018, my office hand delivered the original PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE to the Oregon Water Resources Department at 725 Summer St. NE, Suite A, Salem, Oregon 97301.

I further certify that on the same date I served a true, exact and full copy of the same via United States Postal Service first class mail, postage prepaid, on the following:

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

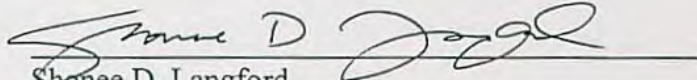
Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

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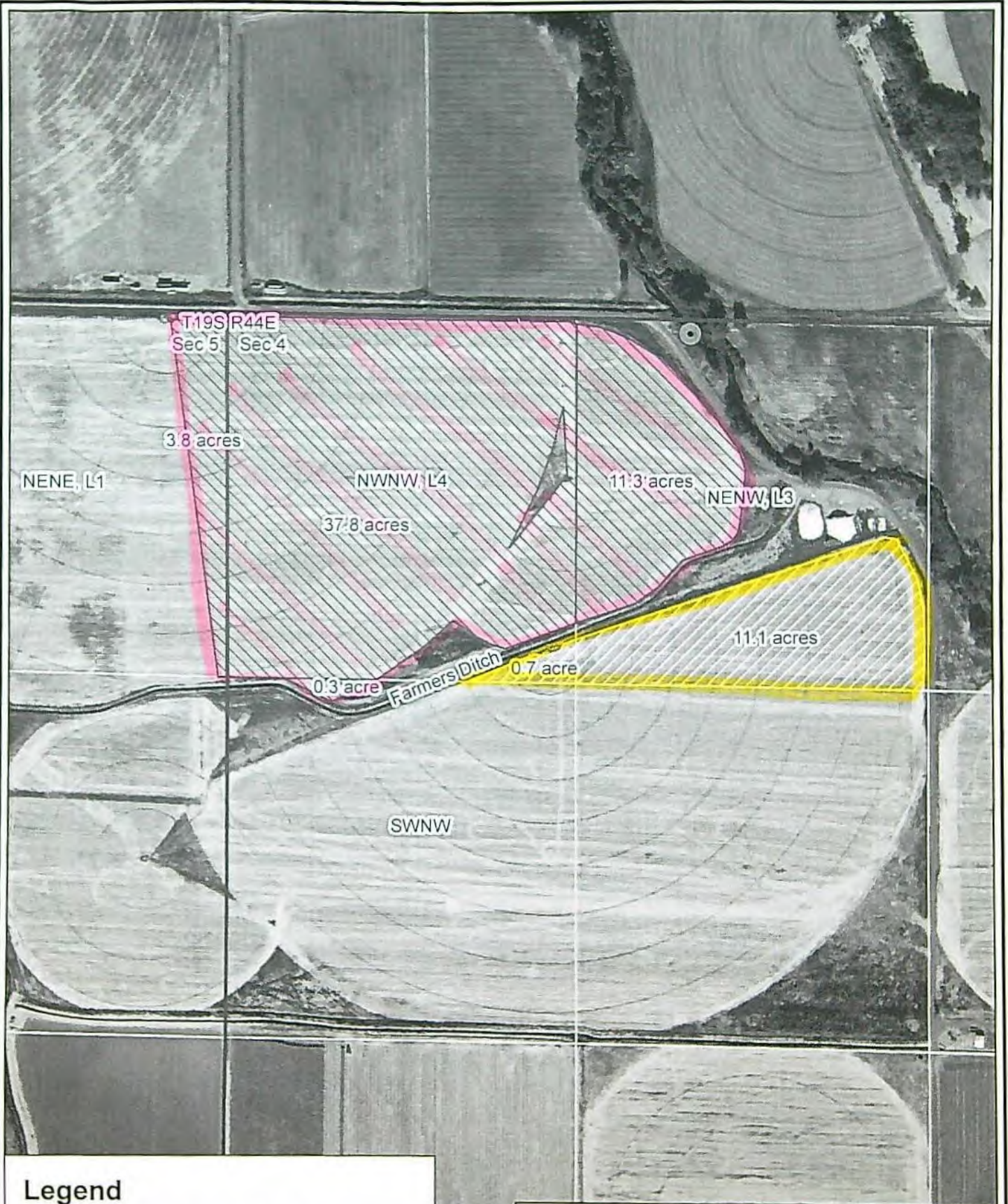
SCHWABE WILLIAMSON and WYATT






Shonee D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant





## Legend

-  Proposed Point of Diversion
-  Proposed acres above ditch (53.2)
-  Unchanged acres below ditch (11.8)

Certificate 7049 - Transfer 11669  
Proposed Changes (Amended)

0 250 500  
Feet





## STATE OF OREGON

COUNTY OF MALHEUR

## CERTIFICATE OF WATER RIGHT

This is to Certify, That ELLA WOODRUFF

of Vale, State of Oregon has a right to the use of  
the waters of Bully Creek  
for the purpose of Irrigation

and that said right has been confirmed by decree of the Circuit Court of the State of Oregon for  
Malheur County, and the said decree entered of record at Salem, in the Order  
Record of the STATE ENGINEER, in Volume 8, at page 228; that the priority  
of the right thereby confirmed dates from 1884

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an  
amount actually beneficially used for said purposes, and shall not exceed 1 1/2 acre feet per acre  
in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period  
after June 1st, of each year, or 3 acre feet per acre during any season, diverted  
at a rate not to exceed one-twentieth of a cubic foot per second per acre;

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

21 acres in NE 1/4 NW 1/4, 40 acres in NW 1/4 NW 1/4, 4 acres in SW 1/4 NW 1/4, Section 4, T. 19 S. R.  
44 E. W. M., being a total of 65 acres.

The following lands are also irrigated by the Farmers' Ditch: 8 acres in NE 1/4 NW 1/4,  
36 acres in SW 1/4 NW 1/4, Section 4, T. 19 S. R. 44 E. W. M., being a total of 44 acres.

And said right shall be subject to all other conditions and limitations  
contained in said decree.

The right to the use of the water for irrigation purposes is restricted to the lands or place  
of use herein described.

WITNESS the signature of the State Engineer,

affixed this 1st day  
of February, 1927.

State Engineer.

Recorded in State Record of Water Right Certificates, Volume 7, page 7049.



Please use additional pages of Table 2 as needed

**Table 2. Description of Changes to Water Right Certificate # 7049**

List only the part of the right that will be changed. For the acreage in each ¼ ¼, list the change proposed. If more than one change, specify the acreage associated with each change. If more than one POD/POA, specify the acreage associated with each POD/POA.

Authorized ("from" lands) as they appear BEFORE THE CHANGES													Proposed Changes (see "CODES" from previous page)	Proposed ("to" lands) AFTER THE CHANGES															
Twp	Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acre	Type of USE listed on Certificate	POD(s) or POA(s) (name or number from Table 1)	Priority Date	Twp		Rng		Sec	¼ ¼		Tax Lot	Gvt Lot or DLC	Acre	New Type of USE	POD(s)/ POA(s) to be used (from Table 1)	Priority Date					
2	S	9	E	15	NE	NW	100		15.0	Irrigation	POD #1 POD #2	1901	POU/POD	2	S	9	E	1	NW	NW	500	1	10.0		POD #5	1901			
"	"	"	"	"	"	"	"	"	"	EXAMPLE	"	"		"	2	S	9	E	2	SW	NW	500		5.0		POD #6	1901		
19	S	44	E	4	NE	NW		3	9.9	Irrigation	1	1884	POU/POD	19	S	44	E	4	NE	NW		3	11.3		2	1884			
19	S	44	E	4	NW	NW		4	39.3	Irrigation	1	1884	POU/POD	19	S	44	E	4	NW	NW		4	37.8		2	1884			
19	S	44	E	4	SW	NW			4	Irrigation	1	1884	POU/POD	19	S	44	E	4	SW	NW			0.3		2	1884			
													POU/POD	19	S	44	E	5	NE	NE		1	3.8		2	1884			
													POU/POD																
TOTAL ACRES									53.2						TOTAL ACRES									53.2					

Additional remarks: Certificate acres proposed for change are north of Farmers Ditch in Vale Oregon Irrigation District. Certificate acres below Farmers Ditch in Warmsprings Irrigation District are not proposed for change.



BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11669, Malheur County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF DIVERSION
	)	AND PLACE OF USE

**Authority**

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

**Applicant**

GREG AMARAL  
1606 AMARAL COURT  
FAIRFIELD, CA 94534  
amaralranch@aol.com

**Findings of Fact**

1. On September 6, 2013, GREG AMARAL filed an application to change the point of diversion and to change the place of use under Certificate 7049. The Department assigned the application number T-11669.
2. Notice of the application for transfer was published on October 8, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. There is any underlying permit S-29882 within the proposed place of use. The place of use and type of use of this permit will be clarified when the claim of beneficial use is submitted, resolving any conflicts with T-11669.
4. The proposed place of use is within Vale and Warm Springs Irrigation District boundaries. Vale Irrigation District requested a condition that the new proposed place of use under C-7049 (1884 priority date) be subordinate to the priority dates for the district rights under C-74080 (January 11, 1927 priority date) and C-74081 (November 29, 1945 priority date). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary. The applicant consented to this condition.

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.
--



5. On September 11, 2017, the agent submitted an e-mail which acknowledged and agreed to additional conditions making the senior right Certificate 7049 subordinate to the junior permit S-29882 on the proposed place of use.
6. On September 11, 2017, the department received the affidavit of consent for partial diminution of a water right.
7. On September 13, 2017, the department received an amended map with the CWRE official stamp.
8. On September 29, 2017, the department received a request to terminate temporary transfer T-11668 once the final order is issued for this transfer, T-11669.
9. On September 20, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11669 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 20, 2017, 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.
10. The portion of the right to be transferred is as follows:

**Certificate:** 7049 in the name of ELLA WOODRUFF (confirmed by Malheur River Decree)  
**Use:** IRRIGATION of 65.0 ACRES  
**Priority Date:** 1884  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 1.5 acre feet per acre in any 30 day period prior to June 1<sup>st</sup>, 1.0 acre foot per acre in any 30 day period after June 1<sup>st</sup>, of each year or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of one cubic foot per second per acre.  
**Source:** BULLY CREEK, tributary to the MALHEUR RIVER

**Authorized Point of Diversion:**

DITCH NAME
HARRIS DITCH

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
19 S	44 E	WM	4	NE NW	21.0
19 S	44 E	WM	4	NW NW	40.0
19 S	44 E	WM	4	SW NW	4.0
Total					65.0



11. Transfer Application T-11669 proposes to move the authorized point of diversion approximately 2.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
19 S	44 E	WM	4	NE NW	3	55 FEET SOUTH AND 1730 FEET EAST FROM THE NW CORNER OF SECTION 4

12. Transfer Application T-11669 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Use
19 S	44 E	WM	4	NE NW	3	7.7	Primary
19 S	44 E	WM	4	NE NW	3	4.3	Supplemental
19 S	44 E	WM	4	NW NW	4	23.3	Primary
19 S	44 E	WM	4	NW NW	4	15.7	Supplemental
19 S	44 E	WM	4	SW NW		1.0	Supplemental
19 S	44 E	WM	5	NE NE	1	12.0	Primary
19 S	44 E	WM	5	SE NE		1.0	Primary
Total						65.0	

13. The applicant also proposes to diminish a portion of the transferred right to supplemental irrigation which is identified in the table above.
14. The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

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

15. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11669.
17. The proposed changes would not result in enlargement of the right.
18. The proposed changes would not result in injury to other water rights.

**Determination and Proposed Action**

The change in point of diversion and change in place of use proposed in Transfer Application T-11669 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-11669 is approved, the final order will include the following:*

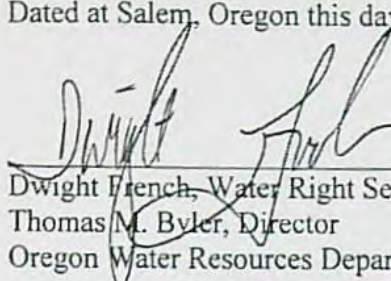


1. *The change in point of diversion and change in place of use proposed in Transfer Application T-11669 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 7049 and any related decree.*
3. *The new proposed place of use under Certificate 7049 (1884 priority date) shall be subordinate to the priority dates for the district rights under Certificates 74080 (January 11, 1927) and 74081 (November 29, 1945). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary.*
4. *Water right Certificate 7049 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
5. *The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
6. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
8. *The former place of use of the transferred right shall no longer receive water under the right.*
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2019. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*



10. After satisfactory proof of beneficial use is received, a new certificate confirming the right transferred will be issued.

Dated at Salem, Oregon this day FEB 21 2018.

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

This Preliminary Determination was prepared by Marcy Osborn. If you have questions about the information in this document, you may reach me at 541-523-8224 ext.228 or [marcy.j.osborn@oregon.gov](mailto:marcy.j.osborn@oregon.gov).

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

**Notice Regarding Service Members:** Active duty service members have a right to stay proceedings under the federal Service Members Civil Relief Act, 50 U.S.C. App. §§501-597b. You may contact the Oregon State Bar or the Oregon Military Department for more information. The toll-free telephone number for the Oregon State Bar is: 1 (800) 452-8260. The toll-free telephone number of the Oregon Military Department is: 1 (800) 452-7500. The Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website is: <http://legalassistance.law.af.mil>



## MCCARTY Patricia E \* WRD

**From:** nrorick@nlr-water.com  
**Sent:** Thursday, February 21, 2019 3:31 PM  
**To:** 'Lori Graves'; JACOBS Ronald K \* WRD; MCCARTY Patricia E \* WRD  
**Cc:** barthorses@gmail.com; 'Greg Amaral'; 'Terry Scanlan'; 'Randy Kinney'; 'Jessi Hansen'  
**Subject:** RE: T-11669 Protest Resolution  
**Attachments:** Nancy Rorick Consulting Mail - meeting notes Amaral project 1-25-2019.pdf; Overview map T11669.pdf

Dear Lori,

*Nancy - Warm Springs  
Lori - Vale + Amaral*

Thank you for taking the next step in resolving this issue by arranging a meeting. Randy Kinney and Tom McElroy asked me to respond to your points listed below. They have reviewed this letter and agree with my response.

Per the request of Tom McElroy, President of Warm Springs Irrigation District (WID), and our client Greg Amaral, we would like to schedule a meeting in Vale to discuss the following proposed transfer amendments and conditions. Both Tom and Greg have been in discussions and wish for the WID protest be resolved as an outcome of the meeting rather than proceed to hearing.

We agree that we would like to see the issues regarding WID's protest of T11669 resolved without going to a contested case hearing. We believe that our approach is consistent with Oregon water law and will be workable for WID, Vale Oregon Irrigation District (VOID), and Mr. Amaral.

- What does this mean  
"transfer" the Cert  
to move the  
boundary?*
1. Transfer Certificate 7049 acres out of WID south of Farmers Ditch, into Vail Oregon Irrigation District (VOID) north of Farmers Ditch. It is our understanding that WID passed a resolution at their 3/12/2019 Board meeting to allow the acre transfer. This will allow complete coverage of the half pivot area and make water management easier. There are ~101 irrigable acres north of Farmers Ditch. Certificate 7049 allows for irrigation of 109 acres. **Consequently 8 acres may be lost due to non-use.**

This is correct, the WID board did vote to allow the transfer of 36 acres from the WID side to the VOID side. The remaining 8 acres could not be used unless Mr. Amaral installed a pipeline from the pump to deliver the water from the Bully Creek pump to the WID side. Please note that the VOID's board will need to accept these additional acres.

- at the orig pod as determined by W.M.  
2-21-19*
2. Divert Certificate 7049 only when natural flows are available <sup>above Bully Creek Reservoir.</sup>  
*to see if Amaral can pump or just streamflow?*  
*As water master, Ron Jacobs would determine water availability upstream of Bully Creek Reservoir for Certificate 7049. Note that there are two water rights upstream of the Bully Creek pump and downstream of the reservoir that have earlier priority dates than Certificate 7049 (12/31/1884): Certificate 76198 (July 1884) for 6.08 CFS and 76199 (July 1884) for 4.1 CFS. - both take from Bully at dam outlet & divert into L-197 VOID/Vale*
  3. Add the VOID 196 Ditch pump as an additional point of diversion for Certificate 7049, and utilize the Bully Creek pump or the VOID 196 Ditch pump for natural flow delivery.

The POD for Certificate 7049 is the Harris Ditch, which no longer exists. The transfer application should be amended to **change the POD from the Harris Ditch to the 196 Lateral.** The Bully Creek pump should be added as an Additional Point of Diversion.



4. When natural flows are available above Bully Creek Reservoir and the 196 Ditch pump is used, VOID will count Amaral delivery through the 196 Ditch as natural flow water under Certificate 7049, not VOID storage water. When Bully Creek natural flows are exhausted, VOID will count Amaral delivery through the 196 Ditch as VOID storage water.

*Found like WS rejects this proposal*

The duty of a water right is the volume of water that can be use during the irrigation season expressed in acre-feet per acre. The excerpts below are the duties of Mr. Amaral's water rights. Certificate 74080 and permit S29882 are the primary water rights and they have a duty of 4.5 acre-feet per acre. The water-right duties are not cumulative but are limited to the 4.5 acre-feet per acre. Under these water rights, Mr. Amaral has the right to 4.5-acre feet per acre in any combination, but not to exceed a total of 4.5-acre feet, of which only 3 acre-feet is available from certificate 7049. In practice, all water is commingled in the reservoir and the districts do not track or credit water by source.

#### Certificate 74080 (VOID primary irrigation right)

The amount of water used for irrigation or supplemental irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 4.5 ACRE-FEET PER ACRE, or the equivalent for each acre irrigated during the irrigation season of each year.

#### Permit S29882 (Bully Creek Reservoir permit)

If for irrigation, this appropriation shall be limited to 1/40th of one cubic foot per second or its equivalent for each acre irrigated from direct flow and shall be further limited to a diversion of not to exceed 4 1/2 acre feet per acre for each acre irrigated during the irrigation season of each year from direct flow and storage from reservoir to be constructed under Permit No. R-4456, provided further that the right allowed herein shall be limited to any deficiency in the available supply of any prior right existing for the same land and shall not exceed the limitation allowed herein, and shall be still further limited to stored water only on lands having existing rights from Bully Creek, and the plan of operation as stated in the application under "Remarks" is specifically approved.

#### Certificate 7049

that the amount of water to which such right is entitled, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1 1/2 acre feet per acre in any 30-day period prior to June 1st, 1 acre foot per acre in any 30-day period after June 1st, of each year, or 3 acre feet per acre during any season, diverted at a rate not to exceed one-twentieth of a cubic foot per second per acre;

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

It is important to recognize that these water rights provide ample water for the two pivots. The two pivots irrigate a total of 98.1 acres (as measured from the 2016 aerial photograph) and assuming a rate of 8 GPM per acre (suggested by ACI Agricultural Construction in Baker City) the flow rate for operating the two pivots simultaneously would be 785 GPM or 1.75 CFS.

*Amaral wants primary*

To implement the above conditions as stipulated in accordance with OWRD policy, designate all the authorized acres under Certificate 7049 as primary acres.

*WS wants supplemental*

At our meeting on January 24, 2019, we stated that WID would like Certificate 7049 designated as a supplemental water right (see attached meeting notes). We believe it is to Mr. Amaral's advantage to have the more plentiful and reliable reservoir water as his primary water right. However, it is VOIDs decision as to whether Certificate 7049 is primary or supplemental.

*why? do they own it?*



The true value of Certificate 7049 is that it provides Mr. Amaral water when it is not available from the irrigation district. He can use the water from Bully Creek to get an early start on his onion crop. One of my clients outside of Nyssa is pursuing a water right for an early start on his onion crop. He estimates that if he obtains this water right, he could (depending on soil moisture and temperature conditions) see a 10-20 percent increase in yield. The changes that we are proposing would not diminish this use of Certificate 7049.

6. Another option that would be ideal would be for VOID to allow delivery of Greg's storage water through Bully Creek via the Bully Creek pump. When natural flows are available above Bully Creek Reservoir, use of the Bully Creek pump would be attributed to Certificate 7049. When Bully Creek flows are exhausted, use of the Bully Creek pump would be attributed to VOID storage water that would be released past the 196 diversion point to satisfy the Bully Creek pump.

We agree that Mr. Amaral can use the pump in Bully Creek under Certificate 7049 when there is water available upstream of Bully Creek Reservoir.

When water is not available for Certificate 7049, Mr. Amaral is obligated to use water allowed under the reservoir certificates and permit delivered through the 196. The decision to allow Mr. Amaral to spill water from the 196 to the pump in Bully Creek would be made by VOID's board. However, Mr. Amaral would not be allowed a higher rate than what is delivered down the 196. The pump in Bully Creek would need to be monitored so that it matches the flow in the 196.

In addition, we confirmed with VOID staff that water was not requested from VOID for Mr. Amaral's property for the last two years and site observations confirmed that water was pumped from Bully Creek at will. This underscores WID's point that monitoring is necessary to insure compliance and to protect WID's return flow rights and the rights of downstream users.

If water usage on Mr. Amaral's property exceeds what is allowed, it has the potential to injure WID's return flow rights. Normally, the Department assumes injury only when a water right is moved upstream. In the case of return flow, more return flow is available downstream. Therefore, pumping at will out of Bully Creek has the potential to injure WID's return flow right (Permit S18547 and see also the first page of Certificate 74080). VOID, WID and the Bureau of Reclamation have a contract whereby WID accepts return flow from VOID, and in return credits reservoir storage to VOID. Because of these contracts and existing water rights, allowing the pump in Bully Creek to be used at will has the potential to be detrimental to both districts. This was the point of WID's protest of the transfer.

Concerns and/or Department implications regarding the above transfer amendments and conditions can be discussed at the meeting. Patricia is welcome to participate by telephone. Please let me know your available times within the next two weeks. Tom offered the WID office in Vale as a possible meeting location. Ron, please let me know if you recommend Ty King (VOID Manager) attend the meeting also.

Ty King is certainly welcomed to attend, and his input would be beneficial, but the point of the meeting is to resolve the protest. In this letter, I have indicated the decisions that VOID will need to make. The WID is neutral on those decisions and does not presume to predict how VOID will respond.

Both WID and VOID irrigation district managers should be copied on all correspondence.

Before we schedule a meeting, I would like to review these issues with you.

Sincerely,



Nancy Rorick, RG, CWRE

Nancy Rorick, RG, CWRE  
645 L Loop  
Baker City, OR 97814  
541-519-3644

From: Lori Graves <LGraves@spfwater.com>  
Sent: Tuesday, February 19, 2019 1:34 PM  
To: JACOBS Ronald K \* WRD <Ronald.K.Jacobs@oregon.gov>; MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>; nrorick@nir-water.com  
Cc: bartlhorses@gmail.com; Greg Amaral <amaralranch@gmail.com>; Terry Scanlan <TScanlan@spfwater.com>  
Subject: RE: T-11669 Protest Resolution

Per the request of Tom McElroy, President of Warm Springs Irrigation District (WID), and our client Greg Amaral, we would like to schedule a meeting in Vale to discuss the following proposed transfer amendments and conditions. Both Tom and Greg have been in discussions and wish for the WID protest be resolved as an outcome of the meeting rather than proceed to hearing.

1. Transfer Certificate 7049 acres out of WID south of Farmers Ditch, into Vail Oregon Irrigation District (VOID) north of Farmers Ditch. It is our understanding that WID passed a resolution at their 3/12/2019 Board meeting to allow the acre transfer. This will allow complete coverage of the half pivot area and make water management easier. There are ~101 irrigable acres north of Farmers Ditch. Certificate 7049 allows for irrigation of 109 acres. Consequently 8 acres may be lost due to non-use.
2. Divert Certificate 7049 only when natural flows are available above Bully Creek Reservoir.
3. Add the VOID 196 Ditch pump as an additional point of diversion for Certificate 7049, and utilize the Bully Creek pump or the VOID 196 Ditch pump for natural flow delivery.
4. When natural flows are available above Bully Creek Reservoir and the 196 Ditch pump is used, VOID will count Amaral delivery through the 196 Ditch as natural flow water under Certificate 7049, not VOID storage water. When Bully Creek natural flows are exhausted, VOID will count Amaral delivery through the 196 Ditch as VOID storage water.
5. To implement the above conditions as stipulated in accordance with OWRD policy, designate all the authorized acres under Certificate 7049 as primary acres.
6. Another option that would be ideal would be for VOID to allow delivery of Greg's storage water through Bully Creek via the Bully Creek pump. When natural flows are available above Bully Creek Reservoir, use of the Bully Creek pump would be attributed to Certificate 7049. When Bully Creek flows are exhausted, use of the Bully Creek pump would be attributed to VOID storage water that would be released past the 196 diversion point to satisfy the Bully Creek pump.

Concerns and/or Department implications regarding the above transfer amendments and conditions can be discussed at the meeting. Patricia is welcome to participate by telephone. Please let me know your available times within the next two weeks. Tom offered the WID office in Vale as a possible meeting location. Ron, please let me know if you recommend Ty King (VOID Manager) attend the meeting also.



Thank you.

---

**Lori Graves | Water Rights Specialist**

SPF Water Engineering, LLC

300 E Mallard Drive, Suite 350 | Boise, ID 83706

p. 208.383.4140 | f. 208.383.4156 | d. 208.489.2148

e. [lgraves@spfwater.com](mailto:lgraves@spfwater.com) | w. [www.spfwater.com](http://www.spfwater.com)





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**ATTACHMENT 1A**

**Vale Oregon Irrigation District Email Consent**



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**From:** Lori Graves  
**To:** Vale Oregon Irrigation District  
**Cc:** Terry Scanlan; Greg Amaral  
**Subject:** RE: Req for adjustment to PD on Greg Amaral T-11669  
**Date:** Tuesday, December 7, 2021 8:52:00 AM  
**Attachments:** image001.png

---

Thanks Ty and Jesse.

Yes, to refresh your memory, below are the conditions Vale agreed to back in March of 2019...

1. Transfer Certificate 7049 acres out of WID south of Farmers Ditch, into VOID north of Farmers Ditch. It is our understanding that WID passed a resolution at their 3/12/2019 Board meeting to allow the acre transfer. This will allow complete coverage of the half pivot area and make water management easier. There are ~101 irrigable acres north of Farmers Ditch. Certificate 7049 allows for irrigation of 109 acres. Consequently + or - 8 acres will remain in WID.
2. Allow use of Bully Creek pump for diversion of both natural flow water under Certificate 7049 and VOID storage water subject to the following:
  - VOID will discharge Greg Amaral's storage water and/or natural flow water from the 196 Lateral to Bully Creek for diversion from the Bully Creek pump.
  - The Amaral farm manager must order ALL water from VOID. When natural flows are available, VOID will attribute water use towards Certificate 7049. When natural flows are not available, VOID will attribute water use towards storage water.
  - An acceptable flow meter must be installed on the Bully Creek pump.
  - Certificate 7049 must be made supplemental to VOID storage water.

**From:** Vale Oregon Irrigation District <void@fmtc.com>  
**Sent:** Monday, December 6, 2021 11:47 AM  
**To:** Lori Graves <LGraves@spfwater.com>  
**Subject:** Re: Req for adjustment to PD on Greg Amaral T-11669

Vale is good with this as long as he does not call for the stream flow rights from Bullycreek, it would be water allotment use only.

Thanks...jh

---

**From:** "Lori Graves" <LGraves@spfwater.com>  
**To:** "Vale Oregon Irrigation District" <void@fmtc.com>  
**Cc:** "Greg Amaral" <amaralranch@gmail.com>, "Terry Scanlan" <TScanlan@spfwater.com>, "MCCARTY" <Patricia.E.Mccarty@oregon.gov>  
**Sent:** Monday, December 6, 2021 10:45:22 AM  
**Subject:** RE: Req for adjustment to PD on Greg Amaral T-11669

You bet Jesse and Ty,

The pink area in the clip below shows the 101-acre area the WID resolution will allow Greg to cover with his Bully Creek Water right 7049. The blue hatched area is the 53.2 acres the current stipulative



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"Vale Oregon Irrigation District" <[void@fmtc.com](mailto:void@fmtc.com)>  
Cc: "Greg Amaral" <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>, "Terry Scanlan" <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>, "MCCARTY" <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>, "HOSHAW" <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>, [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)  
Sent: Monday, November 29, 2021 8:54:42 AM  
Subject: RE: Req for adjustment to PD on Greg Amaral T-11669

Checking in X 2...

From: Lori Graves  
Sent: Tuesday, November 2, 2021 9:41 AM  
To: 'nrork@nlr-water.com' <[nrork@nlr-water.com](mailto:nrork@nlr-water.com)>; 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; 'Jessi Hansen' <[void@fmtc.com](mailto:void@fmtc.com)>  
Cc: Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; 'HOSHAW Jered L \* WRD' <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com) <[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)>  
Subject: RE: Req for adjustment to PD on Greg Amaral T-11669

Just checking in. Haven't heard from anybody regarding highlighted text below.

From: Lori Graves  
Sent: Wednesday, October 6, 2021 6:32 PM  
To: [nrork@nlr-water.com](mailto:nrork@nlr-water.com); 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>  
Cc: Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)  
Subject: FW: Req for adjustment to PD on Greg Amaral T-11669

Hi Nancy, Randy, Ty and Jesse,

From the options presented in Patricia's email below, Greg's preference is to file an AMENDED transfer application to allow a total of 101 water right acres be transferred above the Farmers Ditch per the WID Resolution, rather than 53.2 as currently proposed. This will require (1) the Department withdrawing the preliminary determination, (2) Greg submitting an amended transfer application to include the additional resolution acres along with more processing fees. As a result, the amended application will be subject to another review process, which includes re-advertising. Patricia confirmed this option would be the quickest to get the acres included and the current agreed upon conditions between WID, VOID and Greg would be preserved. The current case manager is very familiar with the transfer issues, thereby processing the amendment would be somewhat expedited since a new application would probably be assigned to a different case manager who is not familiar with the transfer history.

Before moving forward with the amendment option, we just want to make sure everyone is on board and that we can be assured the amendment will not be protested by WID and/or VOID during re-advertising. Please let me know if there are any concerns with this chosen approach. Thank you.



agreement describes. As you recall, originally WID would not allow Greg to change the water right acres that were in their service area south of the Ditch. Based on a resolution they passed 3/12/2019, we wish to amend the transfer application to describe the 101-acre area.



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**From:** Vale Oregon Irrigation District <[void@fmtc.com](mailto:void@fmtc.com)>  
**Sent:** Monday, December 6, 2021 10:05 AM  
**To:** Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>  
**Subject:** Re: Req for adjustment to PD on Greg Amaral T-11669

Good Morning Lori -

The District would like to see a map indicating the acreage Amaral would like to include in the amendment.

Thanks...jh

---

**From:** "Lori Graves" <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>  
**To:** "nrorick" <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>, "Randy Kinney" <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>,



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From: MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>

Date: Wed, Sep 29, 2021, 6:38 PM

Subject: req for adjustment to PD on Greg Amaral T-11669

To: Jessi Hansen <void@fmtc.com>, Greg Amaral <amaralranch@gmail.com>, bartlhorses@gmail.com <bartlhorses@gmail.com>, Terry Scanlan <TScanlan@spfwater.com>, nrorick@nlr-water.com <nrorick@nlr-water.com>, DAVIS Arla L \* WRD <Arla.L.Davis@oregon.gov>, HOSHAW Jered L \* WRD <Jered.L.Hoshaw@oregon.gov>, Lori Graves <LGraves@spfwater.com>, rkinney@widh2o.com <rkinney@widh2o.com>

Cc: MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>

Hello everyone,

Lori sent a message on Sept 2 requesting the following:

Can we submit an 2<sup>nd</sup> amendment transfer map and table based on the WID resolution passed 3/12/2019 allowing Greg to transfer a total of 101 acres north of the Farmers Ditch (see email chain below). Currently, the settlement agreement and draft approval reflect 53.2 acres. Fortunately, Nancy Rorick notified me yesterday regarding the Order not reflecting WID's resolution, which she believes can be accommodated under Transfer T-11669

We looked at the request and file and concluded that we cannot do this type of thing at this stage. The application was filed on September 6, 2013 and the Preliminary Determination (PD) was issued on February 21, 2018. There are a lot of process requirements that occur between the application and the preliminary determination. A change between the PD and the final order of this magnitude without the accompanying processes, is beyond WRD's authority.

However, there are a few options. First, Mr. Amaral can withdraw the application and file a new application covering all the acres. Second, WRD can withdraw the preliminary determination, and Mr. Amaral can amend the application, pay the additional processing and other fees, and WRD can put the amended application through the whole process again. Third, a settlement agreement and final order can be issued on the existing application. If Mr. Amaral wishes, he can file another application for the other acres when he is ready. There may not be much time or money savings for Mr. Amaral, but much of the discussion and agreement between you all would be preserved with any of the options.

When you have a chance, please let me know how you would like to proceed.

Sincerely,

Patricia McCarty



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**ATTACHMENT 1B**

**Warm Springs Irrigation District Email Consent**



APR 22 2022

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**From:** [Lori Graves](#)  
**To:** [Nancy Rorick](#)  
**Cc:** [Randy Kinney - Warm Springs Irrigation Dist. \(rkinney@widh2o.com\)](#); [Jessi Hansen](#); [Greg Amaral](#); [Terry Scanlan](#); [MCCARTY Patricia E \\* WRD](#); [HOSHAW Jered L \\* WRD](#); [bartlhorses@gmail.com](#)  
**Subject:** RE: Req for adjustment to PD on Greg Amaral T-11669  
**Date:** Monday, January 3, 2022 9:57:00 AM

---

Fantastic Nancy. Thanks for getting back to me. Happy New Year.

**From:** Nancy Rorick <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>  
**Sent:** Monday, January 3, 2022 9:54 AM  
**To:** Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)>  
**Cc:** Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com)) <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>; Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; MCCARTY Patricia E \* WRD <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; HOSHAW Jered L \* WRD <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; [bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)  
**Subject:** Re: Req for adjustment to PD on Greg Amaral T-11669

Dear Lori,

Randy said that it is highly unlikely that WID would have any objections to a new preliminary determination as long as no changes were made to the agreed upon transfer conditions.

Nancy

On Mon, Nov 29, 2021 at 7:54 AM Lori Graves <[LGraves@spfwater.com](mailto:LGraves@spfwater.com)> wrote:

Checking in X 2...

**From:** Lori Graves  
**Sent:** Tuesday, November 2, 2021 9:41 AM  
**To:** '[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)' <[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)>; 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; 'Jessi Hansen' <[void@fmtc.com](mailto:void@fmtc.com)>  
**Cc:** Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; 'HOSHAW Jered L \* WRD' <[Jered.L.Hoshaw@oregon.gov](mailto:Jered.L.Hoshaw@oregon.gov)>; '[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)' <[bartlhorses@gmail.com](mailto:bartlhorses@gmail.com)>  
**Subject:** RE: Req for adjustment to PD on Greg Amaral T-11669

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**From:** Lori Graves  
**Sent:** Wednesday, October 6, 2021 6:32 PM  
**To:** '[nrorick@nlr-water.com](mailto:nrorick@nlr-water.com)'; 'Randy Kinney - Warm Springs Irrigation Dist. ([rkinney@widh2o.com](mailto:rkinney@widh2o.com))' <[rkinney@widh2o.com](mailto:rkinney@widh2o.com)>; Jessi Hansen <[void@fmtc.com](mailto:void@fmtc.com)>  
**Cc:** Greg Amaral <[amaralranch@gmail.com](mailto:amaralranch@gmail.com)>; Terry Scanlan <[TScanlan@spfwater.com](mailto:TScanlan@spfwater.com)>; 'MCCARTY Patricia E \* WRD' <[Patricia.E.Mccarty@oregon.gov](mailto:Patricia.E.Mccarty@oregon.gov)>; HOSHAW Jered L \* WRD



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<Jered.L.Hoshaw@oregon.gov>; bartlhorses@gmail.com

**Subject:** FW: Req for adjustment to PD on Greg Amaral T-11669

Hi Nancy, Randy, Ty and Jesse,

From the options presented in Patricia's email below, Greg's preference is to file an AMENDED transfer application to allow a total of 101 water right acres be transferred above the Farmers Ditch per the WID Resolution, rather than 53.2 as currently proposed. This will require (1) the Department withdrawing the preliminary determination, (2) Greg submitting an amended transfer application to include the additional resolution acres along with more processing fees. As a result, the amended application will be subject to another review process, which includes re-advertising. Patricia confirmed this option would be the quickest to get the acres included and the current agreed upon conditions between WID, VOID and Greg would be preserved. The current case manager is very familiar with the transfer issues, thereby processing the amendment would be somewhat expedited since a new application would probably be assigned to a different case manager who is not familiar with the transfer history.

Before moving forward with the amendment option, we just want to make sure everyone is on board and that we can be assured the amendment will not be protested by WID and/or VOID during re-advertising. Please let me know if there are any concerns with this chosen approach. Thank you.

----- Forwarded message -----

From: MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>

Date: Wed, Sep 29, 2021, 6:38 PM

Subject: req for adjustment to PD on Greg Amaral T-11669

To: Jessi Hansen <void@fmtc.com>, Greg Amaral <amaralranch@gmail.com>, bartlhorses@gmail.com <bartlhorses@gmail.com>, Terry Scanlan <TScanlan@spfwater.com>, nrorick@nlr-water.com <nrorick@nlr-water.com>, DAVIS Arla L \* WRD <Arla.L.Davis@oregon.gov>, HOSHAW Jered L \* WRD <Jered.L.Hoshaw@oregon.gov>, Lori Graves <LGraves@spfwater.com>, rkinney@widh2o.com <rkinney@widh2o.com>

Cc: MCCARTY Patricia E \* WRD <Patricia.E.Mccarty@oregon.gov>

Hello everyone,

Lori sent a message on Sept 2 requesting the following:

Can we submit an 2<sup>nd</sup> amendment transfer map and table based on the WID resolution passed 3/12/2019 allowing Greg to transfer a total of 101 acres north of the Farmers Ditch (see email chain below). Currently, the settlement agreement and draft approval reflect 53.2 acres. Fortunately, Nancy Rorick notified me yesterday regarding the Order not reflecting WID's resolution, which she believes can be accommodated under Transfer T-11669

We looked at the request and file and concluded that we cannot do this type of thing at this stage. The application was filed on September 6, 2013 and the Preliminary Determination (PD) was issued on February 21, 2018. There are a lot of process requirements that occur between the



application and the preliminary determination. A change between the PD and the final order of this magnitude without the accompanying processes, is beyond WRD's authority.

However, there are a few options. First, Mr. Amaral can withdraw the application and file a new application covering all the acres. Second, WRD can withdraw the preliminary determination, and Mr. Amaral can amend the application, pay the additional processing and other fees, and WRD can put the amended application through the whole process again. Third, a settlement agreement and final order can be issued on the existing application. If Mr. Amaral wishes, he can file another application for the other acres when he is ready. There may not be much time or money savings for Mr. Amaral, but much of the discussion and agreement between you all would be preserved with any of the options.

When you have a chance, please let me know how you would like to proceed.

Sincerely,  
Patricia McCarty

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--  
Nancy Rorick, RG, CWRE  
645 L Loop  
Baker City, OR 97814  
541-519-3644

Elkhorn Custom Maps



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**ATTACHMENT 3**

**Evidence of Use Affidavit**



# Application for Water Right Transfer Evidence of Use Affidavit



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

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

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State of Oregon )  
 ) ss

County of MALHEUR

I, GREG AMARAL, in my capacity as OWNER,

mailing address 60 S POINTE LANE, MONETA, VA 24121

telephone number (707) 373-8000, being first duly sworn depose and say:

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

☒ Personal observation

☐ Professional expertise

2. I attest that:

☐ Water was used during the previous five years on the entire place of use for  
Certificate # \_\_\_\_; OR

☒ My knowledge is specific to the use of water at the following locations within the last five years:

Certificate #	Township		Range		Mer	Sec	¼ ¼		Gov't Lot or DLC	Acres (if applicable)
7049	19	S	44	E		4	NE	NW	3	21
7049	19	S	44	E		4	NW	NW	4	40
7049	19	S	44	E		4	SW	NW		40

OR

☐ Confirming Certificate # \_\_\_\_ has been issued within the past five years; OR

☐ Part or all of the water right was leased instream at some time within the last five years. The  
instream lease number is: \_\_\_\_ (Note: If the entire right proposed for  
transfer was not leased, additional evidence of use is needed for the portion not leased instream.); OR

☐ The water right is not subject to forfeiture and documentation that a presumption of forfeiture for non-use  
would be rebutted under ORS 540.610(2) is attached.

☐ Water has been used at the actual current point of diversion or appropriation for more than  
10 years for Certificate # \_\_\_\_ (For Historic POD/POA Transfers)

(continues on reverse side)



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3. The water right was used for: (e.g., crops, pasture, etc.): CROPS

4. I understand that if I do not attach one or more of the documents shown in the table below to support the above statements, my application will be considered incomplete.

Signature of Affiant

Date



Signed and sworn to (or affirmed) before me this 15 day of April, 2022

Robert H Downey

Notary Public for Oregon Virginia

My Commission Expires: 9/30/2025

Supporting Documents	Examples
<input type="checkbox"/> Copy of a water right certificate that has been issued within the last five years. (not a remaining right certificate)	Copy of <b>confirming</b> water right certificate that shows issue date
<input type="checkbox"/> Copies of receipts from sales of irrigated crops or for expenditures related to use of water	<ul style="list-style-type: none"> <li>• Power usage records for pumps associated with irrigation use</li> <li>• Fertilizer or seed bills related to irrigated crops</li> <li>• Farmers Co-op sales receipt</li> </ul>
<input type="checkbox"/> Records such as FSA crop reports, irrigation district records, NRCS farm management plan, or records of other water suppliers	<ul style="list-style-type: none"> <li>• District assessment records for water delivered</li> <li>• Crop reports submitted under a federal loan agreement</li> <li>• Beneficial use reports from district</li> <li>• IRS Farm Usage Deduction Report</li> <li>• Agricultural Stabilization Plan</li> <li>• CREP Report</li> </ul>
<input checked="" type="checkbox"/> Aerial photos containing sufficient detail to establish location and date of photograph	<p>Multiple photos can be submitted to resolve different areas of a water right.</p> <p>If the photograph does not print with a "date stamp" or without the source being identified, the date of the photograph and source should be added.</p> <p>Sources for aerial photos:  OSU – <a href="http://www.oregonexplorer.info/imagery">www.oregonexplorer.info/imagery</a>  OWRD – <a href="http://www.wrd.state.or.us">www.wrd.state.or.us</a>  Google Earth – <a href="http://earth.google.com">earth.google.com</a>  TerraServer – <a href="http://www.terra-server.com">www.terra-server.com</a></p>
<input type="checkbox"/> Approved Lease establishing beneficial use within the last 5 years	Copy of instream lease or lease number



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Google Earth Pro Imagery  
Certificate 7049 Evidence of Use





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Imagery Date: 9/28/2015 43°57'01.43" N 117°20'14.07" W Elev: 2328 ft GCP alt: 6152 ft



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## **ATTACHMENT 4**

**Land Use Form  
Malheur County Planning Department**



# Land Use Information Form



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

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## NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; OR
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply:
  - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
  - b) The application involves a change in place of use only;
  - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
  - d) The application involves irrigation water uses only.

## NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.



# Land Use Information Form

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

Applicant(s): Vale Ranches LLC, c/o Greg Amaral

Mailing Address: 60 S Pointe Lane

City: Moneta

State: VA

Zip Code: 94121

Daytime Phone: 707-373-8000

## A. Land and Location

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

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
<u>19S</u>	<u>44E</u>	<u>4</u>	<u>NW</u>	<u>3700</u>	<u>Rural Irrigation</u>	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Irrigation</u>
<u>19S</u>	<u>44E</u>	<u>5</u>	<u>NE</u>	<u>3700</u>	<u>Rural Irrigation</u>	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	<u>Irrigation</u>
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____
_____	_____	_____	_____	_____	_____	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	_____

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

Malheur

## B. Description of Proposed Use

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

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

Source of water: ☐ Reservoir/Pond    ☐ Ground Water    ☒ Surface Water (name) Bully Creek

Estimated quantity of water needed: 5.05    ☒ cubic feet per second    ☐ gallons per minute    ☐ acre-feet

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

Briefly describe:

Applicant wishes to amend T-11669 to move additional acres authorized for irrigation below Farmers Ditch to lands above Farmers Ditch. This will allow full pivot coverage of 101 acres rather than partial pivot coverage of 53.1 acres currently approved. This amended transfer application is being filed under the guidance of Oregon Department of Water Resources.

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



See bottom of Page 3. →

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## For Local Government Use Only

OWRD

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

**Please check the appropriate box below and provide the requested information**

- ☒ Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): MCC 6-3A-2(A)(1)
- ☐ Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

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

Name: TATIANA BURGESS Title: PLANNING MANAGER

Signature:  Phone: 541-473-5185 Date: 4/12/2022

Government Entity: MALHEUR COUNTY PLANNING & ZONING

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

**Receipt for Request for Land Use Information**

Applicant name: VALE RANCHES LLC

City or County: MALHEUR Staff contact: TATIANA BURGESS

Signature:  Phone: 541-473-5185 Date: 4-12-2022



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**ATTACHMENT 2**

**Certified Transfer Map**



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T.19S. R.4  
HEUR

1" = 2  
SEE MA

2,000 3,000 4,000 Feet

7049 allowed 65 acres above  
Farmers Ditch (VOID area) &  
44 acres below Farmers Ditch  
(WID area), all located in Tax  
Lot 3700 owned by applicant

1730' E of NW  
corner of Sec 4

Lateral 196 pump location



Certified Water Right Examiner  
#84533CWRE  
SCOTT NEIL KING  
MAY 3, 2011  
STATE OF OREGON  
EXPIRES: 6-30-2023

Map Preparer's Statement:  
This map is not intended to  
provide legal dimensions or  
locations of property  
ownership lines.

Legend

- Proposed Point of Diversion
- Amended Transfer Place of Use (101 acres)
- Cert 7049 Original Place of Use (109 acres)

Certificate 7049 - Transfer 11669  
Proposed Amendment

0 660 1,320  
Feet

HDR | SPF



(b) A copy of any water right conveyance agreement(s) for the land to which the water right is appurtenant; and  
(c) If the landowner identified in the report of ownership information is not the applicant, documentation to demonstrate that the applicant is authorized to pursue the transfer, which shall include:

(A) A notarized statement by the landowner(s) identified in the report of ownership information consenting to the transfer;

(B) If the interest in the water right has been conveyed, a notarized statement consenting to the transfer from the person or authorized representative(s) of the entity to whom the interest in the water right has been conveyed identified in a water right conveyance agreement; or

(C) Other documentation demonstrating that the applicant is authorized to pursue the transfer.

(6) The report of ownership information required under subsection (5)(a) of this rule must:

(a) Be prepared no earlier than three months prior to the date of the draft preliminary determination showing current ownership; or

(b) If the interest in the water right has been conveyed be prepared within three months of the date the water right conveyance agreement was recorded or show ownership for the appurtenant land at the time the water right conveyance agreement was recorded.

Arla L. Davis

Water Rights Transfer Specialist

Transfer and Conservation Section

725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

---

**From:** Graves, Lori <Lori.Graves@hdrinc.com>

**Sent:** Monday, February 7, 2022 2:45 PM

**To:** DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>; Graves, Lori <LGraves@spfwater.com>; MCCARTY Patricia E \* WRD <Patricia.E.MCCARTY@water.oregon.gov>

**Cc:** Scanlan, Terry <TScanlan@spfwater.com>; Greg Amaral <amaralranch@gmail.com>

**Subject:** RE: Greg Amaral T-11669

Just checking in Arla.

**Lori Graves**, Sr. Water Rights Specialist  
D 208.872.9519 M 208.850.4601

[hdrinc.com/follow-us](https://hdrinc.com/follow-us)

---

**From:** DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>

**Sent:** Thursday, December 16, 2021 12:29 PM

**To:** Lori Graves <LGraves@spfwater.com>; MCCARTY Patricia E \* WRD <Patricia.E.MCCARTY@water.oregon.gov>

**Cc:** Terry Scanlan <TScanlan@spfwater.com>; Greg Amaral <amaralranch@gmail.com>

**Subject:** RE: Greg Amaral T-11669

Good Morning Lori,



Thank you so much for your email. I am going to review the file to make sure I give you an accurate answer regarding Transfer 11669. If you have any other questions, please let me know. Have a great weekend!

Arla L. Davis

Water Rights Transfer Specialist  
Transfer and Conservation Section  
725 Summer St. NE, Suite A | Salem, OR 97301 | Phone: 503-979-3129



Integrity | Service | Technical Excellence | Teamwork | Forward-Looking

**From:** Lori Graves <LGraves@spfwater.com>  
**Sent:** Wednesday, December 15, 2021 2:55 PM  
**To:** MCCARTY Patricia E \* WRD <Patricia.E.MCCARTY@water.oregon.gov>; DAVIS Arla L \* WRD <Arla.L.DAVIS@water.oregon.gov>  
**Cc:** Terry Scanlan <TScanlan@spfwater.com>; Greg Amaral <amaralranch@gmail.com>  
**Subject:** FW: Greg Amaral T-11669

Hi Patricia and Arla,

Although the attached Preliminary Determination will now be withdrawn since Greg has chosen to pursue Patricia's option 2 highlighted below, we would like to point out a discrepancy of the order that we would like corrected before it is carried over to the future preliminary order for the transfer amendment.

Item 10 on page 2 of the attached Preliminary Order states:

**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 1.5 acre feet per acre in any 30 day period prior to June 1<sup>st</sup>, 1.0 acre foot per acre in any 30 day period after June 1<sup>st</sup>, of each year or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of one cubic foot per second per acre.

The language "together with the amount secured under any other right existing for the same lands" should not be included. The following taken from an email from Nancy Rorick dated 2/22/2019 explains why:

The duty of a water right is the volume of water that can be use during the irrigation season expressed in acre-feet per acre. The excerpts below are the duties of Mr. Amaral's water rights. Certificate 74080 and permit S29882 are the primary water rights and they have a duty of 4.5 acre-feet per acre. The water-right duties are not cumulative but are limited to the 4.5 acre-feet per acre. Under these water rights, Mr. Amaral has the right to 4.5-acre feet per acre in any combination, but not to exceed a total of 4.5-acre feet, of which only 3 acre-feet is available from certificate 7049.

Certificate 74080 (VOID primary irrigation right)

The amount of water used for irrigation or supplemental irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 4.5 ACRE-FEET PER ACRE, or the equivalent for each acre irrigated during the irrigation season of each year.



PROTEST



April 12, 2018

**Shonee D. Langford**  
T: 503-540-4261  
slangford@schwabe.com

**BY HAND DELIVERY**

Patricia McCarty  
Protest Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem OR 97301-1271

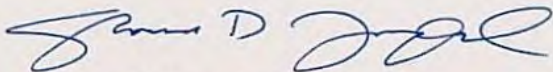
RE: Protest of Preliminary Determination Proposing Approval of T-11669

Dear Patricia:

Enclosed for filing on behalf of Warm Springs Irrigation District is a Protest of the Oregon Water Resources Department's Preliminary Determination proposing approval of Transfer Application T-11669. Also enclosed is a check in the amount of \$810.00 to cover the protest fee.

We would welcome an opportunity to meet with the Department and Mr. Amaral to explore opportunities for an informal resolution of this matter.

Best regards,



Shonee D. Langford

SDL:kdo  
Enclosure

cc: Warm Springs Irrigation District (w/encl.) (w/encl.)  
Greg Amaral (w/encl.) (w/encl.)  
Vale Oregon Irrigation District (w/encl.) (w/encl.)

PDX\116631\221945\SDL\22767897.1

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## BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Transfer Application T-11669 in the name of Greg Amaral	PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE
--	--

### Introduction

This protest is filed on behalf of Warmsprings Irrigation District ("Protestant") pursuant to OAR 690-002-0030, OAR 690-380-4030 and ORS 540.520.

On September 6, 2013, Greg Amaral ("Applicant") filed an application to change the point of diversion and place of use of a portion of Certificate 7049 ("Application T-11669"). A portion of Certificate 7049 is located north of Farmers Ditch within the Vale Oregon Irrigation District ("VOID"). The remaining portion of Certificate 7049 is located south of Farmers Ditch within the Warmsprings Irrigation District ("WID"). On February 21, 2018, the Oregon Water Resources Department ("OWRD" or "Department") issued a Preliminary Determination proposing to approve the proposed transfer. For reasons described below, the proposed transfer would result in injury to other water users, including users within WID.

### Background

Applicant currently receives water under Certificate 7049 through the VOID 196 canal. The authorized Harris Ditch point of diversion was abandoned long ago in favor of the canal. The VOID 196 canal delivers water to Applicant from Bully Creek and Bully Creek Reservoir. Water stored in Bully Creek Reservoir originates from Bully Creek and the Malheur River. The sole authorized source for the 65 acres proposed to be transferred under Certificate 7049 is live flow from Bully Creek. Applicant's ability to exercise Certificate 7049 has been limited, in part, by the fact that VOID must deliver water to Applicant's point of delivery at the end of the canal. The lands affected by the proposed transfer have additional water rights under VOID certificates 74080 and 74081, as well as Permit S-29882, all of which are exercised through the VOID 196 canal.

The proposed change in point of diversion ("POD") would preclude Applicant from exercising Certificate 7049 through the VOID 196 canal and would allow (and require) all such water to be diverted solely from the proposed point of diversion on Bully Creek. This change would significantly impact other water users on Bully Creek, resulting in injury to other existing water rights.

### Request for Hearing and Elements of Protest

Protestant hereby requests a contested case hearing. The elements of a protest, as required by OAR 690-002-0030 and 690-380-4030, are addressed below:

1 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL

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**1. Protestant's Name and Address**

Warm Springs Irrigation District  
c/o Randy Kinney  
District Manager  
334 Main St. N.  
Vale, OR 97918

**2. Name and Address of Other Persons Necessary to, or Having a Direct Interest In, the Proceeding**

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

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**3. Facts Sufficient to Show the Protestant is Entitled to the Relief or Action Requested; Reasonably Ascertainable Issues and Arguments**

Applicant's proposed transfer, as described in the Preliminary Determination, would result in injury to other existing water rights, including rights within Protestant WID's boundaries. For reasons that follow, Protestant is entitled to the specific relief requested in this Protest:

**A. Protestant's Consent is Required to Proceed with the Proposed Transfer.**

Applicant proposes to change the place of use of 65 acres of water rights, some of which are located within the boundaries of WID. The Malheur Decree map indicates that the entire 65 acres are located on the north side of the Farmers Ditch, within VOID's boundaries. That may have been the case at the time the map was prepared, but since that time the location of the Farmers Ditch has changed. As a result, the decree map (which is the "from" map for this transfer) no longer accurately reflects the division of water right acres to the north (VOID) and south (WID) of the ditch.

Based on Applicant's "to" map, it appears that only 52 of the 65 acres proposed for transfer are in fact located north of the Farmers Ditch and within the existing authorized place of use. The remaining acres must be coming from the south side of the Farmers Ditch. The proposed changes therefore affect Protestant WID and require its consent.

**B. The Proposed Change in POD Would Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

The proposed change in POD would result in Applicant diverting more water from the proposed POD on Bully Creek than would be legally available at the original point of diversion.



APR 12 2018

That would be a prohibited enlargement of Certificate 7049. *See* OAR 690-380-0100(2)(d)(defining enlargement). The proposed transfer would move the POD miles downstream, giving Applicant access to miles of return flows draining back into Bully Creek below the original POD. This would injure other water right holders who are lawfully entitled to use those return flows to satisfy other existing water rights. *See* OAR 690-380-0100(3)(defining injury). For example, WID has a right to divert all drainage water, seepage water, return flow and waste water from the Vale Oregon Project. *See* Certificate 74080 and related contract between WID and the United States, dated April 30, 1926.

The Preliminary Determination recognizes that Applicant cannot take more water at the proposed POD than is lawfully available at the original POD (see preliminary determination page 4, item 5), but it is not adequately conditioned to ensure that Applicant's diversions are limited to quantities lawfully available at the original POD.

**C. The Proposed Change in Place of Use, in Combination with the Proposed Change in POD, Would Further Enlarge Applicant's Water Right and Injure Other Existing Water Rights.**

Under Applicant's proposal, Certificate 7049 would cover only a portion of a large irrigation pivot. Protestant is concerned that Applicant would be spreading water diverted from the proposed POD on Bully Creek over the entire area under the pivot. Not only would this enlarge Applicant's water right (i.e. increase the acreage irrigated under the right), it would have the potential to injure downstream water users, particularly during a drought year. OAR 690-380-0100(2) & (3).

Protestant has two related concerns:

**i. Certificate 7049 Should be Made Supplemental to Other Existing Rights on the Same Lands.**

Protestant is concerned that the Preliminary Determination designates Certificate 7049 as a primary source for some acres and a supplemental source for other acres within the same irrigation pivot. *See* Finding of Fact #12. To avoid unlawful use of water, all 65 acres involved in the transfer should be made supplemental to other existing rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. This would ensure that Applicant uses the proposed POD on Bully Creek only when VOID is not delivering water to the proposed place of use, thus reducing the potential for injury to other water rights. Protestant requests that appropriate changes be made to Findings of Fact #12 and 13 to diminish the entire transferred right to supplemental irrigation.

**ii. The Transfer Map Should be Amended to Reflect the Subordination of Certificate 7049 to Permit S-29882.**

The Preliminary Determination proposes to make Certificate 7049 subordinate to VOID's junior priority water rights evidenced by Certificate 74080, Certificate 74081 and Permit S-29882. Applicant's transfer map should be amended to reflect this determination.



**D. The Preliminary Determination Should Clarify the Duty That Applies to the Proposed Place of Use.**

The proposed transfer should be conditioned to clarify the duty that applies to the proposed place of use, taking into account the authorized duty of 3.0 acre-feet per acre under Certificate 7049 and the 4.5 acre-foot duty specified under other existing water rights on the same lands. Any order approving the transfer should include a condition stating that either 3.0 acre-feet or 4.5 acre-feet is the maximum combined duty that can be applied to the proposed place of use from any combination of sources.

**E. The Proposed Change in POD Should be a Proposed Additional POD.**

The proposed transfer should be for an additional POD instead of a change in POD. The proposed change in POD would remove Applicant's ability to exercise Certificate 7049 from the VOID 196 canal. Applicant would then be required to take all water under Certificate 7049 directly from Bully Creek at the proposed POD, resulting in enlargement and injury for reasons described elsewhere in this Protest.

If Applicant were to add a POD instead, and keep the existing POD, Applicant could exercise Certificate 7049 through the VOID 196 canal whenever water is available in the canal (i.e. when water is available for diversion at VOID's current POD miles upstream on Bully Creek). Protestant proposes that the transfer be amended from a change in POD to an additional POD, and that Applicant be limited to exercising Certificate 7049 through the proposed POD on Bully Creek only during times when VOID is unable to deliver water to Applicant through the 196 canal. This would reduce the potential for enlargement and injury.

**F. Other Provisions of the Preliminary Determination Should be Amended or Clarified.**

Finding of Fact 4 indicates that the "proposed place of use is within Vale and Warmsprings Irrigation District." The proposed place of use is in fact entirely located within VOID's boundaries. Protestant requests that the wording be changed as follows: "The proposed place of use, as described in Finding of Fact 12, is within Vale Oregon Irrigation District."

Under Determination and Proposed Action #3 (on page 4), Protestant requests that the first sentence be modified to include the following underlined words: "The new proposed place of use, as described in Finding of Fact 12, under Certificate 7049..."

**G. Applicant and OWRD Should Clarify Permit S-29882 and Resolve Any Conflicts Before Approving this Transfer.**

The Preliminary Determination proposes to postpone clarification of Permit S-29882, and resolution of any related conflicts, until after the proposed transfer is approved. This will only lead to confusion. Applicant's "to" map appears to confirm the place of use of Permit S-29882, and Finding of Fact #5 makes Certificate subordinate to Permit S-29882, but at the same time Finding of Fact #3 indicates that the "place of use and type of use of this permit will be clarified when the claim of beneficial use is submitted, resolving any conflicts with T-11669." The nature of the referenced "conflicts" is unclear, as is Applicant's (or VOID's) ability to change the place

4 – PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF  
TRANSFER APPLICATION T-11669 IN THE NAME OF GREG AMARAL



of use for Permit S-29882. Are the places of use that are shown on Applicant's "to" map for Permit S-29882 merely provisional? Protestant respectfully requests clarification and resolution of any conflicts between Permit S-29882 and Transfer T-11669 before the proposed transfer is approved.

**4. Specific Relief or Action Requested**

Protestant requests that the proposed transfer be adequately conditioned to remove the risk of enlargement and injury. The proposed conditions are generally described elsewhere in this Protest. Protestant would welcome an opportunity to discuss the specific wording of conditions to address the concerns expressed in this Protest.

**5. Citation of Legal Authority or Basis for the Claim or Relief Asserted or Requested**

Legal authority known to the Protestant at this time:

ORS 540.510, 540.520 and 540.530 relating to transfer applications.

OAR Chapter 690 Division 380 relating to transfer applications.

OAR Chapter 690 Division 002 relating to protests and contested case hearings.

Specific legal authority cited elsewhere in this protest.

**6. Protest Fee**

Please see the attached check in the amount of \$810.00 payable to the Oregon Water Resources Department.

**7. Proof of Service**

Protestant served a copy of this protest upon the applicant, Greg Amaral, and upon the Vale Oregon Irrigation District, by United States Postal Service first class mail. Proof of service is attached.

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RECEIVED

APR 12 2018

OWRD

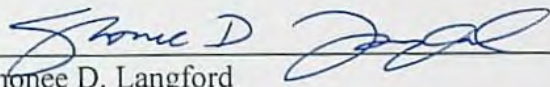


## CONCLUSION

The above described facts and legal arguments demonstrate that the Protestant is entitled to the specific relief requested, including issuance of a final order that is adequately conditioned to ensure that the proposed transfer will not result in injury to other existing water rights. A contested case hearing is requested.

DATED: April 12, 2018

SCHWABE WILLIAMSON and WYATT

  
Shonee D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant

RECEIVED

APR 12 2018

OWRD



# CERTIFICATE OF SERVICE

I certify that on April 12, 2018, my office hand delivered the original PROTEST OF PRELIMINARY DETERMINATION PROPOSING APPROVAL OF A CHANGE IN POINT OF DIVERSION AND PLACE OF USE to the Oregon Water Resources Department at 725 Summer St. NE, Suite A, Salem, Oregon 97301.

I further certify that on the same date I served a true, exact and full copy of the same via United States Postal Service first class mail, postage prepaid, on the following:

Greg Amaral  
1606 Amaral Court  
Fairfield, CA 94534

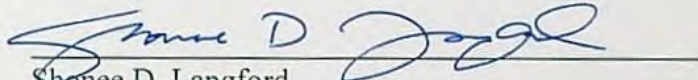
Vale Oregon Irrigation District  
521 A Street West  
Vale, OR 97918

RECEIVED

APR 12 2018

OWRD

SCHWABE WILLIAMSON and WYATT



Shonee D. Langford  
530 Center St. NE, Ste 730  
Salem, OR 97301  
Telephone: 503-540-4261  
Facsimile: 503-796-2900  
E-mail: [slangford@schwabe.com](mailto:slangford@schwabe.com)

Of Attorneys for Protestant



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

RECEIPT # **126394**

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

INVOICE # \_\_\_\_\_

RECEIVED FROM: Warm Springs Irrigation District  
BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	<u>T-11669</u>

CASH: ☐ CHECK: # 16373 OTHER: (IDENTIFY) ☐ \_\_\_\_\_

TOTAL REC'D \$810.00

**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**

47235

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

**WATER RIGHTS:**

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

**WELL CONSTRUCTION**

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

0223

OTHER (IDENTIFY) Protest Fees \$810.00

**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: **126394**

DATED: 4/12/18 BY: CWethrick



**STATE OF OREGON  
WATER RESOURCES DEPARTMENT**

RECEIPT # **126394**

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

INVOICE # \_\_\_\_\_

RECEIVED FROM: Warm Springs Irrigation District  
BY: \_\_\_\_\_

APPLICATION	
PERMIT	
TRANSFER	<u>T-11669</u>

CASH: ☐ CHECK # K16373 OTHER: (IDENTIFY) \_\_\_\_\_

TOTAL REC'D \$ 810.00

**1083 TREASURY 4170 WRD MISC CASH ACCT**

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

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

**4270 WRD OPERATING ACCT**

**MISCELLANEOUS**

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

**WATER RIGHTS:**

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

**WELL CONSTRUCTION**

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

OTHER (IDENTIFY) Protest Fees \$810.00

**0536 TREASURY 0437 WELL CONST. START FEE**

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

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

**TREASURY OTHER / RDX**

FUND \_\_\_\_\_ TITLE \_\_\_\_\_

OBJ. CODE \_\_\_\_\_ VENDOR # \_\_\_\_\_

DESCRIPTION \$ \_\_\_\_\_

RECEIPT: **126394**

DATED: 4/12/18 BY: CW Whitrick



WARMSPRINGS IRRIGATION DISTRICT

Oregon Water Resources Department

4/9/2018

16373

810.00

RECEIVED

APR 12 2018

OWRD

US Bank

810.00



DPD/PD PRIOR TO PROTEST





**Oregon**  
Kate Brown, Governor

**Water Resources Department**

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

February 21, 2018

VIA E-MAIL

GREG AMARAL  
1606 AMARAL COURT  
FAIRFIELD, CA 94534  
amaralranch@aol.com

SUBJECT: Water Right Transfer Application T-11669

Please find enclosed the Preliminary Determination indicating that, based on the information available, the Department intends to approve application T-11669. This document is an intermediate step in the approval process; water may not be used legally as proposed in the transfer application until a Final Order has been issued by the Department. Please read this entire letter carefully to determine your responsibility for additional action.

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

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

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

Please do not hesitate to contact me at 503-986-0890 or [Sarah.A.Henderson@oregon.gov](mailto:Sarah.A.Henderson@oregon.gov) if I may be of assistance.

Sincerely,

*Sarah Henderson*

Sarah Henderson  
Transfer Specialist  
Transfer and Conservation Section

cc: T-11669  
Ronald K. Jacobs, District 9 Watermaster (via e-mail)  
Lori Graves, Agent for the applicant (via e-mail)

encs



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

In the Matter of Transfer Application	)	PRELIMINARY DETERMINATION
T-11669, Malheur County	)	PROPOSING APPROVAL OF A
	)	CHANGE IN POINT OF DIVERSION
	)	AND PLACE OF USE

**Authority**

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

**Applicant**

GREG AMARAL  
1606 AMARAL COURT  
FAIRFIELD, CA 94534  
amaralranch@aol.com

**Findings of Fact**

1. On September 6, 2013, GREG AMARAL filed an application to change the point of diversion and to change the place of use under Certificate 7049. The Department assigned the application number T-11669.
2. Notice of the application for transfer was published on October 8, 2013, pursuant to OAR 690-380-4000. No comments were filed in response to the notice.
3. There is any underlying permit S-29882 within the proposed place of use. The place of use and type of use of this permit will be clarified when the claim of beneficial use is submitted, resolving any conflicts with T-11669.
4. The proposed place of use is within Vale and Warm Springs Irrigation District boundaries. Vale Irrigation District requested a condition that the new proposed place of use under C-7049 (1884 priority date) be subordinate to the priority dates for the district rights under C-74080 (January 11, 1927 priority date) and C-74081 (November 29, 1945 priority date). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary. The applicant consented to this condition.

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.
--



5. On September 11, 2017, the agent submitted an e-mail which acknowledged and agreed to additional conditions making the senior right Certificate 7049 subordinate to the junior permit S-29882 on the proposed place of use.
6. On September 11, 2017, the department received the affidavit of consent for partial diminution of a water right.
7. On September 13, 2017, the department received an amended map with the CWRE official stamp.
8. On September 29, 2017, the department received a request to terminate temporary transfer T-11668 once the final order is issued for this transfer, T-11669.
9. On September 20, 2017, the Department sent a copy of the draft Preliminary Determination proposing to approve Transfer Application T-11669 to the applicant. The draft Preliminary Determination cover letter set forth a deadline of October 20, 2017, 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.
10. The portion of the right to be transferred is as follows:

**Certificate:** 7049 in the name of ELLA WOODRUFF (confirmed by Malheur River Decree)  
**Use:** IRRIGATION of 65.0 ACRES  
**Priority Date:** 1884  
**Limit/Duty:** The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, is limited to a diversion of 1.5 acre feet per acre in any 30 day period prior to June 1<sup>st</sup>, 1.0 acre foot per acre in any 30 day period after June 1<sup>st</sup>, of each year or 3.0 acre feet per acre during any season, diverted at a rate not to exceed ONE-TWENTIETH of one cubic foot per second per acre.  
**Source:** BULLY CREEK, tributary to the MALHEUR RIVER

**Authorized Point of Diversion:**

DITCH NAME
HARRIS DITCH

**Authorized Place of Use:**

Twp	Rng	Mer	Sec	Q-Q	Acres
19 S	44 E	WM	4	NE NW	21.0
19 S	44 E	WM	4	NW NW	40.0
19 S	44 E	WM	4	SW NW	4.0
Total					65.0



11. Transfer Application T-11669 proposes to move the authorized point of diversion approximately 2.5 miles downstream to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Measured Distances
19 S	44 E	WM	4	NE NW	3	55 FEET SOUTH AND 1730 FEET EAST FROM THE NW CORNER OF SECTION 4

12. Transfer Application T-11669 also proposes to change the place of use of the right to:

Twp	Rng	Mer	Sec	Q-Q	GLot	Acres	Use
19 S	44 E	WM	4	NE NW	3	7.7	Primary
19 S	44 E	WM	4	NE NW	3	4.3	Supplemental
19 S	44 E	WM	4	NW NW	4	23.3	Primary
19 S	44 E	WM	4	NW NW	4	15.7	Supplemental
19 S	44 E	WM	4	SW NW		1.0	Supplemental
19 S	44 E	WM	5	NE NE	1	12.0	Primary
19 S	44 E	WM	5	SE NE		1.0	Primary
Total						65.0	

13. The applicant also proposes to diminish a portion of the transferred right to supplemental irrigation which is identified in the table above.
14. The Oregon Department of Fish and Wildlife has determined that the diversion is not currently equipped with an appropriate fish screen, but a fish screen may be required in the future at the new point of diversion to prevent fish from entering the diversion.

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

15. Water has been used within the last five years according to the terms and conditions of the right. There is no information in the record that would demonstrate that the right is subject to forfeiture under ORS 540.610.
16. A diversion structure and ditch sufficient to use the full amount of water allowed under the existing right were present within the five-year period prior to submittal of Transfer Application T-11669.
17. The proposed changes would not result in enlargement of the right.
18. The proposed changes would not result in injury to other water rights.

**Determination and Proposed Action**

The change in point of diversion and change in place of use proposed in Transfer Application T-11669 appears to be consistent with the requirements of ORS 540.505 to 540.580 and OAR 690-380-5000. If protests are not filed pursuant to OAR 690-380-4030, the transfer application will be approved.

*If Transfer Application T-11669 is approved, the final order will include the following:*



1. *The change in point of diversion and change in place of use proposed in Transfer Application T-11669 are approved.*
2. *The right to the use of the water is restricted to beneficial use at the place of use described, and is subject to all other conditions and limitations contained in Certificate 7049 and any related decree.*
3. *The new proposed place of use under Certificate 7049 (1884 priority date) shall be subordinate to the priority dates for the district rights under Certificates 74080 (January 11, 1927) and 74081 (November 29, 1945). If the place of use changes in the future it will retain its original priority status and will be re-evaluated if necessary.*
4. *Water right Certificate 7049 is cancelled. A new certificate will be issued describing that portion of the right not affected by this transfer.*
5. *The quantity of water diverted at the new point of diversion, shall not exceed the quantity of water lawfully available at the original point of diversion.*
6. *Water use measurement conditions:*
  - a. *Before water use may begin under this order, the water user shall install a totalizing flow meter, or, with prior approval of the Director, another suitable measuring device, at each new point of diversion.*
  - b. *The water user shall maintain the meter or measuring device in good working order.*
  - c. *The water user shall allow the Watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the Watermaster shall request access upon reasonable notice.*
7. *The Oregon Department of Fish and Wildlife (ODFW) may require the water user to install an approved fish screen at the new point of diversion within one year after receiving written notification that a fish screen is required. Once installed the water user shall maintain and operate the fish screen at the new point of diversion according to ODFW's operational and maintenance standards. If ODFW determines the screen is not functioning properly, and is unsuccessful in working with the water user to meet ODFW standards, ODFW may request that OWRD regulate the use of water until OWRD receives notification from ODFW that the fish screen is functioning properly.*
8. *The former place of use of the transferred right shall no longer receive water under the right.*
9. *Full beneficial use of the water shall be made, consistent with the terms of this order, on or before October 1, 2019. A Claim of Beneficial Use prepared by a Certified Water Right Examiner shall be submitted by the applicant to the Department within one year after the deadline for completion of the changes and full beneficial use of the water.*